AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

FEDERAL REGISTER

Vol. 80 Wednesday,
No. 213 November 4, 2015

Pages 68243–68420

OFFICE OF THE FEDERAL REGISTER

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

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 80 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Printed on recycled paper.

Contents

Federal Register

Vol. 80, No. 213

Wednesday, November 4, 2015

Agriculture Department
See Forest Service

Census Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 68292–68293

Centers for Disease Control and Prevention
NOTICES
International Labour Office Reference Radiographs, 68322

Children and Families Administration
PROPOSED RULES
Comprehensive Child Welfare Information System, 68290–68291

Commerce Department
See Census Bureau
See International Trade Administration
See Minority Business Development Agency
See National Oceanic and Atmospheric Administration

Community Living Administration
NOTICES
Federal Review of the Connecticut Office of Protection and Advocacy for Persons with Disabilities, 68322–68323

Defense Department
See Navy Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 68301–68302
Privacy Act; Systems of Records, 68299–68309

Energy Department
See Federal Energy Regulatory Commission
PROPOSED RULES
Energy Conservation Programs:
  Test Procedures for Fluorescent Lamp Ballasts; Clarification, 68274–68281
NOTICES
Meetings:
  Biomass Research and Development Technical Advisory Committee, 68309
  DOE/NSF High Energy Physics Advisory Panel, 68309–68310

Environmental Protection Agency
RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
  Tennessee; Reasonably Available Control Measures and Redesignation for the Tennessee Portion of the Chattanooga 1997 Annual PM2.5 Nonattainment Area, 68253–68257
Pesticide Tolerances:
  Diethofencarb, 68257–68261
  Nicosulfuron, 68261–68265
PROPOSED RULES
Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities, 68289–68290
NOTICES
Pesticide Product Registration:
  Applications for New Active Ingredients, 68321
  Applications for New Uses, 68320

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 68321–68322

Federal Aviation Administration
PROPOSED RULES
Airworthiness Directives:
  Rolls-Royce plc Turbofan Engines, 68284–68286
Special Conditions:
  Kestrel Aircraft Co., Model K–350 Turboprop, Lithium Batteries, 68281–68284

Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 68311–68317
Environmental Assessments; Availability, etc.:
  Alaska Village Electric Cooperative, Inc., 68318–68319
Environmental Impact Statements; Availability, etc.:
  Juneau Hydropower, Inc., 68310
Facility Operating Licenses:
  Duke Energy Progress, Inc., Duke Energy Progress LLC, 68318
Initial Market-Based Rate Filings Including Requests for Blanket Section 204 Authorizations:
  Brown's Energy Services, LLC, 68310–68311
  Conetoe II Solar, LLC, 68319
  Harborside Energy, LLC, 68318
Meetings:
  Staff Attendance, 68319–68320
  Technical Conference on Revised Critical Infrastructure Protection Reliability Standards, 68317
Termination of Proceedings:
  Vaughn Thermal Corp., 68311

Federal Railroad Administration
NOTICES
Environmental Impact Statements; Availability, etc.:
  Washington Union Station Expansion Project, 68380–68382

Federal Reserve System
NOTICES
Formations of, Acquisitions by, and Mergers of Bank Holding Companies, 68322

Federal Transit Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 68382

Fiscal Service
NOTICES
Senior Executive Service Performance Review Board, 68384
Surety Companies Acceptable on Federal Bonds:
  Insurance Company of the State of Pennsylvania (The) New Hampshire Insurance Company, 68384

Fish and Wildlife Service
RULES
Subsistence Management Regulations:
Public Lands in Alaska; Rural Determination Process, 68249–68253
Public Lands in Alaska; Rural Determinations, Nonrural List, 68245–68248
NOTICES
Low-Effect Habitat Conservation Plans:
Seven Covered Species, Los Angeles Department of Water and Power Land, Inyo and Mono Counties, CA, 68332–68333

Food and Drug Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Interstate Shellfish Dealers Certificate, 68323

Forest Service
RULES
Subsistence Management Regulations:
Public Lands in Alaska; Rural Determination Process, 68249–68253
Public Lands in Alaska; Rural Determinations, Nonrural List, 68245–68248

Health and Human Services Department
See Centers for Disease Control and Prevention
See Children and Families Administration
See Community Living Administration
See Food and Drug Administration
See Health Resources and Services Administration
PROPOSED RULES
Comprehensive Child Welfare Information System, 68290–68291

Health Resources and Services Administration
NOTICES
National Vaccine Injury Compensation Program Petitions, 68323–68326

Homeland Security Department
See U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Support Anti-Terrorism by Fostering Effective Technologies Act Program, 68329–68330

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application for Transfer of Physical Assets, 68331–68332
Builder's Certification of Plans, Specifications and Site, 68330–68331
FHA Insured Title I Property Improvement and Manufactured Home Loan Programs, 68331

Inter-American Foundation
NOTICES
Meetings; Sunshine Act, 68332

Interior Department
See Fish and Wildlife Service
See Land Management Bureau
See National Park Service

Internal Revenue Service
RULES
Determination of Distributive Share When Partner's Interest Changes; Correction, 68243–68245
PROPOSED RULES
Treatment of Certain Transfers of Property to Foreign Corporations; Correction, 68288–68289

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Uncoated Paper from Portugal, 68293–68295
Meetings:
President's Advisory Council on Doing Business in Africa, 68293
United States Travel and Tourism Advisory Board, 68295–68296

International Trade Commission
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Steel Grating from China, 68334–68335
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Windshield Wipers and Components Thereof; Request for Statements on the Public Interest, 68335

Land Management Bureau
NOTICES
Meetings:
Eastern Montana Resource Advisory Council, 68333

Minority Business Development Agency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 68296–68297

National Oceanic and Atmospheric Administration
RULES
Atlantic Highly Migratory Species:
Atlantic Bluefin Tuna Fisheries, 68265–68267
Fisheries of the Exclusive Economic Zone Off Alaska:
Sablefish in the West Yakutat District of the Gulf of Alaska, 68267
NOTICES
Atlantic Highly Migratory Species:
Exempted Fishing, Scientific Research, Display, Shark Research Fishery, and Chartering Permits; Letters of Acknowledgment, 68297–68299

National Park Service
NOTICES
National Register of Historic Places:
Notification of Pending Nominations and Related Actions, 68333–68334

Navy Department
RULES
Professional Conduct of Attorneys Practicing under the Cognizance and Supervision of the Judge Advocate General, 68388–68410

Nuclear Regulatory Commission
PROPOSED RULES
Variable Annual Fee Structure for Small Modular Reactors, 68268–68274

Pipeline and Hazardous Materials Safety Administration
NOTICES
Hazardous Materials:
New York City Permit Requirements for Transportation of Certain Hazardous Materials, 68382–68383

Postal Regulatory Commission
NOTICES
Public Inquiry:
Service Performance Measurement Data, 68336

Presidential Documents
PROCLAMATIONS
Special Observances:
National Apprenticeship Week (Proc. 9363), 68419–68420
National Diabetes Month (Proc. 9360), 68411–68414
National Family Caregivers Month (Proc. 9361), 68415–68416
National Native American Heritage Month (Proc. 9362), 68417–68418

Securities and Exchange Commission
PROPOSED RULES
Securities Investor Protection Corporation, 68286–68288
NOTICES
Applications:
U.S. Bank National Association, 68369–68371
Filings and Orders:
Amendment to the Plan for the Allocation of Regulatory Responsibilities Among NYSE MKT, LLC, BATS Exchange, Inc., BOX Options Exchange, LLC, et al., 68354–68361
Self-Regulatory Organizations; Proposed Rule Changes:
BATS Exchange, Inc., BATS Y-Exchange, Inc., BOX Options Exchange, LLC, et al., 68337–68338
C2 Options Exchange, Inc., 68343–68347
EDGX Exchange, Inc., 68371–68373
Miami International Securities Exchange, LLC, 68373–68376
NASDAQ OMX BX, Inc., 68347–68354
NASDAQ OMX PHLX, LLC, 68338–68342
NASDAQ Stock Market, LLC, 68342–68343, 68377–68379
New York Stock Exchange, LLC, 68367–68369
NYSE MKT, LLC, 68376–68377
NYSE MKT, LLC, BATS Exchange, Inc., BOX Options Exchange, LLC, et al., 68361–68367

Small Business Administration
NOTICES
Disaster Declarations:
South Carolina; Amendment 7, 68379
Washington, 68380

Surface Transportation Board
NOTICES
Control Exemptions; Continuance:
Watco Holdings, Inc. Cicero Central Railroad, LLC, 68383–68384
Lease Exemptions:
Cicero Central Railroad, LLC Illinois Central Railroad Co., 68383

Transportation Department
See Federal Aviation Administration
See Federal Railroad Administration
See Federal Transit Administration
See Pipeline and Hazardous Materials Safety Administration
See Surface Transportation Board

Treasury Department
See Fiscal Service
See Internal Revenue Service

U.S. Customs and Border Protection
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Application-Permit-Special License Unlading-Lading-Overtime Services, 68326
Customs and Border Protection Recordkeeping Requirements, 68328–68329
Declaration for Free Entry of Returned American Products, 68327–68328
Deferral of Duty on Large Yachts Imported for Sale, 68326–68327
Guam-CNMI Visa Waiver Information, 68328

U.S.-China Economic and Security Review Commission
NOTICES
Meetings:
U.S.-China Economic and Security Review Commission; Public Hearing, 68384–68385

Separate Parts In This Issue

Part II
Defense Department, Navy Department, 68388–68410

Part III
Presidential Documents, 68411–68420

Reader Aids

Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, and notice of recently enacted public laws.

To subscribe to the Federal Register Table of Contents LISTSERV electronic mailing list, go to http://listserv.access.gpo.gov and select Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings); then follow the instructions.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR

Proclamations:

9360 68413
9361 68415
9362 68417
9363 68419

10 CFR

Proposed Rules:

170 68268
171 68268
429 68274
430 68274

14 CFR

Proposed Rules:

23 68281
39 68284

17 CFR

Proposed Rules:

300 68286

26 CFR

1 (2 documents) 68243, 68244
602 68244

Proposed Rules:

1 68288

32 CFR

776 68388

36 CFR

242 (2 documents) 68245, 68249

40 CFR

52 68253
81 68253
180 (2 documents) 68257, 68261

Proposed Rules:

180 68289

45 CFR

Proposed Rules:

95 68290
1355 68290
1356 68290

50 CFR

100 (2 documents) 68245, 68249
635 68265
679 68267

Rules and Regulations

Federal Register

Vol. 80, No. 213

Wednesday, November 4, 2015

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9728]

RIN 1545–BD71

Determination of Distributive Share When Partner's Interest Changes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to final regulations (TD 9728) that were published in the **Federal Register** on Monday, August 3, 2015 (80 FR 45865). The final regulations are regarding the determination of a partner's distributive share of partnership items of income, gain, loss, deduction, and credit when a partner's interest varies during a partnership taxable year.

DATES: This correction is effective *November 4, 2015* and is applicable on or after August 3, 2015.

FOR FURTHER INFORMATION CONTACT: Benjamin H. Weaver of the Office of Associate Chief Counsel (Passthroughs and Special Industries at (202) 317–6850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9728) that are the subject of this correction are under section 706 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9728) contain errors that may prove to be misleading and are in need of clarification.

List of Subjects in 26 CFR Part 1

Income taxes, reporting and recordkeeping requirements.

Correction of Publication

Accordingly, 26 CFR part 1 is corrected by making the following correcting amendments:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ **Par. 2.** Section 1.706–0 is amended by revising the entries of the table of contents for § 1.706–1(b)(3)(iii), § 1.706–2, § 1.706–3, § 1.706–4(a)(2), and § 1.706–4(d)(1), and adding entries to § 1.706–1(c)(6), and § 1.706–4(c)(3)(i) and (ii). The revisions and additions read as follows:

§ 1.706–0 Table of contents.

* * * * *

§ 1.706–1 Taxable years of partner and partnership.

(b) * * *

(3) * * *

(iii) Special de minimis rule.

* * * * *

(c) * * *

(6) Foreign taxes.

* * * * *

§ 1.706–2 Certain allocable cash basis items. [Reserved]

* * * * *

§ 1.706–3 Items attributable to interest in lower tier partnership. [Reserved]

§ 1.706–4 Determination of distributive share when a partner's interest varies.

(a) * * *

(2) Coordination with section 706(d)(2) and (3) and other Code sections.

* * * * *

(c) * * *

(3) * * *

(i) Rules applicable to all partnerships.

(ii) Publicly treated partnerships.

(4) * * *

(d)(1) Optional regular monthly or semimonthly interim closings.

* * * * *

■ **Par. 3.** Section 1.706–1 is amended by revising paragraph (c)(2)(ii) to read as follows:

§ 1.706–1 Taxable years of partner and partnership.

* * * * *

(c) * * *

(2) * * *

(ii)

Example. H is a partner of a partnership having a taxable year ending December 31. Both H and his wife W are on a calendar year and file joint returns. H dies on March 31, 2016. Administration of the estate is completed and the estate, including the partnership interest, is distributed to W as legatee on November 30, 2016. Such distribution by the estate is not a sale or exchange of H's partnership interest. The taxable year of the partnership will close with respect to H on March 31, 2016, and H will include in his final return for his final taxable year (January 1, 2016, through March 31, 2016) his distributive share of partnership items for that period under the rules of sections 706(d)(2), 706(d)(3), and § 1.706–4. W will include in her return for the taxable year ending December 31, 2016, her distributive share of partnership items for the period of April 1, 2016, through December 31, 2016, under the rules of sections 706(d)(2), 706(d)(3), and § 1.706–4.

* * * * *

■ **Par. 4.** Section 1.706–2 is amended by revising the section heading to read as follows:

§ 1.706–2 Certain allocable cash to as is items. [Reserved]

■ **Par. 5.** Section 1.706–3 is amended by revising the section heading to read as follows:

§ 1.706–3 Items attributable to interest in lower tier partnership. [Reserved]

■ **Par. 6.** Section 1.706–4 is amended by revising paragraphs (a)(2) and (a)(3)(viii), the introductory text of paragraph (a)(4), and the third sentence of paragraph (g) to read as follows:

§ 1.706–4 Determination of distributive share when a partner's interest varies.

(a) * * *

(2) Coordination with sections 706(d)(2) and 706(d)(3) and other Code sections. Items subject to allocation under other rules, including sections 108(e)(8) and 108(i) (which provide special allocation rules for certain items from the discharge or retirement of indebtedness section), section 704(c) (relating to allocations with respect to certain contributed property), § 1.704–3(a)(6) (relating to allocations with respect to revalued property), section 706(d)(2) (relating to the determination of partners' distributive shares of allocable cash basis items), and section 706(d)(3) (relating the determination of partners' distributive share of any item of an upper tier partnership attributable to a lower tier partnership), are not

subject to the rules of this section. In addition, the rules of this section do not apply in making allocation of book items pursuant to § 1.704–1(b)(2)(iv)(*e*), (*f*), or (*s*). In all cases, all partnership items for each taxable year must be allocated among the partners, and no partnership items may be duplicated, regardless of the particular provision of section 706 (or other Code section) which applies, and regardless of the method or convention adopted by the partnership.

(3) * * *

(viii) Eighth, determine the partnership's proration periods, which are specific portions of a segment created by a variation for which the partnership chooses to apply the proration method. The first proration period in each segment begins at the beginning of the segment, and ends at the first time of the first variation within the segment for which the partnership selects the proration method. The next proration period begins immediately after the close of the prior proration period and ends at the time of the next variation for which the partnership selects the proration method. However, each proration period shall end no later than the close of the segment.

* * * * *

(4)

Example. At the beginning of 2017, PRS, a calendar year partnership, has three equal partners, A, B, and C. On April 16, 2017, A sells 50% of its interest in PRS to new partner D. On August 6, 2017, B sells 50% of its interest in PRS to new partner E. During 2015, PRS earned $75,000 of ordinary income, incurred $33,000 of ordinary deductions, earned $12,000 of capital gain in the ordinary course of its business, and sustained $9,000 of capital loss in the ordinary course of its business. Within that year, PRS earned $60,000 of ordinary income, incurred $24,000 of ordinary deductions, earned $12,000 of capital gain, and sustained $6,000 of capital loss between January 1, 2017, and July 31, 2017, and PRS earned $15,000 of gross ordinary income, incurred $9,000 of gross ordinary deductions, and sustained $3,000 of capital loss between August 1, 2017, and December 31, 2017. None of PRS's items are extraordinary items within the meaning of paragraph (e)(2) of this section. Capital is a material income-producing factor for PRS. For 2017, PRS determines the distributive shares of A, B, C, D, and E as follows:

* * * * *

(g) * * * For purposes of the immediately preceding sentence, an existing publicly traded partnership is a partnership described in section 7704(b) that was formed prior to April 14, 2009.

* * *

§ 1.706–4 [Amended]

■ **Par. 7.** For each entry in § 1.706–4 in the ''Section'' column, remove the language in ''Remove'' column from wherever it appears in the Example and add in its place the language in the ''Add'' column as set forth below:

Section	Remove	Add
Paragraph (a)(4) *Example.* (iii)	2015.	2017.
Paragraph (a)(4) *Example.* (iv)	2015.	2017.
Paragraph (a)(4) *Example.* (v)	2015.	2017.
Paragraph (a)(4) *Example.* (vi)	2015.	2017.
Paragraph (a)(4) *Example.* (vii)	2015.	2017.
Paragraph (a)(4) *Example.* (viii)	2015.	2017.
Paragraph (c)(4) *Example.* 1	2015.	2016.
Paragraph (c)(4) *Example.* 1	February 28, 2015.	February 29, 2016.
Paragraph (c)(4) *Example.* 2	2015.	2016.
Paragraph (d)(2) *Example.* (i)	2015.	2016.
Paragraph (d)(2) *Example.* (ii)	2015.	2016.
Paragraph (d)(2) *Example.* (iii)	2015.	2016.
Paragraph (d)(2) *Example.* (iv)	2015.	2016.
Paragraph (e)(4) *Example.* 1	2015.	2016.
Paragraph (e)(4) *Example.* 2	2015.	2016.
Paragraph (e)(4) *Example.* 3	2015.	2016.
Paragraph (e)(4) *Example.* 4	2015.	2016.
Paragraph (e)(4) *Example.* 5	2015.	2016.
Paragraph (e)(4) *Example.* 6	item.	items.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2015–28015 Filed 11–3–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 602

[TD 9728]

RIN 1545–BD71

Determination of Distributive Share When Partner's Interest Changes; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations; correction.

SUMMARY: This document contains corrections to final regulations (TD 9728) that were published in the **Federal Register** on Monday, August 3, 2015 (80 FR 45865). The final regulations regarding the determination of a partner's distributive share of partnership items of income, gain, loss, deduction, and credit when a partner's interest varies during a partnership taxable year.

DATES: This correction is effective *November 4, 2015* and applicable August 3, 2015.

FOR FURTHER INFORMATION CONTACT: Benjamin H. Weaver of the Office of Associate Chief Counsel (Passthroughs and Special Industries at (202) 317–6850 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulations (TD 9728) that are the subject of this correction are under section 706 of the Internal Revenue Code.

Need for Correction

As published, the final regulations (TD 9728) contain errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulations (TD 9728), that are subject to FR Doc. 2015–18816, are corrected as follows:

1. On page 45866, in the preamble, third column, last sentence of first full paragraph, the language ''rules, including section 706(d)(2) and section 706(d)(3).'' is corrected to read ''rules, including section 704(c), § 1.704–3(a)(6) (reverse section 704(c)), section 706(d)(2), and section 706(d)(3).''

2. On page 45868, in the preamble, first column, fourth line from the bottom of the column, the language ''interim closings of its books except at'' is corrected to read ''interim closing of its books except at''.

3. On page 45871, in the preamble, second column, third line from the bottom of the column, under paragraph heading ''*v. Deemed Timing of Variations*,'' the language ''taxable year was deemed to close at the'' is corrected to read ''taxable year was deemed to occur at the''.

4. On page 45873, in the preamble, third column, eighth line from the bottom of the column, the language ''taxable as of which the recipients of a'' is corrected to read ''taxable year as of which the recipients of a''.

5. On page 45874, second column, eight lines from the bottom of the column, the following sentence is added to the end of the paragraph: ''These final regulations do not override the application of section 704(c), including reverse section 704(c), and therefore the final regulations provide that the rules of section 706 do not apply in making allocations of book items upon a partnership revaluation.''

6. On page 45876, in the preamble, second column, under paragraph heading ''*Effective/Applicability Dates*'', fifth line of the first paragraph, the language ''of a special rule applicable to § 1.704–'' is corrected to read ''of a special rule applicable to § 1.706–''.

7. On page 45876, in the preamble, second column, under paragraph heading ''*Effective/Applicability Dates*'', third line of the second paragraph, the language ''regulations apply to the partnership'' is corrected to read ''regulations apply to partnership''.

8. On page 45876, in the preamble, third column, fourth line from the top of the column, the language ''that was formed prior to April 19, 2009.'' is corrected to read ''that was formed prior to April 14, 2009.''

9. On page 45877, first column, under paragraph heading ''*List of Subjects,*'' the fourth line, the language ''26 CFR part 2'' is corrected to read ''26 CFR part 602''.

10. On page 45883, third column, the first line of the signature block, the language ''Karen L. Schiller,'' is corrected to read ''Karen M. Schiller,''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel (Procedure and Administration).

[FR Doc. 2015–28014 Filed 11–3–15; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2015–0156; FXRS12610700000–156–FF07J00000; FBMS#4500086366]

RIN 1018–BA82

Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List

AGENCY: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Direct final rule.

SUMMARY: This rule revises the list of nonrural areas in Alaska identified by the Federal Subsistence Board (Board). Only residents of areas that are rural are eligible to participate in the Federal Subsistence Management Program on public lands in Alaska. Based on a Secretarial review of the rural determination process, and the subsequent change in the regulations governing this process, the Board is revising the current nonrural determinations to the list that existed prior to 2007. Accordingly, the community of Saxman and the area of Prudhoe Bay will be removed from the nonrural list. The following areas continue to be nonrural, but their boundaries will return to their original borders: the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan area.

DATES: This rule is effective on December 21, 2015 unless we receive significant adverse comments on or before December 4, 2015.

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

- *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov* and search for FWS–R7–SM–2015–0156, which is the docket number for this rulemaking.
- *By hard copy:* U.S. mail or hand-delivery to: USFWS, Office of Subsistence Management, 1011 East Tudor Road, MS 121, Attn: Theo Matuskowitz, Anchorage, AK 99503–6199

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program (Program). This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. Only residents of areas identified as rural are eligible to participate in the Program on Federal public lands in Alaska. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively.

Consistent with these regulations, the Secretaries established a Federal Subsistence Board (Board) comprising Federal officials and public members to administer the Program. One of the Board's responsibilities is to determine which communities or areas of the State are rural or nonrural. The Secretaries also divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council (Council). The Council members represent varied geographical, cultural, and user interests within each region. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a

meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska.

Related Rulemaking

Elsewhere in today's **Federal Register** is a final rule that sets forth a new process by which the Board will make rural determinations (''Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process''). Please see that rule for background information on how this new process was developed and the extensive Council and public input that was considered. A summary of that information follows:

Until promulgation of the rule mentioned above, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 had required that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data. Some data from the 2000 census was not compiled and available until 2005, so the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688), and changed the rural determination for several communities or areas in Alaska. These communities had 5 years following the date of publication to come into compliance.

The Board met on January 20, 2012, and, among other things, decided to extend the compliance date of its 2007 final rule on rural determinations. A final rule published March 1, 2012 (77 FR 12477), that extended the compliance date until either the rural determination process and findings review were completed or 5 years, whichever came first. The 2007 regulations have remained in titles 36 and 50 of the CFR unchanged since their effective date.

The Board followed that action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board. The Board also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process, and public testimony was recorded. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board would rely heavily on the recommendations of the Councils. The Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes.

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. Following a process that involved substantial Council and public input, the Departments published the final rule that may be found elsewhere in today's **Federal Register**.

Direct Final Rule

During that process, the Board went on to address a starting point for nonrural communities and areas. The May 7, 2007 (72 FR 25688), final rule was justified by the Board's January 3, 1991, notice (56 FR 236) adopting final rural and nonrural determinations and the final rule of May 7, 2002 (67 FR 30559), amending 36 CFR 242.23(a) and 50 CFR 100.23(a) to add the Kenai Peninsula communities (Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, Clam Gulch, Anchor Point, Homer, Kachemak City, Fritz Creek, Moose Pass, and Seward) to the list of areas determined to be nonrural. The 2007 rule added the village of Saxman and the area of Prudhoe Bay to the nonrural list and expanded the nonrural boundaries of the Kenai Area; the Wasilla/Palmer area; the Homer area; and the Ketchikan Area.

Since the 2007 final rule (72 FR 25688; May 7, 2007) was contentious, and so many comments were received objecting to the changes imposed by that rule, the Board has decided to return to the rural determinations prior to the 2007 final rule. The Board further decided that the most expedient method to enact their decisions was to publish this direct final rule adopting the pre-2007 nonrural determinations. As a result, the Board has determined the following areas to be nonrural: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla area—including Palmer, Wasilla, Sutton, Big Lake, Houston, and Bodenberg Butte.

These final regulations reflect Board review and consideration of Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. Based on concerns expressed by some of the Councils and members of the public, the Board went on to direct staff to develop options for the Board to consider and for presentation to the Councils, to address future nonrural determinations. These options will be presented to the Board and Chairs of each Council at the January 12, 2016, public meeting.

We are publishing this rule without a prior proposal because we view this action as an administrative action by the Federal Subsistence Board. This rule will be effective, as specified above in DATES, unless we receive significant

adverse comments on or before the deadline set forth in DATES. Significant adverse comments are comments that provide strong justifications why the rule should not be adopted or for changing the rule. If we receive significant adverse comments, we will publish a notice in the **Federal Register** withdrawing this rule before the effective date. If no significant adverse comments are received, we will publish a document in the **Federal Register** confirming the effective date.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

In compliance with Administrative Procedure Act, the Board has provided extensive opportunity for public input and involvement in its efforts to improve the rural determination process as described in the related final rule published elsewhere in today's **Federal Register**. In addition, anyone with concerns about this rulemaking action may submit comments as specified in **DATES** and **ADDRESSES**.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries and is available at the office listed under **FOR FURTHER INFORMATION CONTACT**. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

During the subsequent environmental assessment process for extending fisheries jurisdiction, an evaluation of the effects of this rule was conducted in accordance with section 810. That evaluation also supported the Secretaries' determination that the rule will not reach the ''may significantly restrict'' threshold that would require notice and hearings under ANILCA section 810(a).

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires February 29, 2016.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

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

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more

in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

The Alaska National Interest Lands Conservation Act, Title VIII, does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation on the rural determination process: commenting on changes under consideration for the existing regulations; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

Since 2007 multiple opportunities were provided by the Board for Federally recognized Tribes and Alaska Native Corporations to consult on the subject of rural determinations. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

Authority

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Secretaries amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

PART—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart C—Board Determinations

■ 2. In subpart C of 36 CFR part 242 and 50 CFR part 100, §__.23 is revised to read as follows:

§__.23 Rural determinations.

(a) The Board has determined all communities and areas to be rural in accordance with § __.15 except the following: Fairbanks North Star Borough; Homer area—including Homer, Anchor Point, Kachemak City, and Fritz Creek; Juneau area—including Juneau, West Juneau, and Douglas; Kenai area—including Kenai, Soldotna, Sterling, Nikiski, Salamatof, Kalifornsky, Kasilof, and Clam Gulch; Ketchikan area—including Ketchikan City, Clover Pass, North Tongass Highway, Ketchikan East, Mountain Point, Herring Cove, Saxman East, Pennock Island, and parts of Gravina Island; Municipality of Anchorage; Seward area—including Seward and Moose Pass, Valdez, and Wasilla/Palmer area—including Wasilla, Palmer, Sutton, Big Lake, Houston, and Bodenberg Butte.

(b) You may obtain maps delineating the boundaries of nonrural areas from the U.S. Fish and Wildlife Service at the Alaska Regional Office address provided at 50 CFR 2.2(g), or on the Web at *https://www.doi.gov/subsistence.*

Dated: September 30, 2015.

Eugene R. Peltola, Jr.,

Assistant Regional Director, U.S. Fish and Wildlife Service, Acting Chair, Federal Subsistence Board.

Dated: September 30, 2015.

Thomas Whitford,

Subsistence Program Leader, USDA—Forest Service.

[FR Doc. 2015–27996 Filed 10–30–15; 8:45 am]

BILLING CODE 3410–11–4333–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 242

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 100

[Docket No. FWS–R7–SM–2014–0063; FXRS12610700000–156–FF07J00000; FBMS# 4500086287]

RIN 1018–BA62

Subsistence Management Regulations for Public Lands in Alaska; Rural Determination Process

AGENCIES: Forest Service, Agriculture; Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Secretaries of Agriculture and the Interior are revising the regulations governing the rural determination process for the Federal Subsistence Management Program in Alaska. The Secretaries have removed specific guidelines, including requirements regarding population data, the aggregation of communities, and a decennial review. This change will allow the Federal Subsistence Board (Board) to define which communities or areas of Alaska are nonrural (all other communities and areas would, therefore, be rural). This new process will enable the Board to be more flexible in making decisions and to take into account regional differences found throughout the State. The new process will also allow for greater input from the Subsistence Regional Advisory Councils (Councils), Federally recognized Tribes of Alaska, Alaska Native Corporations, and the public.

DATES: This rule is effective November 4, 2015.

ADDRESSES: This rule and public comments received on the proposed rule may be found on the Internet at *www.regulations.gov* at Docket No. FWS–R7–SM–2014–0063. Board meeting transcripts are available for review at the Office of Subsistence Management, 1011 East Tudor Road, Mail Stop 121, Anchorage, AK 99503, or on the Office of Subsistence Management Web site (*https://www.doi.gov/subsistence*).

FOR FURTHER INFORMATION CONTACT: Chair, Federal Subsistence Board, c/o U.S. Fish and Wildlife Service, Attention: Eugene R. Peltola, Jr., Office of Subsistence Management; (907) 786–3888 or *subsistence@fws.gov.* For questions specific to National Forest System lands, contact Thomas Whitford, Regional Subsistence Program Leader, USDA, Forest Service, Alaska Region; (907) 743–9461 or *twhitford@fs.fed.us.*

SUPPLEMENTARY INFORMATION:

Background

Under Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126), the Secretary of the Interior and the Secretary of Agriculture (Secretaries) jointly implement the Federal Subsistence Management Program. This program provides a preference for take of fish and wildlife resources for subsistence uses on Federal public lands and waters in Alaska. The Secretaries published temporary regulations to carry out this program in the **Federal Register** on June 29, 1990 (55 FR 27114), and published final regulations in the **Federal Register** on May 29, 1992 (57 FR 22940). The program regulations have subsequently been amended a number of times. Because this program is a joint effort between Interior and Agriculture, these regulations are located in two titles of the Code of Federal Regulations (CFR): Title 36, ''Parks, Forests, and Public Property,'' and Title 50, ''Wildlife and Fisheries,'' at 36 CFR 242.1–242.28 and 50 CFR 100.1–100.28, respectively. The regulations contain subparts as follows: Subpart A, General Provisions; Subpart B, Program Structure; Subpart C, Board Determinations; and Subpart D, Subsistence Taking of Fish and Wildlife.

Consistent with Subpart B of these regulations, the Secretaries established a Federal Subsistence Board to administer the Federal Subsistence Management Program. The Board comprises:

- A Chair appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture;
- The Alaska Regional Director, U.S. Fish and Wildlife Service;
- The Alaska Regional Director, U.S. National Park Service;
- The Alaska State Director, U.S. Bureau of Land Management;
- The Alaska Regional Director, U.S. Bureau of Indian Affairs;
- The Alaska Regional Forester, U.S. Forest Service; and
- Two public members appointed by the Secretary of the Interior with concurrence of the Secretary of Agriculture.

Through the Board, these agencies and members participate in the development of regulations for subparts C and D, which, among other things, set forth program eligibility and specific harvest seasons and limits.

In administering the program, the Secretaries divided Alaska into 10 subsistence resource regions, each of which is represented by a Regional Advisory Council. The Councils provide a forum for rural residents with personal knowledge of local conditions and resource requirements to have a meaningful role in the subsistence management of fish and wildlife on Federal public lands in Alaska. The Council members represent varied geographical, cultural, and user interests within each region.

Prior Rulemaking

On November 23, 1990 (55 FR 48877), the Board published a notice in the **Federal Register** explaining the proposed Federal process for making rural determinations, the criteria to be used, and the application of those criteria in preliminary determinations. On December 17, 1990, the Board adopted final rural and nonrural determinations, which were published on January 3, 1991 (56 FR 236). Final programmatic regulations were published on May 29, 1992, with only slight variations in the rural determination process (57 FR 22940). As a result of this rulemaking, Federal subsistence regulations at 36 CFR 242.15 and 50 CFR 100.15 require that the rural or nonrural status of communities or areas be reviewed every 10 years, beginning with the availability of the 2000 census data.

Because some data from the 2000 census was not compiled and available until 2005, the Board published a proposed rule in 2006 to revise the list of nonrural areas recognized by the Board (71 FR 46416, August 14, 2006). The final rule published in the **Federal Register** on May 7, 2007 (72 FR 25688).

Secretarial Review

On October 23, 2009, Secretary of the Interior Salazar announced the initiation of a Departmental review of the Federal Subsistence Management Program in Alaska; Secretary of Agriculture Vilsack later concurred with this course of action. The review focused on how the Program is meeting the purposes and subsistence provisions of Title VIII of ANILCA, and if the Program is serving rural subsistence users as envisioned when it began in the early 1990s.

On August 31, 2010, the Secretaries announced the findings of the review, which included several proposed administrative and regulatory reviews and/or revisions to strengthen the Program and make it more responsive to those who rely on it for their subsistence uses. One proposal called

for a review, with Council input, of the rural determination process and, if needed, recommendations for regulatory changes.

The Board met on January 20, 2012, to consider the Secretarial directive and the Councils' recommendations and review all public, Tribal, and Alaska Native Corporation comments on the initial review of the rural determination process. After discussion and deliberation, the Board voted unanimously to initiate a review of the rural determination process and the 2010 decennial review. Consequently, the Board found that it was in the public's best interest to extend the compliance date of its 2007 final rule (72 FR 25688; May 7, 2007) on rural determinations until after the review of the rural determination process and the decennial review were completed or in 5 years, whichever comes first. The Board published a final rule on March 1, 2012 (77 FR 12477), extending the compliance date.

The Board followed this action with a request for comments and announcement of public meetings (77 FR 77005; December 31, 2012) to receive public, Tribal, and Alaska Native Corporations input on the rural determination process.

Due to a lapse in appropriations on October 1, 2013, and the subsequent closure of the Federal Government, some of the preannounced public meetings and Tribal consultations to receive comments on the rural determination process during the closure were cancelled. The Board decided to extend the comment period to allow for the complete participation from the Councils, public, Tribes, and Corporations to address this issue (78 FR 66885; November 7, 2013).

The Councils were briefed on the Board's **Federal Register** documents during their winter 2013 meetings. At their fall 2013 meetings, the Councils provided a public forum to hear from residents of their regions, deliberate on the rural determination process, and provide recommendations for changes to the Board.

The Secretaries, through the Board, also held hearings in Barrow, Ketchikan, Sitka, Kodiak, Bethel, Anchorage, Fairbanks, Kotzebue, Nome, and Dillingham to solicit comments on the rural determination process. Public testimony was recorded during these hearings. Government-to-government tribal consultations on the rural determination process were held between members of the Board and Federally recognized Tribes of Alaska. Additional consultations were held between members of the Board and Alaska Native Corporations.

Altogether, the Board received 475 substantive comments from various sources, including individuals, members of the Councils, and other entities or organizations, such as Alaska Native Corporations and borough governments. In general, this information indicated a broad dissatisfaction with the current rural determination process. The aggregation criteria were perceived as arbitrary. The current population thresholds were seen as inadequate to capture the reality of rural Alaska. Additionally, the decennial review was widely viewed to be unnecessary.

Based on this information, the Board at their public meeting held on April 17, 2014, elected to recommend a simplification of the process by determining which areas or communities are nonrural in Alaska; all other communities or areas would, therefore, be rural. The Board would make nonrural determinations using a comprehensive approach that considers population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board would rely heavily on the recommendations of the Subsistence Regional Advisory Councils.

In summary, based on Council and public comments, Tribal and Alaska Native Corporation consultations, and briefing materials from the Office of Subsistence Management, the Board developed a proposal that simplifies the process of rural determinations and submitted its recommendation to the Secretaries on August 15, 2014.

On November 24, 2014, the Secretaries requested that the Board initiate rulemaking to pursue the regulatory changes recommended by the Board. The Secretaries also requested that the Board obtain Council recommendations and public input, and conduct Tribal and Alaska Native Corporation consultation on the proposed changes. If adopted through the rulemaking process, the current regulations would be revised to remove specific guidelines, including requirements regarding population data, the aggregation of communities, and the decennial review, for making rural determinations.

Public Review and Comment

The Departments published a proposed rule on January 28, 2015 (80 FR 4521), to revise the regulations governing the rural determination process in subpart B of 36 CFR part 242 and 50 CFR part 100. The proposed rule opened a public comment period, which closed on April 1, 2015. The Departments advertised the proposed rule by mail, radio, newspaper, and social media; comments were submitted via *www.regulations.gov* to Docket No. FWS–R7–SM–2014–0063. During that period, the Councils received public comments on the proposed rule and formulated recommendations to the Board for their respective regions. In addition, 10 separate public meetings were held throughout the State to receive public comments, and several government-to-government consultations addressed the proposed rule. The Councils had a substantial role in reviewing the proposed rule and making recommendations for the final rule. Moreover, a Council Chair, or a designated representative, presented each Council's recommendations at the Board's public work session of July, 28, 2015.

The 10 Councils provided the following comments and recommendations to the Board on the proposed rule:

Northwest Arctic Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Seward Peninsula Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Yukon-Kuskokwim Delta Subsistence Regional Advisory Council—unanimously supported the proposed rule.

Western Interior Alaska Regional Advisory Council—supported the proposed rule.

North Slope Subsistence Regional Advisory Council—unanimously supported the proposed rule as written. The Council stated the proposed rule will improve the process and fully supported an expanded role and inclusion of recommendations of the Councils when the Board makes nonrural determinations. The Council wants to be closely involved with the Board when the Board sets policies and criteria for how it makes nonrural determinations under the proposed rule if the rule is approved, and the Council passed a motion to write a letter requesting that the Board involve and consult with the Councils when developing criteria to make nonrural determinations, especially in subject matter that pertains to their specific rural characteristics and personality.

Bristol Bay Subsistence Regional Advisory Council—supported switching the focus of the process from rural to

nonrural determinations. They indicated there should be criteria for establishing what is nonrural to make determinations defensible and justifiable, including determinations of the carrying capacity of the area for sustainable harvest, and governmental entities should not determine what is spiritually and culturally important for a community. They supported eliminating the mandatory decennial; however, they requested a minimum time limit between requests (at least 3 years). They discussed deference and supported the idea but felt it did not go far enough.

Southcentral Alaska Subsistence Regional Advisory Council—supported the proposed rule with modification. They recommended deference be given to the Councils on the nonrural determinations.

Southeast Alaska Subsistence Regional Advisory Council—supported the proposed rule with modification. The Council recommended a modification to the language of the proposed rule: ''The Board determines, after considering the report and recommendations of the applicable regional advisory council, which areas or communities in Alaska are non-rural . . . .'' The Council stated that this modification is necessary to prevent the Board from adopting proposals contrary to the recommendation(s) of a Council and that this change would increase transparency and prevent rural communities from being subject to the whims of proponents.

Kodiak/Aleutians Subsistence Regional Advisory Council—is generally appreciative that the Board has recommended changes to the rural determination process and supported elimination of the decennial review. The Council recommended that the Board implement definitive guidelines for how the Board will make nonrural determinations to avoid subjective interpretations and determinations; that the language of the proposed rule be modified to require the Board to defer to the Councils and to base its justification for not giving deference on defined criteria to avoid ambiguous decisions; that the Board provide program staff with succinct direction for conducting analyses on any proposals to change a community's status from rural to nonrural; and that the Board develop written policies and guidelines for making nonrural determinations even if there is a lack of criteria in the regulations. The Council is concerned that proposals to change rural status in the region will be frequently submitted from people or entities from outside the region; the Council is opposed to proposals of this nature from outside its region and recommends that the Board develop guidelines and restrictions for the proposal process that the Board uses to reassess nonrural status.

Eastern Interior Alaska Subsistence Regional Advisory Council—opposed the proposed rule due to the lack of any guiding criteria to determine what is rural or nonrural. They stated the lack of criteria could serve to weaken the rural determination process. They supported greater involvement of the Councils in the Board's process to make rural/nonrural determinations. This Council was concerned about changes including increasing developments, access pressure on rural subsistence communities and resources, and social conflicts in the Eastern Interior region.

A total of 90 substantive comments were submitted from public meetings, letters, deliberations of the Councils, and those submitted via *www.regulations.gov.*

- 54 supported the proposed rule;
- 16 neither supported nor opposed the proposed rule;
- 7 supported the proposed rule with modifications;
- 7 neither supported nor opposed the proposed rule and suggested modifications; and
- 6 opposed the proposed rule.

Major comments from all sources are addressed below:

Comment: The Board should provide, in regulatory language, objective criteria, methods, or guidelines for making nonrural determinations.

Response: During the request for public comment (77 FR 77005; December 31, 2012), the overwhelming response from the public was dissatisfaction with the list of regulatory guidelines used to make rural determinations. The Board, at their April 17, 2014, public meeting, stated that if the Secretaries approved the recommended simplification of the rural determination process, the Board would make nonrural determinations using a comprehensive approach that considers, but is not limited to, population size and density, economic indicators, military presence, industrial facilities, use of fish and wildlife, degree of remoteness and isolation, and any other relevant material, including information provided by the public. The Board also indicated that they would rely heavily on the recommendations of the Subsistence Regional Advisory Councils. The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations. The subcommittee options, once reviewed by the Board at their January 12, 2016, public meeting will be presented to the Councils for their review and recommendations.

Comment: The Board should give deference to the Regional Advisory Councils on nonrural determinations and place this provision in regulatory language.

Response: The Board expressed during its April 2014 and July 2015 meetings that it intends to rely heavily on the recommendations of the Councils and that Council input will be critical in addressing regional differences in the rural determination process. Because the Board has confirmed that Councils will have a meaningful and important role in the process, a change to the regulatory language is neither warranted nor necessary at the present time.

Comment: Establish a timeframe for how often proposed changes may be submitted.

Response: During previous public comment periods, the decennial review was widely viewed to be unnecessary, and the majority of comments expressed the opinion that there should not be a set timeframe used in this process. The Board has been supportive of eliminating a set timeframe to conduct nonrural determinations. However, this issue may be readdressed in the future if a majority of the Councils support the need to reestablish a nonrural review period.

Comment: Redefine ''rural'' to allow nonrural residents originally from rural areas to come home and participate in subsistence activities.

Response: ANILCA and its enacting regulations clearly state that you must be an Alaska resident of a rural area or community to take fish or wildlife on public lands. Any change to that definition is beyond the scope of this rulemaking.

Comment: Develop a policy for making nonrural determinations, including guidance on how to analyze proposed changes.

Response: The Board, at their July 28, 2015, public work session, directed that a subcommittee be established to draft options (policy or rulemaking) to address future rural determinations that, once completed, will be presented to the Councils for their review and recommendations.

Comment: Allow rural residents to harvest outside of the areas or communities of residence.

Response: All rural Alaskans may harvest fish and wildlife on public lands unless there is a customary and traditional use determination that identifies the specific community's or area's use of particular fish stocks or

wildlife populations or if there is a closure.

Rule Promulgation Process and Related Rulemaking

These final regulations reflect Secretarial review and consideration of Board and Council recommendations, Tribal and Alaska Native Corporations government-to-government tribal consultations, and public comments. The public received extensive opportunity to review and comment on all changes.

Because this rule concerns public lands managed by an agency or agencies in both the Departments of Agriculture and the Interior, identical text will be incorporated into 36 CFR part 242 and 50 CFR part 100.

Elsewhere in today's **Federal Register** is a direct final rule by which the Board is revising the list of rural determinations in subpart C of 36 CFR part 242 and 50 CFR part 100. See ''Subsistence Management Regulations for Public Lands in Alaska; Rural Determinations, Nonrural List'' in Rules and Regulations.

Conformance With Statutory and Regulatory Authorities

Administrative Procedure Act Compliance

The Board has provided extensive opportunity for public input and involvement in compliance with Administrative Procedure Act requirements, including publishing a proposed rule in the **Federal Register**, participation in multiple Council meetings, and opportunity for additional public comment during the Board meeting prior to deliberation. Additionally, an administrative mechanism exists (and has been used by the public) to request reconsideration of the Secretaries' decision on any particular proposal for regulatory change (36 CFR 242.18(b) and 50 CFR 100.18(b)). Therefore, the Secretaries believe that sufficient public notice and opportunity for involvement have been given to affected persons regarding this decision. In addition, because the direct final rule that is mentioned above and is related to this final rule relieves restrictions for many Alaskans by allowing them to participate in the subsistence program activities, we believe that we have good cause, as required by 5 U.S.C. 553(d), to make this rule effective upon publication.

National Environmental Policy Act Compliance

A Draft Environmental Impact Statement that described four alternatives for developing a Federal Subsistence Management Program was distributed for public comment on October 7, 1991. The Final Environmental Impact Statement (FEIS) was published on February 28, 1992. The Record of Decision (ROD) on Subsistence Management for Federal Public Lands in Alaska was signed April 6, 1992. The selected alternative in the FEIS (Alternative IV) defined the administrative framework of an annual regulatory cycle for subsistence regulations.

A 1997 environmental assessment dealt with the expansion of Federal jurisdiction over fisheries. The Secretary of the Interior, with concurrence of the Secretary of Agriculture, determined that expansion of Federal jurisdiction does not constitute a major Federal action significantly affecting the human environment and, therefore, signed a Finding of No Significant Impact.

Section 810 of ANILCA

An ANILCA section 810 analysis was completed as part of the FEIS process on the Federal Subsistence Management Program. The intent of all Federal subsistence regulations is to accord subsistence uses of fish and wildlife on public lands a priority over the taking of fish and wildlife on such lands for other purposes, unless restriction is necessary to conserve healthy fish and wildlife populations. The final section 810 analysis determination appeared in the April 6, 1992, ROD and concluded that the Program, under Alternative IV with an annual process for setting subsistence regulations, may have some local impacts on subsistence uses, but will not likely restrict subsistence uses significantly.

Paperwork Reduction Act

An agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. This rule does not contain any new collections of information that require OMB approval. OMB has reviewed and approved the collections of information associated with the subsistence regulations at 36 CFR part 242 and 50 CFR part 100, and assigned OMB Control Number 1018–0075, which expires February 29, 2016.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget will review all significant rules. OIRA has determined that this rule is not significant.

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

Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 (5 U.S.C. 601 *et seq.*) requires preparation of flexibility analyses for rules that will have a significant effect on a substantial number of small entities, which include small businesses, organizations, or governmental jurisdictions. In general, the resources to be harvested under this rule are already being harvested and consumed by the local harvester and do not result in an additional dollar benefit to the economy. However, we estimate that two million pounds of meat are harvested by subsistence users annually and, if given an estimated dollar value of $3.00 per pound, this amount would equate to about $6 million in food value Statewide. Based upon the amounts and values cited above, the Departments certify that this rulemaking will not have a significant economic effect on a substantial number of small entities within the meaning of the Regulatory Flexibility Act.

Small Business Regulatory Enforcement Fairness Act

Under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801 *et seq.*), this rule is not a major rule. It does not have an effect on the economy of $100 million or more, will not cause a major increase in costs or prices for consumers, and does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

Executive Order 12630

Title VIII of ANILCA requires the Secretaries to administer a subsistence priority on public lands. The scope of this Program is limited by definition to certain public lands. Likewise, these regulations have no potential takings of private property implications as defined by Executive Order 12630.

Unfunded Mandates Reform Act

The Secretaries have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.,* that this rulemaking will not impose a cost of $100 million or more in any given year on local or State governments or private entities. The implementation of this rule is by Federal agencies, and there is no cost imposed on any State or local entities or tribal governments.

Executive Order 12988

The Secretaries have determined that these regulations meet the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order 12988, regarding civil justice reform.

Executive Order 13132

In accordance with Executive Order 13132, the rule does not have sufficient Federalism implications to warrant the preparation of a Federalism summary impact statement. Title VIII of ANILCA precludes the State from exercising subsistence management authority over fish and wildlife resources on Federal lands unless it meets certain requirements.

Executive Order 13175

Title VIII of ANILCA does not provide specific rights to tribes for the subsistence taking of wildlife, fish, and shellfish. However, the Secretaries, through the Board, provided Federally recognized Tribes and Alaska Native corporations opportunities to consult on this rule. Consultation with Alaska Native corporations are based on Public Law 108–199, div. H, Sec. 161, Jan. 23, 2004, 118 Stat. 452, as amended by Public Law 108–447, div. H, title V, Sec. 518, Dec. 8, 2004, 118 Stat. 3267, which provides that: ''The Director of the Office of Management and Budget and all Federal agencies shall hereafter consult with Alaska Native corporations on the same basis as Indian tribes under Executive Order No. 13175.''

The Secretaries, through the Board, provided a variety of opportunities for consultation: Commenting on proposed changes to the existing rule; engaging in dialogue at the Council meetings; engaging in dialogue at the Board's meetings; and providing input in person, by mail, email, or phone at any time during the rulemaking process.

On March 23 and 24, 2015, the Board provided Federally recognized Tribes and Alaska Native Corporations a specific opportunity to consult on this rule. Federally recognized Tribes and Alaska Native Corporations were notified by mail and telephone and were given the opportunity to attend in person or via teleconference.

Executive Order 13211

This Executive Order requires agencies to prepare Statements of Energy Effects when undertaking certain actions. However, this rule is not a significant regulatory action under E.O. 13211, affecting energy supply, distribution, or use, and no Statement of Energy Effects is required.

Drafting Information

Theo Matuskowitz drafted these regulations under the guidance of Eugene R. Peltola, Jr. of the Office of Subsistence Management, Alaska Regional Office, U.S. Fish and Wildlife Service, Anchorage, Alaska. Additional assistance was provided by

- Daniel Sharp, Alaska State Office, Bureau of Land Management;
- Mary McBurney, Alaska Regional Office, National Park Service;
- Dr. Glenn Chen, Alaska Regional Office, Bureau of Indian Affairs;
- Trevor T. Fox, Alaska Regional Office, U.S. Fish and Wildlife Service; and
- Thomas Whitford, Alaska Regional Office, U.S. Forest Service.

Authority

This rule is issued under the authority of Title VIII of the Alaska National Interest Lands Conservation Act (ANILCA) (16 U.S.C. 3111–3126).

List of Subjects

36 CFR Part 242

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

50 CFR Part 100

Administrative practice and procedure, Alaska, Fish, National forests, Public lands, Reporting and recordkeeping requirements, Wildlife.

Regulation Promulgation

For the reasons set out in the preamble, the Secretaries amend 36 CFR part 242 and 50 CFR part 100 as set forth below.

PART ____—SUBSISTENCE MANAGEMENT REGULATIONS FOR PUBLIC LANDS IN ALASKA

■ 1. The authority citation for both 36 CFR part 242 and 50 CFR part 100 continues to read as follows:

Authority: 16 U.S.C. 3, 472, 551, 668dd, 3101–3126; 18 U.S.C. 3551–3586; 43 U.S.C. 1733.

Subpart B—Program Structure

■ 2. In subpart B of 36 CFR part 242 and 50 CFR part 100, § ____.15 is revised to read as follows:

§ ____.15 Rural determination process.

(a) The Board determines which areas or communities in Alaska are nonrural. Current determinations are listed at § ____.23.

(b) All other communities and areas are, therefore, rural.

Dated: Oct. 28, 2015.

Sally Jewell,

Secretary of the Interior.

Dated: Sept. 30, 2015.

Beth G. Pendleton,

Regional Forester, USDA—Forest Service.

[FR Doc. 2015–27994 Filed 10–30–15; 8:45 am]

BILLING CODE 3410–11–4333–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[EPA–R04–OAR–2014–0904; FRL–9936–55–Region 4]

Air Plan Approval and Air Quality Designation; TN; Reasonably Available Control Measures and Redesignation for the TN Portion of the Chattanooga 1997 Annual $PM_{2.5}$ Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving the portion of a State Implementation Plan (SIP) revision submitted by the State of Tennessee, through the Tennessee Department of Environment and Conservation (TDEC), on October 15, 2009, that addresses reasonably available control measures (RACM), including reasonably available control technology (RACT), for the Tennessee portion of the Chattanooga, TN-GA-AL nonattainment area for the 1997 fine particulate matter ($PM_{2.5}$) national ambient air quality standards (NAAQS) (hereinafter referred to as the ''Chattanooga TN-GA-AL Area'' or

''Area''). Additionally, EPA is taking three separate final actions related to Tennessee's November 13, 2014 request to redesignate the Tennessee portion of the Area to attainment for the 1997 $PM_{2.5}$ NAAQS and associated SIP revision containing a plan for maintaining attainment of the standard in the Chattanooga TN-GA-AL Area. In these three actions, EPA is determining that the Area is continuing to attain the 1997 $PM_{2.5}$ NAAQS; approving and incorporating the State's plan for maintaining attainment of the standard in the Area, including the 2025 motor vehicle emission budgets (MVEBs) for nitrogen oxides (NO_X) and $PM_{2.5}$ for the Tennessee portion of this Area, into the SIP; and redesignating the Tennessee portion of the Area to attainment for the 1997 $PM_{2.5}$ NAAQS. In addition to the four final actions described above, EPA is also finding the 2025 MVEBs for the Tennessee portion of the Area adequate for the purposes of transportation conformity.

DATES: This rule will be effective November 4, 2015.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2014–0904. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information may not be publicly available, *i.e.*, Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Air Regulatory Management Section, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Joel Huey, Air Planning and Implementation Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Mr. Huey may be reached by phone at (404) 562–9104 or via electronic mail at *huey.joel@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Background for Final Actions

On July 18, 1997, EPA promulgated the first air quality standards for $PM_{2.5}$. EPA promulgated an annual standard at a level of 15 micrograms per cubic meter (μg/m³) (based on a 3-year average of annual mean $PM_{2.5}$ concentrations) and a 24-hour standard of 65 μg/m³ (based on a 3-year average of the 98th percentile of 24-hour concentrations). *See* 62 FR 36852. On January 5, 2005, and supplemented on April 14, 2005, EPA designated Hamilton County in Tennessee, in association with counties in Alabama and Georgia in the Chattanooga TN-GA-AL Area, as nonattainment for the 1997 Annual $PM_{2.5}$ NAAQS.[1] *See* 70 FR 944 and 70 FR 19844, respectively. The Chattanooga TN-GA-AL Area consists of Hamilton County, Tennessee; a portion of Jackson County, Alabama; and Catoosa and Walker Counties in Georgia.

On November 13, 2014, TDEC requested that EPA redesignate the Tennessee portion of the Area to attainment for the 1997 $PM_{2.5}$ NAAQS and submitted a SIP revision containing the State's plan for maintaining attainment of the 1997 $PM_{2.5}$ standard in the Area, including the 2025 MVEBs for NO_X and $PM_{2.5}$ for the Tennessee portion of the Area. In a notice of proposed rulemaking (NPR) published on March 27, 2015, EPA proposed to determine that the Chattanooga TN-GA-AL Area is continuing to attain the 1997 $PM_{2.5}$ NAAQS;[2] to approve and incorporate into the Tennessee SIP the State's plan for maintaining attainment of the 1997 $PM_{2.5}$ standard in the Area, including the 2025 MVEBs for NO_X and $PM_{2.5}$ for the Tennessee portion of the Area; and to redesignate the Tennessee portion of the Area to attainment for the 1997 $PM_{2.5}$ NAAQS. *See* 80 FR 16331. EPA proposed to approve the redesignation request and the related SIP revision based, in part, on the Agency's longstanding interpretation that the nonattainment planning requirements in subpart 1 of title I, part D, of the Act (hereinafter ''Subpart 1''), including RACM, are not ''applicable'' for purposes of CAA section 107(d)(3)(E)(ii) once an area is attaining the NAAQS and, therefore, need not be approved into the SIP before EPA can redesignate the area. *See* 80 FR 16331 (March 27, 2015). In the NPR, EPA also notified the public of the status of the Agency's adequacy determination for the NO_X and $PM_{2.5}$ MVEBs for the Tennessee portion of the Area.

On March 18, 2015, the United States Court of Appeals for the Sixth Circuit (Sixth Circuit) issued an opinion in *Sierra Club* v. *EPA,* 781 F.3d 299 (6th Cir. 2015), that is inconsistent with EPA's longstanding interpretation regarding section 107(d)(3)(E)(ii) of the Clean Air Act (CAA or Act). In its decision, the Court vacated EPA's redesignation of the Indiana and Ohio portions of the Cincinnati-Hamilton nonattainment area to attainment for the 1997 $PM_{2.5}$ NAAQS because EPA had not yet approved RACM under Subpart 1 for the Cincinnati Area into the Indiana and Ohio SIPs.[3] The Court concluded that ''a State seeking redesignation 'shall provide for the implementation' of RACM/RACT, even if those measures are not strictly necessary to demonstrate attainment with the $PM_{2.5}$ NAAQS . . . . If a State has not done so, EPA cannot 'fully approve[]' the area's SIP, and redesignation to attainment status is improper.'' *Sierra Club,* 781 F.3d at 313.

EPA is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA* within the Court's jurisdiction unless it is overturned.[4] Although EPA continues to believe that Subpart 1 RACM is not an

[1] On April 23, 2013, and September 14, 2012, Alabama and Georgia (respectively) submitted requests and related SIP revisions for EPA to redesignate the Alabama and Georgia portions of the Chattanooga TN-GA-AL Area to attainment for the 1997 $PM_{2.5}$ NAAQS. EPA has since redesignated the Alabama and Georgia portions of the Area. *See* 79 FR 76235 (December 22, 2014) and 79 FR 75748 (December 19, 2014), respectively.

[2] On May 31, 2011 (76 FR 31239), EPA published a final determination that the Chattanooga TN-GA-AL Area had attained the 1997 Annual $PM_{2.5}$ NAAQS based upon quality-assured and certified ambient air monitoring data for the 2007–2009 time period. EPA has reviewed the most recent ambient monitoring data for the Area, which indicate that the Chattanooga TN-GA-AL Area continues to attain the 1997 Annual $PM_{2.5}$ NAAQS beyond the submitted 3-year attainment period of 2007–2009. As stated in EPA's March 27, 2015, proposal notice, the 3-year design value of 12.9 μg/m³ for the Area for 2007–2009 meets the NAAQS of 15.0 μg/m³. Quality assured and certified data in EPA's Air Quality System (AQS) database provide a 3-year design value of 10.3 μg/m³ for the Area for 2012–2014. Furthermore, preliminary monitoring data in the AQS database for 2015 indicate that the Area is continuing to attain the 1997 Annual $PM_{2.5}$ NAAQS. The AQS database is available at: *http://www3.epa.gov/airdata/index.html.*

[3] The Court issued an amended decision on July 14, 2015, revising some of the legal aspects of the Court's analysis of the relevant statutory provisions (section 107(d)(3)(E)(ii) and section 172(c)(1)) but maintaining its prior holding that section 172(c)(1) ''unambiguously requires implementation of RACM/RACT prior to redesignation . . . even if those measures are not strictly necessary to demonstrate attainment with the $PM_{2.5}$ NAAQS.'' *See Sierra Club* v. *EPA,* Nos. 12–3169, 12–3182, 12–3420 (6th Cir. July 14, 2015).

[4] The states of Kentucky, Michigan, Ohio, and Tennessee are located within the Sixth Circuit's jurisdiction.

applicable requirement under section 107(d)(3)(E) for an area that has already attained the 1997 Annual $PM_{2.5}$ NAAQS, on September 18, 2015, EPA proposed two separate but related actions regarding the Tennessee portion of the Chattanooga TN-GA-AL Area in response to the Court's decision.[5] [6] First, EPA proposed to approve the portion of the State's October 15, 2009, attainment plan SIP revision that addresses RACM under Subpart 1 for the Tennessee portion of the Area. Second, EPA proposed to supplement the Agency's proposed approval of Tennessee's November 13, 2014, redesignation request for the Area by proposing that approval of the RACM portion of the aforementioned SIP revision satisfies the Subpart 1 RACM requirement in accordance with section 107(d)(3)(E) of the CAA. *See* 80 FR 56418.

The detailed rationale for EPA's findings and actions is set forth in the March 27, 2015, proposed rulemaking and in the September 18, 2015, supplemental proposed rulemaking. *See* 80 FR 16331 and 80 FR 56418, respectively. The comment periods associated with these two proposed rulemakings have closed and no adverse comments were received.

II. What are the effects of these actions?

Approval of the RACM portion of Tennessee's October 15, 2009, attainment plan SIP revision satisfies the Subpart 1 RACM requirement in accordance with the Sixth Circuit's decision in *Sierra Club* v. *EPA.* Approval of Tennessee's redesignation request changes the legal designation of Hamilton County in the Tennessee portion of the Chattanooga TN-GA-AL Area, found at 40 CFR 81.343, from nonattainment to attainment for the 1997 $PM_{2.5}$ NAAQS. Approval of Tennessee's associated SIP revision also incorporates a plan for maintaining the 1997 $PM_{2.5}$ NAAQS in the Area through 2025, including contingency measures to remedy any future violations of the NAAQS and procedures for evaluation of potential violations, into the SIP. The maintenance plan also establishes NO_X and $PM_{2.5}$ MVEBs of 3,200 tons per year (tpy) and 100 tpy, respectively, for the year 2025 for the Tennessee portion of the Area. Within 24 months from this final rule, these budgets must be used for future conformity determinations.

III. Final Actions

EPA is approving the RACM portion of a SIP revision submitted by TDEC on October 15, 2009, for the 1997 Annual $PM_{2.5}$ NAAQS in the Tennessee portion of the Chattanooga TN–GA–AL Area.

Additionally, EPA is taking three separate final actions regarding Tennessee's November 13, 2014 request to redesignate the Tennessee portion of the Area to attainment for the 1997 $PM_{2.5}$ NAAQS and related SIP revision. First, EPA is determining that the Chattanooga, TN–GA–AL Area is continuing to attain the 1997 $PM_{2.5}$ NAAQS.

Second, EPA is approving and incorporating the maintenance plan for the Tennessee portion of the Area, including NO_X and $PM_{2.5}$ MVEBs for the year 2025, into the Tennessee SIP. The maintenance plan demonstrates that the Area will continue to maintain the 1997 $PM_{2.5}$ NAAQS, and the budgets meet all of the adequacy criteria contained in 40 CFR 93.118(e)(4) and (5).

Third, EPA is determining that Tennessee has met the criteria under CAA section 107(d)(3)(E) for the Tennessee portion of the Area for redesignation from nonattainment to attainment for the 1997 $PM_{2.5}$ NAAQS. On this basis, EPA is approving Tennessee's redesignation request for the 1997 $PM_{2.5}$ NAAQS for the Tennessee portion of the Area. As mentioned above, approval of the redesignation request changes the official designation of Hamilton County in the Tennessee portion of the Chattanooga, TN-GA-AL Area for the 1997 $PM_{2.5}$ NAAQS from nonattainment to attainment, as found at 40 CFR part 81.

EPA is also notifying the public that it finds the newly-established NO_X and $PM_{2.5}$ MVEBs for the Tennessee portion of the Area adequate for the purpose of transportation conformity. Within 24 months from this final rule, the transportation partners must demonstrate conformity to the new NO_X and $PM_{2.5}$ MVEBs pursuant to 40 CFR 93.104(e).

EPA has determined that these actions are effective immediately upon publication under the authority of 5 U.S.C. 553(d). The purpose of the 30-day waiting period prescribed in section 553(d) is to give affected parties a reasonable time to adjust their behavior and prepare before the final rule takes effect. Section 553(d)(1) allows an effective date less than 30 days after publication if a substantive rule ''relieves a restriction.'' These actions qualify for the exception under section 553(d)(1) because they relieve the State of various requirements for the Tennessee portion of the Chattanooga TN-GA-AL Area. Furthermore, section 553(d)(3) allows an effective date less than 30 days after publication ''as otherwise provided by the agency for good cause found and published with the rule.'' EPA finds good cause to make these actions effective immediately pursuant to section 553(d)(3) because they do not create any new regulatory requirements such that affected parties would need time to prepare before the actions take effect.

IV. Statutory and Executive Order Reviews

Under the CAA, redesignation of an area to attainment and the accompanying approval of the maintenance plan under CAA section 107(d)(3)(E) are actions that affect the status of geographical area and do not impose any additional regulatory requirements on sources beyond those required by state law. A redesignation to attainment does not in and of itself impose any new requirements, but rather results in the application of requirements contained in the CAA for areas that have been redesignated to attainment. Moreover, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. *See* 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, these actions merely approve state law as meeting Federal requirements and do not impose additional requirements beyond those imposed by state or Federal law. For these reasons, these actions:

- Are not a significant regulatory actions subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- do not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- are certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

[5] Pursuant to 40 CFR 56.5(b), the EPA Region 4 Regional Administrator signed a memorandum on July 20, 2015, seeking concurrence from the Director of EPA's Air Quality Policy Division (AQPD) in the Office of Air Quality Planning and Standards to act inconsistent with EPA's interpretation of CAA sections 107(d)(3)(E) and 172(c)(1) when taking action on pending and future redesignation requests in Kentucky and Tennessee because the Region is bound by the Sixth Circuit's decision in *Sierra Club* v. *EPA*. The AQPD Director issued her concurrence on July 22, 2015. The July 20, 2015, memorandum with AQPD concurrence is located in the docket for today's actions.

[6] On September 3, 2015, the Sixth Circuit denied the petitions for rehearing en banc of this portion of its opinion that were filed by EPA, the state of Ohio, and industry groups from Ohio. *Sierra Club* v. *EPA,* Nos. 12–3169, 12–3182, 12–3420, Doc. 136–1 (6th Cir. Sept. 3, 2015).

• do not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);

• do not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

• are not economically significant regulatory actions based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

• are not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

• are not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and

• will not have disproportionate human health or environmental effects under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by January 4, 2016. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects

40 CFR Part 52

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

40 CFR Part 81

Environmental protection, Air pollution control, National parks.

Dated: October 20, 2015.

Heather McTeer Toney,

Regional Administrator, Region 4.

40 CFR parts 52 and 81 are amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart RR—Tennessee

■ 2. Section 52.2220(e) is amended by adding new entries ''RACM analysis for the Tennessee portion of the Chattanooga Area for the 1997 $PM_{2.5}$ NAAQS'' and ''1997 Annual $PM_{2.5}$ Maintenance Plan for the Tennessee portion of Chattanooga TN–GA–AL Area'' at the end of the table to read as follows:

§ 52.2220 Identification of plan.

* * * * *

(e) * * *

EPA—APPROVED TENNESSEE NON-REGULATORY PROVISIONS

Name of non-regulatory SIP provision	Applicable geographic or nonattainment area	State effective date	EPA approval date	Explanation
*	*	*	*	*
RACM analysis for the Tennessee portion of the Chattanooga Area for the 1997 $PM_{2.5}$ NAAQS.	Hamilton County	10/15/2009	11/4/2015 [Insert citation of publication].	
1997 Annual $PM_{2.5}$ *Maintenance Plan for the Tennessee* portion of the Chattanooga TN–GA–AL *Area.*	Hamilton County	11/13/2014	11/4/2015 [Insert citation of publication].	

PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES

■ 3. The authority citation for part 81 continues to read as follows:

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

■ 4. In § 81.343, the table entitled ''Tennessee—1997 Annual $PM_{2.5}$ NAAQS (Primary and Secondary)'' is amended under ''Chattanooga, TN–GA–AL:'' by revising the entry for ''Hamilton County'' to read as follows:

§ 81.343 Tennessee.

* * * * *

TENNESSEE—1997 ANNUAL $PM_{2.5}$ NAAQS

[Primary and Secondary]

Designated area	Designation [a]		Classification	
	Date [1]	Type	Date [2]	Type
Chattanooga, TN-GA-AL:				
Hamilton County	11/4/2015	Attainment		
* * * * * * *				

[a] Includes Indian Country located in each county or area, except as otherwise specified.
[1] This date is 90 days after January 5, 2005, unless otherwise noted.
[2] This date is July 2, 2014, unless otherwise noted.

* * * * *

[FR Doc. 2015–28009 Filed 11–3–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2014–0695; FRL–9934–05]

Diethofencarb; Pesticide Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of diethofencarb in or on banana. Sumitomo Chemical Company requested this tolerance under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 4, 2015. Objections and requests for hearings must be received on or before January 4, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2014–0695 is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2014–0695 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 4, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2014–0695, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of December 17, 2014 (79 FR 75107) (FRL–9918–90), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a

pesticide petition (PP 4E8232) by Sumitomo Chemical Company, LTD., 27–1 Shinkawa 2 Chrome, Chuo-Ku, Tokyo 104–8260, Japan. The petition requested that 40 CFR part 180 be amended by establishing a tolerance without a U.S. registration for residues of the fungicide diethofencarb in or on banana at 0.09 parts per million (ppm). That document referenced a summary of the petition prepared by Sumitomo Chemical Company, LTD, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no FFDCA-related comments received in response to the notice of filing.

Based on available data, EPA is establishing a tolerance at a level that is slightly different from what was requested. The reason for this change is explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for diethofencarb including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with diethofencarb follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. The toxicology database is complete for diethofencarb. In repeated dose animal studies, the liver was a target organ in the rat, mouse, and dog. Increased liver pigmentation observed histologically in the dog, and foci of necrosis and hepatocellular hyperplasia in the mouse, were considered adverse and evidence of toxicity. Other target organs identified were the kidney (proteinaceous cast and regenerative epithelium), urinary bladder (submucosal lymphoid hyperplasia) and thyroid (follicular cell adenomas and carcinomas) in the rat, and the nervous system (changes in functional observational battery parameters, decreased motor activity, and decreased pupillary reflex) in the rat. The neurotoxicity in the rat, however, occurred only at high dose levels, at or above the limit dose, and were minimal in severity and there was no other evidence of neurotoxicity in the data base; therefore, there is no concern for neurotoxicity. There was no evidence of immunotoxicity in the data base, including the immunotoxicity study. Decreased body weight and food consumption and increased salivation were observed in the dog. In the pre-natal developmental studies in rats and rabbits, increased abortions were observed in the rabbit only at dose levels near the limit dose; in the multi-generation reproduction study in rats, decreased body weight was seen in F2 pups during lactation in the absence of parental toxicity, raising a concern for increased susceptibility in offspring. However, appropriate endpoints and points of departure were used to address the susceptibility issue and there are no residual pre- and/or post-natal uncertainties for offspring. The Agency has classified diethofencarb as ''suggestive evidence of carcinogenicity'' based on the presence of thyroid tumors in male and female rats. There was no evidence of carcinogenicity in male or female mice at dose levels that were considered adequate to assess carcinogenicity. Additionally, there is no concern for mutagenicity. Quantification of human cancer risk is not required. The chronic reference dose (RfD) will adequately account for all chronic toxicity, including carcinogenicity, which could result from exposure to diethofencarb.

Specific information on the studies received and the nature of the adverse effects caused by diethofencarb as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document, ''Human Health Risk Assessment for the Proposed Tolerance of Diethofencarb in/on Banana'' at pp. 15–18 in docket ID number EPA–HQ–OPP–2014–0695.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which the NOAEL and the LOAEL are identified. Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or RfD—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://www.epa.gov/pesticides/factsheets/riskassess.htm.*

A summary of the toxicological endpoints for diethofencarb used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR DIETHOFENCARB FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Acute Dietary (All Populations)	A toxicity endpoint was not identified. Toxicological effects attributable to a single exposure (dose) were not observed in oral toxicity studies.		
Chronic dietary (All populations)	NOAEL = 50 mg/kg/day. UF_A = 10X UF_H = 10X FQPA SF = 1X	Chronic RfD = 0.50 mg/kg/day cPAD = 0.50 mg/kg/day	Chronic Toxicity, Dog. LOAEL = 250 mg/kg/day based on decreased body weights and emesis.
Cancer (Oral, dermal, inhalation).	Classification: ''suggestive evidence of carcinogenicity to humans'' based on the rat thyroid follicular cell tumors; quantification is not required.		

NOAEL = no observed adverse effect level. LOAEL = lowest observed adverse effect level. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies). FQPA SF = FQPA Safety Factor. RfD = Reference Dose. cPAD = chronic Population Adjusted Dose.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to diethofencarb, EPA assessed dietary exposures from diethofencarb in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure.

No such effects were identified in the toxicological studies for diethofencarb; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the 2003–2008 U.S. Department of Agriculture's (USDA's) National Health and Nutrition Examination Survey, What We Eat in America, (NHANES/WWEIA). The assessment assumes residues of diethofencarb are present at tolerance levels and that 100% of bananas are treated with diethofencarb.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that diethofencarb was assigned the classification ''suggestive evidence of carcinogenicity to humans'' based on the rat thyroid tumors, but quantification is not required.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for diethofencarb. Tolerance-level residues and 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* An assessment of residues in drinking water is not required for this assessment because diethofencarb is not registered for use in the United States, and thus, there is no exposure to diethofencarb in drinking water in the United States.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets).

Diethofencarb is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found diethofencarb to share a common mechanism of toxicity with any other substances, and diethofencarb does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that diethofencarb does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the Food Quality Protection Act Safety Factor (FQPA SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* In the rat developmental study, there were no indications of toxicity in the dams or fetuses up to the limit dose. An acceptable (non-guideline) rabbit developmental toxicity study showed late-term abortions (considered evidence of both maternal and fetal toxicity) at dose levels near the limit dose (800 milligram/kilogram/day (mg/kg/day) and above). In the rat reproduction study, offspring effects (decreased pup body weight in F_2 males and females) were noted below the parental NOAEL, indicating increased quantitative susceptibility in offspring. However, clear NOAELs and LOAELs are available for all parental and offspring effects and endpoints and PODs are based on the effects in the offspring.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1X. That decision is based on the following findings:

i. The toxicity database for diethofencarb is complete.

ii. There are no concerns for neurotoxicity and there is no need for a developmental neurotoxicity study or additional uncertainty factors (UFs) to account for neurotoxicity.

iii. There is evidence that diethofencarb results in reproductive susceptibility as shown in the multi-generation reproduction study, but the effect is well characterized; therefore, there is no need to retain the 10X FQPA safety factor to account for effects on infants and children.

iv. There are no residual uncertainties identified in the exposure databases. The Agency used tolerance-level residues and 100 PCT. No drinking water and residential exposures are expected as there are no U.S. registrations containing diethofencarb.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, diethofencarb is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to diethofencarb from food will utilize ≤ 100% of the cPAD for the general U.S. population and all population sub-groups. The most highly exposed population subgroup was children 1–2 years old with an estimated risk of ≤ 1% cPAD. There are no residential uses for diethofencarb.

3. *Short-term and intermediate-term risks.* Short-term aggregate exposure takes into account short-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level); intermediate-term aggregate exposure takes into account intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no residential uses for diethofencarb registered in the United States, no assessment of short- or intermediate-term risk is necessary, and EPA relies on the chronic dietary risk assessment for evaluating risk for diethofencarb.

4. *Aggregate cancer risk for U.S. population.* Based on the discussion in Unit III.A., EPA has determined that diethofencarb is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to diethofencarb residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (high-performance liquid chromatography method with tandem mass-spectrometry detection (HPLC/MS/MS), PTRL West Method No. 2348W) is available to enforce the tolerance expression.

The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for diethofencarb.

C. Revisions to Petitioned-For Tolerances

The requested tolerance levels differ from those being established by EPA. The petitioner used the Organization for Economic Co-operation and Development Maximum Residue Limit (OECD MRL) methodologies and entered 12 trials. EPA determined that 2 sets of trials (out of 12 total) were not independent. As a result, EPA entered 10 values only into the calculator, and is establishing a tolerance level slightly higher than what was proposed.

V. Conclusion

Therefore, a tolerance is established for residues of diethofencarb, in or on banana at 0.10 ppm.

VI. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian

tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 21, 2015.

Jack E. Housenger,

Director, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. Add § 180.688 to subpart C to read as follows:

§ 180.688 Diethofencarb; tolerance for residue.

(a) *General.* (1) Tolerances are established for residues of the fungicide diethofencarb, including its metabolites and degradates, in or on the commodities in the table below. Compliance with the tolerance levels specified below is to be determined by measuring only diethofencarb (1-methylethyl *N*-(3,4-diethoxyphenyl)carbamate).

Commodity	Parts per million
Banana *	0.10

* There is no U.S. registration for use on this commodity as of November 4, 2015.

(b) *Section 18 emergency exemptions.* [Reserved]

(c) *Tolerances with regional registrations.* [Reserved]

(d) *Indirect or inadvertent residues* [Reserved]

[FR Doc. 2015–27891 Filed 11–3–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2013–0034; FRL–9912–40]

Nicosulfuron; Pesticide Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes tolerances for residues of nicosulfuron in or on sorghum, grain, forage; sorghum, grain, grain; and sorghum, grain, stover. E.I. du Pont de Nemours and Company requested these tolerances under the Federal Food, Drug, and Cosmetic Act (FFDCA).

DATES: This regulation is effective November 4, 2015. Objections and requests for hearings must be received on or before January 4, 2016, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2013–0034, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW., Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices*@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of EPA's tolerance regulations at 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.*

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2013–0034 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before January 4, 2016. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior

notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2013–0034, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

II. Summary of Petitioned-For Tolerance

In the **Federal Register** of July 19, 2013 (78 FR 43117) (FRL–9392–9), EPA issued a document pursuant to FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), announcing the filing of a pesticide petition (PP 2F8132) by E.I. du Pont de Nemours and Company, 1007 Market Street, Wilmington, DE 19898. The petition requested that 40 CFR 180.454 be amended by establishing tolerances for residues of the herbicide nicosulfuron, 3-pyridinecarboxamide, 2-((((4,6-dimethoxypyrimidin-2-yl)aminocarbonyl)aminosulfonyl))-*N,N*-dimethyl, in or on sorghum, forage at 0.4 parts per million (ppm); sorghum, grain at 0.8 ppm; and sorghum, stover at 0.05 ppm. That document referenced a summary of the petition prepared by E.I. du Pont de Nemours and Company, the registrant, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

Based upon review of the data supporting the petition, EPA has revised the proposed commodity definitions, revised the proposed tolerance level for ''sorghum, grain, forage'', and corrected the typographical error in the chemical name of nicosulfuron in the tolerance expression. Also, EPA has removed the expired emergency exemption tolerances for Bermuda grass, forage and Bermuda grass, hay. The reasons for these changes are explained in Unit IV.C.

III. Aggregate Risk Assessment and Determination of Safety

Section 408(b)(2)(A)(i) of FFDCA allows EPA to establish a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the tolerance is ''safe.'' Section 408(b)(2)(A)(ii) of FFDCA defines ''safe'' to mean that ''there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information.'' This includes exposure through drinking water and in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing a tolerance and to ''ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue. . . .''

Consistent with FFDCA section 408(b)(2)(D), and the factors specified in FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for nicosulfuron including exposure resulting from the tolerances established by this action. EPA's assessment of exposures and risks associated with nicosulfuron follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered its validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children.

Nicosulfuron has low acute toxicity by oral, dermal, and inhalation routes of exposure. It is moderately irritating to the eye, non-irritating to the skin, and is not a skin sensitizer. In repeated dose studies by the oral route, nicosulfuron is minimally toxic, and rodents are particularly insensitive to its effects. Chronic dietary administrations to rats and mice did not produce any adverse effects at the highest dose tested (HDT). Chronic dietary administration to dogs produced mild effects (increased relative liver and kidney weights of males) at the HDT.

Nicosulfuron showed no developmental effects in rats, and no adverse effects were observed in the rat reproductive study. In the rabbit developmental study, abortions occurred at the doses that caused other maternal toxicity effects. There are no indications of neurotoxic or immunotoxic effects elicited by nicosulfuron in animal studies; this includes recently submitted acute and subchronic neurotoxicity studies and an immunotoxicity study. There is no evidence of mutagenicity.

Nicosulfuron is classified as ''Not Likely to be Carcinogenic to Humans'' based on lack of evidence of carcinogenicity in rats and mice studies and lack of mutagenic effects in the *in vitro* and *in vivo* genotoxicity studies.

Specific information on the studies received and the nature of the adverse effects caused by nicosulfuron as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies can be found at *http://www.regulations.gov* in document ''Nicosulfuron: Human Health Risk Assessment for Proposed Use on ALS Inhibitor Tolerant Sorghum,'' pp. 24–27 in docket ID number EPA–HQ–OPP–2013–0034.

B. Toxicological Points of Departure/Levels of Concern

Once a pesticide's toxicological profile is determined, EPA identifies toxicological points of departure (POD) and levels of concern to use in evaluating the risk posed by human exposure to the pesticide. For hazards that have a threshold below which there is no appreciable risk, the toxicological POD is used as the basis for derivation of reference values for risk assessment. PODs are developed based on a careful analysis of the doses in each toxicological study to determine the dose at which no adverse effects are observed (the NOAEL) and the lowest dose at which adverse effects of concern are identified (the LOAEL). Uncertainty/safety factors are used in conjunction with the POD to calculate a safe exposure level—generally referred to as a population-adjusted dose (PAD) or a reference dose (RfD)—and a safe margin of exposure (MOE). For non-threshold risks, the Agency assumes that any amount of exposure will lead to some degree of risk. Thus, the Agency estimates risk in terms of the probability of an occurrence of the adverse effect expected in a lifetime. For more information on the general principles EPA uses in risk characterization and a complete description of the risk assessment process, see *http://*

www.epa.gov/pesticides/factsheets/riskassess.htm.

A summary of the toxicological endpoints for nicosulfuron used for human risk assessment is shown in Table 1 of this unit.

TABLE 1—SUMMARY OF TOXICOLOGICAL DOSES AND ENDPOINTS FOR NICOSULFURON FOR USE IN HUMAN HEALTH RISK ASSESSMENT

Exposure/scenario	Point of departure and uncertainty/safety factors	RfD, PAD, LOC for risk assessment	Study and toxicological effects
Chronic dietary (All populations)	NOAEL= 125 mg/kg/day. UF_A = 10x UF_H = 10x FQPA SF = 1x	Chronic RfD = 1.25 mg/kg/day. cPAD = 1.25 mg/kg/day	Chronic oral toxicity—Dog. LOAEL = 500 mg/kg/day based on increased relative liver and kidney weights in males. Supported by rabbit developmental toxicity study (NOAEL = 100 mg/kg/day, LOAEL = 500 mg/kg/day).

FQPA SF = Food Quality Protection Act Safety Factor. LOAEL = lowest-observed-adverse-effect-level. mg/kg/day = milligram/kilogram/day. NOAEL = no-observed-adverse-effect-level. cPAD = chronic population adjusted dose. RfD = reference dose. UF = uncertainty factor. UF_A = extrapolation from animal to human (interspecies). UF_H = potential variation in sensitivity among members of the human population (intraspecies).

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to nicosulfuron, EPA considered exposure under the petitioned-for tolerances as well as all existing nicosulfuron tolerances in 40 CFR 180.454. EPA assessed dietary exposures from nicosulfuron in food as follows:

i. *Acute exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for nicosulfuron; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* In conducting the chronic dietary exposure assessment EPA used the food consumption data from the USDA's 2003–2008 National Health and Nutrition Examination Survey, What We Eat in America (NHANES/WWEIA). As to residue levels in food, EPA assumed that nicosulfuron residues were present at tolerance levels in all commodities for which tolerances have been established or proposed, and that 100% of those crops were treated with nicosulfuron.

iii. *Cancer.* Based on the data summarized in Unit III.A., EPA has concluded that nicosulfuron does not pose a cancer risk to humans. Therefore, a dietary exposure assessment for the purpose of assessing cancer risk is unnecessary.

iv. *Anticipated residue and percent crop treated (PCT) information.* EPA did not use anticipated residue and/or PCT information in the dietary assessment for nicosulfuron. Tolerance level residues and/or 100 PCT were assumed for all food commodities.

2. *Dietary exposure from drinking water.* The Agency used screening-level water exposure models in the dietary exposure analysis and risk assessment for nicosulfuron in drinking water. These simulation models take into account data on the physical, chemical, and fate/transport characteristics of nicosulfuron. Further information regarding EPA drinking water models used in pesticide exposure assessment can be found at *http://www.epa.gov/oppefed1/models/water/index.htm.*

Based on the Pesticide Root Zone Model/Exposure Analysis Modeling System (PRZM/EXAMS) and Pesticide Root Zone Model Ground Water (PRZM–GW), the estimated drinking water concentrations (EDWCs) of nicosulfuron for chronic exposures for non-cancer assessments are estimated to be 2.8 ppb for surface water and 19.2 ppb for ground water. Based on the Screening Concentration in Ground Water (SCI–GROW) model, the EDWC of nicosulfuron for chronic exposures for non-cancer assessments are estimated to be 1.42 ppb.

Modeled estimates of drinking water concentrations were directly entered into the dietary exposure model. For chronic dietary risk assessment, the water concentration value of 19.2 ppb was used to assess the contribution to drinking water.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* for lawn and garden pest control, indoor pest control, termiticides, and flea and tick control on pets). Nicosulfuron is not registered for any specific use patterns that would result in residential exposure.

4. *Cumulative effects from substances with a common mechanism of toxicity.* Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.''

EPA has not found nicosulfuron to share a common mechanism of toxicity with any other substances, and nicosulfuron does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that nicosulfuron does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's Web site at *http://www.epa.gov/pesticides/cumulative.*

D. Safety Factor for Infants and Children

1. *In general.* Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

2. *Prenatal and postnatal sensitivity.* No evidence of increased sensitivity or susceptibility in the developing or young animal was observed in the current database. No treatment-related

effects were seen for maternal or developmental toxicity up to and including the HDT in the rat prenatal developmental study, and no adverse effects were noted in the rat reproductive study. Although increases in abortions and post-implantation losses were observed in the rabbit developmental study, those effects occurred at the same doses as other maternal toxicity, indicating that they were a secondary effect of maternal toxicity, rather than a developmental or reproductive effect.

3. *Conclusion.* EPA has determined that reliable data show the safety of infants and children would be adequately protected if the FQPA SF were reduced to 1x. That decision is based on the following findings:

i. The toxicity database for nicosulfuron is complete.

ii. There is no indication that nicosulfuron is a neurotoxic chemical and there is no need for a developmental neurotoxicity study or additional UFs to account for neurotoxicity.

iii. There is no evidence that nicosulfuron results in increased susceptibility in *in utero* rats or rabbits in the prenatal developmental studies or in young rats in the 2-generation reproduction study.

iv. There are no residual uncertainties identified in the exposure databases. The dietary food exposure assessments were performed based on 100 PCT and tolerance-level residues. EPA made conservative (protective) assumptions in the ground and surface water modeling used to assess exposure to nicosulfuron in drinking water. These assessments will not underestimate the exposure and risks posed by nicosulfuron.

E. Aggregate Risks and Determination of Safety

EPA determines whether acute and chronic dietary pesticide exposures are safe by comparing aggregate exposure estimates to the acute PAD (aPAD) and chronic PAD (cPAD). For linear cancer risks, EPA calculates the lifetime probability of acquiring cancer given the estimated aggregate exposure. Short-, intermediate-, and chronic-term risks are evaluated by comparing the estimated aggregate food, water, and residential exposure to the appropriate PODs to ensure that an adequate MOE exists.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, nicosulfuron is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to nicosulfuron from food and water will utilize <1% of the cPAD for the general U.S. population and all population subgroups including infants and children. There are no residential uses for nicosulfuron.

3. *Short- and intermediate-term risks.* Short- and intermediate-term aggregate exposure takes into account short- and intermediate-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level). Because there are no residential uses, no short- or intermediate-term aggregate risk assessments were conducted.

4. *Aggregate cancer risk for U.S. population.* Based on the lack of evidence of carcinogenicity in two adequate rodent carcinogenicity studies, nicosulfuron is not expected to pose a cancer risk to humans.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to nicosulfuron residues.

IV. Other Considerations

A. Analytical Enforcement Methodology

Adequate enforcement methodology (Method DuPont-32277, a high performance liquid chromatography with tandem mass spectroscopy (HPLC/MS/MS)) is available to enforce the tolerance expression. The method may be requested from: Chief, Analytical Chemistry Branch, Environmental Science Center, 701 Mapes Rd., Ft. Meade, MD 20755–5350; telephone number: (410) 305–2905; email address: *residuemethods@epa.gov.*

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established MRLs for nicosulfuron.

C. Revisions to Petitioned-For Tolerances

The Agency is revising the proposed commodity definitions of ''sorghum, forage'' to ''sorghum, grain, forage''; ''sorghum, grain'' to ''sorghum, grain, grain''; and ''sorghum, stover'' to ''sorghum, grain, stover'' for consistency with EPA's Food and Feed Commodity Vocabulary. The proposed tolerance level of 0.4 ppm for ''sorghum, forage'' is revised to 0.3 ppm for ''sorghum, grain, forage'' based on analysis of the residue field trial data using the Organization for the Economic Cooperation and Development's tolerance calculation procedure. The tolerance expression is revised to correct the typographical error in the chemical name for nicosulfuron.

V. Conclusion

Therefore, tolerances are established for residues of nicosulfuron, 2-[[[[(4,6-dimethoxy-2-pyrimidinyl)amino] carbonyl]amino]sulfonyl]-*N,N*-dimethyl-3-pyridinecarboxamide, including its metabolites and degradates, in or on sorghum, grain, forage at 0.3 ppm; sorghum, grain, grain at 0.8 ppm; and sorghum, grain, stover at 0.05 ppm.

In addition, as a housekeeping measure, the Agency is removing the expired emergency exemption tolerances on ''Bermuda grass, forage'' and ''Bermuda grass, hay''. The tolerances expired on December 31, 2011.

VI. Statutory and Executive Order Reviews

This final rule establishes tolerances under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this final rule has been exempted from review under Executive Order 12866, this final rule is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health

Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This final rule does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCA section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This final rule directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this final rule. In addition, this final rule does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA) (15 U.S.C. 272 note).

VII. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: October 21, 2015.

G. Jeffrey Herndon,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.454, revise paragraph (a) introductory text and add alphabetically the following commodities to the table and revise paragraph (b) to read as follows:

§ 180.454 Nicosulfuron; tolerances for residues.

(a) *General.* Tolerances are established for residues of the herbicide nicosulfuron, including its metabolites and degradates, in or on the commodities in the following table. Compliance with the tolerance levels specified in the following table is to be determined by measuring only nicosulfuron, 2-[[[[(4,6-dimethoxy-2-pyrimidinyl)amino]carbonyl]amino] sulfonyl]-*N,N*-dimethyl-3-pyridine carboxamide.

Commodity	Parts per million
* * * * *	
Sorghum, grain, forage	0.3
Sorghum, grain, grain	0.8
Sorghum, grain, stover	0.05

(b) *Section 18 emergency exemptions.* [Reserved]

* * * * *

[FR Doc. 2015–27887 Filed 11–3–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 150121066–5717–02]

RIN 0648–XE242

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Fisheries

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

ACTION: Temporary rule; inseason quota transfer.

SUMMARY: NMFS is transferring 35 metric tons (mt) of Atlantic bluefin tuna (BFT) quota from the Harpoon category and 65 mt from the Reserve category to the General category for the remainder of the 2015 fishing year. This transfer results in adjusted quotas of 566.7 mt, 43.6 mt and 82.1 mt for the General, Harpoon, and Reserve categories, respectively. This action is based on consideration of the regulatory determination criteria regarding inseason adjustments and applies to Atlantic tunas General category (commercial) permitted vessels and Highly Migratory Species (HMS) Charter/Headboat category permitted vessels when fishing commercially for BFT.

DATES: Effective October 30, 2015 through December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin or Brad McHale, 978–281–9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by the recently published Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014). NMFS

is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

This paragraph describes the current General, Harpoon, and Reserve category quotas, prior to the adjustments taken in this inseason action. NMFS recently implemented a final rule that increased the U.S. BFT quota and subquotas per ICCAT Recommendation 14–05 (80 FR 52198, August 28, 2015). The base quotas for the General category, the Harpoon category, and the Reserve category are 466.7 mt, 38.6 mt, and 24.8 mt, respectively. See § 635.27(a). Each of the General category time periods (January, June through August, September, October through November, and December) is allocated a portion of the annual General category quota. Although it is called the ''January'' subquota, the regulations allow the General category fishery under this quota to continue until the subquota is reached or March 31, whichever comes first. Based on the General category quota of 466.7 mt, the subquotas for each time period are as follows: 24.7 mt for January; 233.3 mt for June through August; 123.7 mt for September; 60.7 mt for October through November; and 24.3 mt for December. Any unused General category quota rolls forward within the fishing year, which coincides with the calendar year, from one time period to the next, and is available for use in subsequent time periods. To date, NMFS has published three inseason quota transfers that have adjusted the available 2015 Reserve category quota, which currently is 147.1 mt (80 FR 7547, February 22, 2015; 80 FR 45098, July 29, 2015; and 80 FR 46516, August 5, 2015). The adjusted Harpoon category quota, following transfer of 40 mt from the Reserve category in the third of the above three inseason transfers as well as implementation of the final BFT quota rule, is 78.6 mt.

Inseason Transfer

The 2015 General category fishery was open January 1, 2015, through March 31, 2015, reopened June 1, 2015, and remains open until December 31, 2015, or until the General category quota is reached, whichever comes first.

Under § 635.27(a)(9), NMFS has the authority to transfer quota among fishing categories or subcategories, after considering determination criteria provided under § 635.27(a)(8), including the five new criteria recently added in Amendment 7, which include: The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no adjustment is made; the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; the estimated amounts by which quotas for other gear categories of the fishery might be exceeded; effects of the adjustment on BFT rebuilding and overfishing; effects of the adjustment on accomplishing the objectives of the fishery management plan; variations in seasonal distribution, abundance, or migration patterns of BFT; effects of catch rates in one area precluding vessels in another area from having a reasonable opportunity to harvest a portion of the category's quota; review of dealer reports, daily landing trends, and the availability of the BFT on the fishing grounds; optimizing fishing opportunity; accounting for dead discards, facilitating quota monitoring, supporting other fishing monitoring programs through quota allocations and/or generation of revenue; and support of research through quota allocations and/or generation of revenue.

NMFS has considered the determination criteria regarding inseason adjustments and their applicability to the General category fishery for the end of 2015. These considerations include, but are not limited to, the following: Biological samples collected from BFT landed by General category fishermen and provided by tuna dealers continue to provide NMFS with valuable parts and data for ongoing scientific studies of BFT age and growth, migration, and reproductive status. Additional opportunity to land BFT would support the collection of a broad range of data for these studies and for stock monitoring purposes. Another principal consideration is the objective of providing opportunities to harvest the full annual U.S. BFT quota without exceeding it based on the goals of the 2006 Consolidated HMS FMP and Amendment 7, including to achieve optimum yield on a continuing basis and to optimize the ability of all permit categories to harvest their full BFT quota allocations. General category landings in the winter BFT fishery, which typically begins in December or January each year, are highly variable and depend on availability of commercial-sized BFT to participants. Commercial-sized BFT continue to be landed by General category vessels.

As of October 27, 2015, the General category has landed 458.8 mt, or 98 percent of its 2015 quota of 466.7 mt. Without a quota transfer at this time, NMFS would have to close the 2015 General category fishery as the currently available General category quota would be reached shortly. Overall, approximately 68 percent of the commercial BFT subquotas of 836.5 mt has been harvested. Approximately 90 mt of the Purse Seine and Harpoon categories may remain unused and activity in those categories has stopped for the year. NMFS will need to account for 2015 landings and dead discards within the adjusted U.S. quota, consistent with ICCAT recommendations, and anticipates having sufficient quota to do that even with this transfer.

This quota transfer would provide additional opportunities to harvest the U.S. bluefin quota without exceeding it, while preserving the opportunity for General category fishermen to participate in the winter BFT fishery. This action is consistent with the quotas recently established and analyzed in the BFT tuna quota final rule (80 FR 52198, August 28, 2015), and consistent with objectives of the 2006 Consolidated HMS FMP and Amendments, and is not expected to negatively impact stock health.

Based on the considerations above, NMFS is transferring 35 mt of Harpoon category quota and 65 mt of Reserve category quota to the General category for the remainder of 2015, resulting in adjusted quotas of 566.7 mt, 43.6 mt and 82.1 mt for the General, Harpoon, and Reserve categories, respectively. NMFS will close the 2015 General category fishery when the adjusted General category quota of 566.7 mt has been reached, or it will close automatically on December 31, 2015.

Monitoring and Reporting

NMFS will continue to monitor the BFT fishery closely. Dealers are required to submit landing reports within 24 hours of a dealer receiving BFT. General, HMS Charter/Headboat, Harpoon, and Angling category vessel owners are required to report the catch of all BFT retained or discarded dead, within 24 hours of the landing(s) or end of each trip, by accessing *hmspermits.noaa.gov.* Depending on the level of fishing effort and catch rates of BFT, NMFS may determine that additional adjustment or closure is necessary to ensure available quota is not exceeded or to enhance scientific data collection from, and fishing opportunities in, all geographic areas. If needed, subsequent adjustments will be published in the **Federal Register**. In addition, fishermen may call the Atlantic Tunas Information Line at (978)

281–9260, or access *hmspermits.noaa.gov,* for updates on quota monitoring and inseason adjustments.

Classification

The Assistant Administrator for NMFS (AA) finds that it is impracticable and contrary to the public interest to provide prior notice of, and an opportunity for public comment on, this action for the following reasons:

The regulations implementing the 2006 Consolidated HMS FMP and Amendments provide for inseason retention limit adjustments to respond to the unpredictable nature of BFT availability on the fishing grounds, the migratory nature of this species, and the regional variations in the BFT fishery.

Affording prior notice and opportunity for public comment to implement the quota transfer for the remainder of 2015 is impracticable as it would preclude NMFS from acting promptly to allow continued harvest of BFT that are available on the fishing grounds via a quota transfer from the Harpoon and Reserve categories to the General category. The delay would preclude the fishery from harvesting BFT that are available on the fishing grounds and that might otherwise become unavailable during a delay. Therefore, the AA finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and the opportunity for public comment. For all of the above reasons, there is good cause under 5 U.S.C. 553(d) to waive the 30-day delay in effectiveness.

This action is being taken under § 635.27(a)(9) and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: October 30, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–28070 Filed 10–30–15; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 140918791–4999–02]

RIN 0648–XE296

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the West Yakutat District of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting retention of sablefish by vessels using trawl gear in the West Yakutat District of the Gulf of Alaska (GOA). This action is necessary because the 2015 total allowable catch of sablefish allocated to vessels using trawl gear in the West Yakutat District of the GOA will be reached.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), October 30, 2015, through 2400 hours, A.l.t., December 31, 2015.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2015 total allowable catch (TAC) of sablefish allocated to vessels using trawl gear in the West Yakutat District of the GOA is 220 metric tons (mt) as established by the final 2015 and 2016 harvest specifications for groundfish of the GOA (80 FR 10250, February 25, 2015).

In accordance with § 679.20(d)(2), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2015 TAC of sablefish allocated to vessels using trawl gear in the West Yakutat District of the GOA will be reached. Therefore, NMFS is requiring that sablefish caught by vessels using trawl gear in the West Yakutat District of the GOA be treated as prohibited species in accordance with § 679.21(b).

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay prohibiting the retention of sablefish by vessels using trawl gear in the West Yakutat District of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of October 28, 2015.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: October 30, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–28071 Filed 10–30–15; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register

Vol. 80, No. 213

Wednesday, November 4, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2008–0664]

RIN 3150–AI54

Variable Annual Fee Structure for Small Modular Reactors

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is proposing to amend its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for light-water small modular reactors (SMR). Under the proposed variable annual fee structure, an SMR's annual fee would be calculated as a function of its licensed thermal power rating. This proposed fee methodology complies with the Omnibus Budget Reconciliation Act of 1990, as amended (OBRA–90). The NRC will hold a public meeting to promote full understanding of the proposed rule and to facilitate public comments.

DATES: Submit comments by December 4, 2015. Comments received after this date will be considered if it is practicable to do so, but the NRC is able to ensure consideration only for comments received on or before this date. For additional information about the public meeting, see Section XII, ''Public Meeting,'' of this document.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0664. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- Email comments to: *Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677. For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Arlette Howard, Office of the Chief Financial Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–1481, email: *Arlette.Howard@nrc.gov.*

SUPPLEMENTARY INFORMATION:

Executive Summary

The NRC anticipates that it will soon receive license applications for light-water SMRs. In fiscal year (FY) 2008, the NRC staff determined that the annual fee structure for part 171 of title 10 of the *Code of Federal Regulations* (10 CFR) fees, which was established in 1995, should be reevaluated to address potential inequities for future SMRs, due to their anticipated design characteristics. These characteristics include modular design, factory component fabrication, and thermal power capacities of 1,000 megawatts thermal (MWt) or less per module. These SMRs also may include safety and security design features that could ultimately result in a lower regulatory oversight burden for this type of reactor. Despite these significant differences, under the NRC's current fee structure, an SMR would be required to pay the same annual fee as a current operating reactor. OBRA–90 instructs the NRC to ''establish, by rule, a schedule of charges fairly and equitably allocating'' various generic agency regulatory costs ''among licensees'' and, ''[t]o the maximum extent practicable, the charges shall have a reasonable relationship to the cost of providing regulatory services and may be based on the allocation of the Commission's resources among licensees or classes of licensees.'' Because of the significant anticipated differences between SMRs and the existing reactor fleet, applying the current fee structure to SMRs appears to be contrary to OBRA–90's requirement that the NRC's fees be ''fairly and equitably'' allocated among its licensees. Therefore, the NRC proposes to implement a variable annual fee structure for SMR licensees that would include a minimum fee, a variable fee, and a maximum fee based on an SMR site's cumulative licensed thermal power rating.

A draft regulatory analysis (Accession No. ML15226A588 in the NRC's Agencywide Documents Access and Management System (ADAMS)) has been developed for this proposed rulemaking and is available for public comment (see Section XIII, Availability of Documents).

Table of Contents

I. Obtaining Information and Submitting Comments
  A. Obtaining Information
  B. Submitting Comments
II. Background
  A. Operating Reactor Annual Fee Structure
  B. Advance Notice of Proposed Rulemaking Regarding an Annual Fee Structure for SMRs
  C. Evaluation of Four Alternative Annual Fee Structures for SMRs
  D. Preferred Approach for an Annual Fee Structure for SMRs
III. Discussion
  A. What action is the NRC proposing to take?
  B. When would these actions become effective?
  C. What should I consider as I prepare my comments to the NRC?
IV. Discussion of Proposed Amendments by Section
V. Draft Regulatory Analysis
VI. Regulatory Flexibility Certification
VII. Backfitting and Issue Finality
VIII. Plain Writing
IX. National Environmental Policy Act
X. Paperwork Reduction Act Statement
XI. Voluntary Consensus Standards
XII. Public Meeting
XIII. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2008–0664 when contacting the NRC about

the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2008–0664.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced. For the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of this document.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2008–0664 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS, and the NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

A. Operating Reactor Annual Fee Structure

Over the past 40 years the NRC has assessed, and continues to assess, fees to applicants and licensees to recover the cost of its regulatory program. The NRC's fee regulations are governed by two laws: (1) The Independent Offices Appropriations Act of 1952 (IOAA) (31 U.S.C. 483 (a)); and (2) OBRA–90 (42 U.S.C. 2214). Under OBRA–90, the NRC is required to recover approximately 90 percent of its annual budget authority through fees, not including amounts appropriated for Waste Incidental to Reprocessing, amounts appropriated for generic homeland security activities (non-fee items), amounts appropriated from the Nuclear Waste Fund, and amounts appropriated for Inspector General services for the Defense Nuclear Facilities Safety Board.

The NRC assesses two types of fees to meet the requirements of OBRA–90. First, licensing and inspection fees, established in 10 CFR part 170 under the authority of the IOAA, recover the NRC's cost of providing specific benefits to identifiable applicants and licensees. Second, annual fees, established in 10 CFR part 171 under the authority of OBRA–90, recover NRC's generic and other regulatory costs that are not otherwise recovered through 10 CFR part 170 fees during the fiscal year.

Under the current annual fee structure, SMRs would be required to pay the same annual fee as those paid by the operating reactor fee class. For the operating reactor fee class, the NRC allocates 10 CFR part 171 annual fees equally among the operating power reactor licensees to recover those budgetary resources expended for rulemaking and other generic activities which benefit the entire fee class. If 10 CFR part 171, in its current form, is applied to SMRs, then each SMR reactor would be required to pay the same flat annual fees as the existing operating reactor fleet, even though SMRs are expected to be considerably smaller in size and are expected to utilize designs that may reduce the NRC's regulatory costs per reactor.

Additionally, under the current annual fee structure, multimodule nuclear plants would be assessed annual fees on a per-licensed-module basis, as stated in the draft regulatory analysis, in the section titled ''Identification and Preliminary Analysis of Alternative Approaches.'' For example, an SMR site with 12 licensed SMR modules with low thermal power ratings would have to pay 12 times the annual fee paid by a single large operating reactor, even if that single reactor had higher thermal power rating than the combined power of the 12 SMR modules; this disparity raises fairness and equity concerns under OBRA–90. The SMR licensees could apply for fee exemptions to lower their annual fees; however, fee exceptions are appropriate only for unanticipated or rare situations. OBRA–90 requires NRC to establish, by rule, a schedule of charges fairly and equitably allocating annual fees among its licensees. If the NRC anticipates up-front that its annual fee schedule will not be fair and equitable as applied to a particular class of licensees, then amending the schedule, rather than planning to rely on the exemption process, is the better course of action for complying with OBRA–90.

B. Advance Notice of Proposed Rulemaking Regarding an Annual Fee Structure for SMRs

In order to address any potential inequities described above, the NRC began re-evaluating its annual fee structure as it relates to SMRs. In March 2009, the NRC published an Advance Notice of Proposed Rulemaking (ANPR) for a variable annual fee structure for power reactors in the **Federal Register** (74 FR 12735, March 25, 2009). Although the ANPR nominally addressed the fee methodology used for all power reactors, its principal focus was on how to best adapt the existing fee methodology for future SMRs.

The NRC received 16 public comments on the ANPR from licensees, industry groups, and private individuals. These comments provided a wide range of input for agency consideration. Nine commenters supported adjusting the current power reactor annual fee methodology for small and medium-sized power reactors by some means. These commenters suggested basing the annual fee on either: (a) A risk matrix, (b) the thermal power ratings (in megawatts thermal, MWt), (c) the cost of providing regulatory service, or d) an amount proportional to the size of the system based on megawatt (MW) ratings compared to a fixed baseline. Three commenters representing small reactor design vendors supported a variable fee rate structure as a means to mitigate the impacts of the existing fee structure on potential customers of their small reactor designs.

Other commenters not supporting the variable annual fee structure recommended the following changes to the fee methodology: (a) Reinstatement of reactor size as a factor in evaluating fee exemption requests under 10 CFR

171.11(c), (b) establishment of power reactor subclasses, or (c) performance of additional analysis before making any changes to the current fee structure. Two commenters expressed an unwillingness to subsidize operating SMRs at the expense of their own businesses and believed that the flat-rate methodology provided regulatory certainty and assisted the ability to make ongoing financial plans.

In September 2009, the NRC staff submitted SECY–09–0137, ''Next Steps for Advance Notice of Proposed Rulemaking on Variable Annual Fee Structure for Power Reactors,'' to the Commission for a notation vote (ADAMS Accession No. ML092660166). The paper summarized the comments received in response to the ANPR and requested Commission approval to form a working group to analyze the commenters' suggested methodologies. The Commission approved the staff's recommendation in the October 13, 2009, Staff Requirements Memorandum (SRM) for SECY–09–0137 (ADAMS Accession No. ML092861070).

C. Evaluation of Four Alternative Annual Fee Structures for SMRs

The NRC subsequently formed a working group to analyze the ANPR comments, as well as position papers submitted to the NRC from the Nuclear Energy Institute (NEI), ''NRC Annual Fee Assessment for Small Reactors,'' dated October 2010 (ADAMS Accession No. ML103070148); and from the American Nuclear Society (ANS), ''Interim Report of the American Nuclear Society President's Special Committee on Small and Medium Sized Reactor (SMR) Generic Licensing Issues,'' dated July 2010 (ADAMS Accession No. ML110040946).

Four possible alternatives emerged from the working group's analysis of the public comments and the NEI and ANS position papers:

1. Continue the existing annual fee structure, but define a modular site of up to 12 reactors or 4,000 MWt licensed power rating as a single unit for annual fee purposes.
2. Create fee classes for groups of reactor licensees and distribute the annual fee costs attributed to each fee class equally among the licensees in that class.
3. Calculate the annual fee for each licensed power reactor as a function of potential risk to public health and safety using a risk matrix.
4. Calculate the annual fee for each licensed power reactor as a function of its licensed thermal power rating.

The NRC staff further concluded that the original Alternative 3, which calculated the annual fee for each SMR as a function of its potential risk to public health and safety using a risk matrix, did not warrant further consideration and analysis because of the technical complexities and potential costs of developing the probalistic risk assessments necessary to implement this alternative.

D. Preferred Approach for an Annual Fee Structure for SMRs

The working group examined the alternatives and informed the NRC's Chief Financial Officer (CFO) that Alternative 4 was the working group's preferred recommendation because it allows SMRs to be assessed specific fee amounts based on their licensed thermal power ratings (measured in MWt) on a variable scale with a minimum fee and a maximum fee. Additionally, the variable portion of the fee allows for multiple licensed SMR reactors on a single site to be treated as a single reactor for fee purposes up to 4,000 MWt. The working group determined that these attributes best align with NRC requirements under OBRA–90.

The CFO submitted the final recommendations to the Commission in an informational memorandum dated February 7, 2011, ''Resolution of Issue Regarding Variable Annual Fee Structure for Small and Medium-Sized Nuclear Power Reactors'' (ADAMS Accession No. ML110380251). The memorandum described the results of the working group's efforts and its recommendation that the annual fee structure for SMRs be calculated for each newly licensed power reactor as a function of its licensed thermal power rating. The memorandum indicated that the staff intended to obtain Commission approval for the planned approach during the process for developing the proposed rule.

In FY 2014, the staff reviewed the analysis and recommendations in the 2011 memorandum and determined that they remained sound. However, the working group identified one additional area for consideration related to the maximum thermal power rating eligible for a single annual fee.

In the FY 2011 memorandum, the CFO proposed an upper threshold of 4,000 MWt for multi-module power plants to be allocated a single annual fee. This value was comparable to the largest operating reactor units at the time (Palo Verde Nuclear Generating Station Units 1, 2, and 3 at 3,990 MWt each). Subsequently, a power uprate was approved for Grand Gulf Nuclear Station, Unit 1, which raised the maximum licensed thermal power rating to 4,408 MWt. Therefore, the working group recommended setting the single-fee threshold for a multi-module nuclear plant at 4,500 MWt on the SMR variable annual fee structure scale so that the maximum fee remains aligned with the largest licensed power reactor.

With this change, the staff submitted final recommendations to the Commission and requested approval to proceed with a proposed rulemaking for an SMR annual fee structure in a memorandum dated March 27, 2015, ''Proposed Variable Annual Fee Structure for Small Modular Reactors'' (ADAMS Accession No. ML15051A092). The Commission approved the staff's request to proceed with a proposed rulemaking on May 18, 2015, in SRM–SECY–15–0044 (ADAMS Accession No. ML15135A427).

III. Discussion

A. What action is the NRC proposing to take?

Based on the Commission's approval in SRM–SECY–15–0044, May 18, 2015 (ADAMS Accession No. ML15135A427), the NRC staff is proposing to implement a variable annual fee structure for SMRs. As detailed in the draft regulatory analysis, the NRC determined the current annual fee structure may not be fair and equitable for assessing fees to SMRs based on the unique size and characteristics of SMRs.

As explained in the Background section of this proposed rule, the NRC staff previously solicited public input regarding an annual fee structure for SMRs via an ANPR, and the NRC staff submitted two papers to the Commission discussing alternative annual fee structures which resulted in the recommendation of the variable annual fee structure as the preferred approach. In FY 2015, for this proposed rule and draft regulatory analysis, the NRC staff further refined the original alternatives and concluded that a ''no action alternative'' should be added to serve as the baseline to compare against all other alternatives for this proposed rulemaking.

Therefore, the four alternatives analyzed for this rulemaking are as follows:

1. No action.
2. Continue the existing annual fee structure for all reactors but allow for ''bundling'' of SMR reactor modules up to a total of 4,500 MWt as a single SMR ''bundled unit.''
3. Continue the existing annual fee structure for the current fleet of operating power reactors but establish a third fee class for SMRs with fees commensurate with the budgetary resources allocated to SMRs.

4. Continue the existing annual fee structure for the current fleet of operating power reactors but calculate the annual fee for each SMR site as a multi-part fee which includes minimum fee, variable fee and maximum fee.

As explained in the draft regulatory analysis for this proposed rule, the NRC staff analyzed Alternative 1 (the no action alternative) and has concluded that this alternative continues to be a fair, equitable and stable approach for the existing fleet of reactors. This is because previous agency efforts to manage cost and fee allocations at a more granular level proved to be labor intensive and resulted in minimal additional benefits to licensees when compared to the flat-fee approach (60 FR 32230; June 20, 1995). But for SMRs, the current fee structure could produce such a large disparity between the annual fees paid by a licensee and the economic benefits that the licensee gained from using the license that it would be contrary to OBRA–90. For example, a hypothetical SMR site with twelve SMR reactor modules would have to pay twelve times the annual fee paid by a single current operating reactor—almost $54 million per year based on FY 2015 fee rule data. By comparison, Fort Calhoun, the smallest reactor in the current operating fleet, would pay approximately $4.5 million in annual fees. Such a result would be contrary to OBRA–90's requirement to establish a fair fee schedule, and therefore the no action alternative is unacceptable.

Small modular reactor licensees could apply for annual fee exemptions under 10 CFR 171.11(c). The fee exemption criteria considers the age of the reactor, number of customers in the licensee's rate base, how much the annual fee would add to the per kilowatt-hour (kWh) cost of electricity, and other relevant issues. But as described in SECY–15–0044, there are no guarantees that an application for an exemption would be approved, decreasing regulatory certainty. And, OBRA–90 requires the NRC to establish, by rule, a schedule of charges fairly and equitably allocating annual fees among its licensees. Therefore, if the NRC anticipates up-front that its annual fee schedule will not be fair and equitable as applied to a particular class of licensees, then amending the schedule, rather than planning to rely on the exemption process, is the far better course for complying with OBRA–90.

Also, as explained in the draft regulatory analysis for this proposed rule, the NRC staff evaluated Alternative 2, which continues the existing annual fee structure for all reactors and allows for the bundling of the thermal ratings of SMRs on a single site up to total licensed thermal power rating of up to 4,500 MWt, which is roughly equivalent to the licensed thermal power rating of the largest reactor in the current fleet. Alternative 2 provides more fairness to SMRs than Alternative 1 because it allows SMR licensees to bundle their SMRs on a single site. For smaller SMR facilities, however, Alternative 2 would still create great disparities among facilities in terms of the annual fees they pay relative to the economic benefits they stand to gain from their NRC licenses. Consider, for illustrative purposes, an SMR site with only one NuScale reactor module. This licensee for this site would still be required to pay the full annual fee but could only spread the fee over 160 MWt-about $31,123 per MWt as explained in the draft regulatory analysis. In contrast, the licensee for an SMR site featuring 12 NuScale reactor modules would pay only $2,594 per MWt in annual fees as explained in the draft regulatory analysis. Alternative 2, therefore, goes only part of the way towards addressing the fairness and equity concerns that prompted this rulemaking, while leaving significant potential for disparities from one SMR licensee to another, in terms of the economic benefits the licensee would be able to receive from its NRC license relative to the annual fees assessed. As with Alternative 1, SMR licensees could apply for annual fee exemptions under 10 CFR 171.11(c). But again there are no guarantees that an exemption would be approved, decreasing regulatory certainty. For these reasons, and as further explained in the draft regulatory analysis, the NRC staff finds Alternative 2 to be an unacceptable approach.

Alternative 3, as explained in the draft regulatory analysis for this proposed rule, would entail creating a separate fee class for SMRs with fees commensurate with the budgetary resources allocated to SMRs, similar to the operating reactor and research and test reactors fee classes. This alternative would establish a flat annual fee that is assessed equally among the licensees in the SMR class. Although this approach has proven to be fair and equitable for the current fee classes, this approach applied to SMRs would be unfair due to the potential various sizes and types of SMR designs. In particular, a single per-reactor fee could prove unduly burdensome to SMRs with low thermal power ratings (such as 160 MWt for a single NuScale SMR) when compared to SMRs with higher rated capacities (such as 800 MWt for a single Westinghouse SMR). Additionally, Alternative 3 is similar to the ''no action'' alternative in the sense that fees are based per licensed reactor or module rather than on the cumulative licensed thermal power rating. This alternative, therefore, fails to address the fee disparity created for SMRs using multiple small modules rather than fewer, larger reactors with a similar cumulative thermal power rating. It is the NRC's intent to select an SMR fee alternative that is fair and equitable for the broadest possible range of SMR designs. Flat-rate alternatives such as this one are inconsistent with the ''fair and equitable'' requirements of OBRA–90 when applied to a fee class with the wide range of SMR thermal power capacities as described by reactor designers to date. As with the previous alternatives, SMR licensees could apply for annual fee exemptions under 10 CFR 171.11(c). But again there are no guarantees that an exemption would be approved, decreasing regulatory certainty. For these reasons, and as further explained in the draft regulatory analysis, Alternative 3 is an unacceptable approach.

Ultimately, the NRC staff analyzed the mechanics of the variable annual fee structure under Alternative 4 and determined that it is the best approach for assessing fees to SMRs in a fair and equitable manner under OBRA–90. Unlike the current fee structure, this approach recognizes the anticipated unique characteristics of SMRs in relation to the existing fleet. In comparison to Alternative 2, this approach ensures that all SMRs are treated fairly, rather than just those whose licensed thermal power rating ranges between 2,000–4,500 MWt. Unlike Alternative 3, the variable annual fee structure assesses a range of annual fees to SMRs based on licensed thermal power rating, rather than assessing a single flat fee that could apply to potentially a very wide range of SMRs.

The variable annual fee structure computes SMR annual fees on a site basis, considering all SMRs on the site up to a total licensed thermal power rating of up to 4,500 MWt to be a single bundled unit that would pay the same fee as the current operating fleet. The variable annual fee structure has three parts; a minimum annual fee (the average of the research and test reactor fee class and the spent fuel storage/reactor decommissioning fee class), a variable fee charged on a per-MWt basis for bundled units in a particular size range below the typical current operating fleet reactor size, and a maximum annual fee equivalent to the

annual fee charged to current operating fleet reactors.

Bundled units with a total licensed thermal power rating at or below 250 MWt would pay a flat minimum fee; for example, based on FY 2015 fee rule data, the fee would be $154K as explained in the draft regulatory analysis. This minimum fee is consistent with the principle that reactor-related licensees in existing low-fee classes may not generate substantial revenue, yet still derive benefits from NRC activities performed on generic work. Therefore, they must pay more than a *de minimis* part of the NRC's generic costs. By calculating the minimum fee for SMRs within the range of annual fees paid by other low-fee reactor classes, this methodology satisfies OBRA–90's fairness and equity requirements because it ensures consistent NRC treatment for low-power and low-revenue reactors.

Fees for bundled units with a total licensed thermal power rating greater than 250 MWt and less than or equal to 2,000 MWt would be computed as the minimum fee plus a variable fee based on the bundled unit's cumulative licensed thermal power rating. The variable fee should generally correlate with the economic benefits the licensee is able to derive from its NRC license and will ensure that similarly rated SMRs pay comparable fees.

For a bundled unit with a licensed thermal power rating comparable to a typical large light-water reactor that is greater than 2,000 MWt and less than or equal to 4,500 MWt, the maximum annual fee assessed to the licensee would be the same fee that would be paid by a reactor licensee in the current operating fleet. This approach ensures comparable fee treatment of facilities that stand to derive comparable economic benefits from their NRC-licensed activities.

For SMR sites with a licensed thermal power rating that exceeds 4,500 MWt, the licensee would be assessed the maximum fee for the first bundled unit, plus a variable annual fee for the portion of the thermal rating above the 4,500 MWt and less than or equal to 6,500 MWt for a second bundled unit (the licensee would not incur a second minimum fee for the same SMR site). If a site rating exceeds the 6,500 MWt level and it less than or equal to 9,000 MWt, the maximum fee would be assessed for each bundled unit. The NRC considered avoiding the second variable portion of the fee structure and simply doubling the annual maximum fee for the second bundled unit; however, this would be unfair if the site's second bundled unit had a small licensed thermal power rating. Similar to the other three alternative fee structures, this method would have failed to address the inequity of the size of the bundled unit versus the size of the fee the licensee would have to pay.

Therefore, as demonstrated in the draft regulatory analysis, the NRC staff concludes the variable annual fee structure allows SMRs to pay an annual fee that is commensurate with the economic benefit received from its license and that appropriately accounts for the design characteristics and current expectations regarding regulatory costs. This complies with OBRA–90's requirement to establish a fee schedule that fairly and equitably allocates NRC's fees.

B. When would these actions become effective?

Generally, the NRC allows an adequate time (30 to 180 days) for a final rule to become effective. The time for the final rule to become effective depends on the scope of the rulemaking, the availability of associated guidance, and the complexity of the final rule. With regard to this proposed rule, the NRC proposes that the final rule become effective 30 days from its publication in the **Federal Register**.

C. What should I consider as I prepare my comments to the NRC?

When submitting your comments, remember to:

1. Identify the rulemaking (RIN 3150–AI54) and Docket ID NRC–2008–0664)
2. Explain why you agree or disagree with the proposed rule; suggest alternatives and substitute language for your requested changes.
3. Describe any assumptions and provide any technical information and/or data that you used.
4. If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
5. Provide specific examples to illustrate your concerns, and suggest alternatives.
6. Explain your views as clearly as possible.
7. Submit your comments by the comment period deadline as stated in the **DATES** section of this proposed rule.

IV. Discussion of Proposed Amendments by Section

The following paragraphs describe the specific changes proposed by this rulemaking.

Section 170.3 Definitions

The NRC proposes to add definitions for ''bundled unit,'' ''small modular reactor (SMR),'' and ''small modular reactor site (SMR site).''

Section 171.5 Definitions

The NRC proposes to add definitions for ''bundled unit,'' ''maximum fee,'' ''minimum fee,'' ''small modular reactor (SMR),'' ''small modular reactor site (SMR site),'' ''variable fee,'' and ''variable rate.''

Section 171.15 Annual Fees: Reactor Licenses and Independent Spent Fuel Storage Licenses

The NRC proposes to redesignate current paragraph (e) as new paragraph (f) and add new paragraphs (e)(1), (e)(2) and (e)(3) to define activities that comprise SMR annual fees and the time period the NRC must collect annual fees from SMR licensees.

V. Draft Regulatory Analysis

The NRC has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the NRC. The NRC requests public comment on the draft regulatory analysis. The draft regulatory analysis is available as indicated in the ''Availability of Documents'' section of this document. Comments on the draft analysis may be submitted to the NRC as indicated under the **ADDRESSES** section of this document.

VI. Regulatory Flexibility Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact on a substantial number of small entities. This proposed rule affects only the licensing and operation of nuclear power plants. The companies that own these plants do not fall within the scope of the definition of ''small entities'' set forth in the Regulatory Flexibility Act or the size standards established by the NRC (10 CFR 2.810).

VII. Backfitting and Issue Finality

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this proposed rule and that a backfit analysis is not required. A backfit analysis is not required because these amendments do not require the modification of, or addition to, systems, structures, components, or the design of a facility, or the design approval or manufacturing license for a facility, or the procedures or organization required to design, construct, or operate a facility.

VIII. Plain Writing

The Plain Writing Act of 2010 (Pub. L. 111–274) requires Federal agencies to write documents in a clear, concise, and well-organized manner. The NRC has written this document to be consistent with the Plain Writing Act as well as the Presidential Memorandum, ''Plain Language in Government Writing,'' published June 10, 1998 (63 FR 31883). The NRC requests comment on the proposed rule with respect to the clarity and effectiveness of the language used.

IX. National Environmental Policy Act

The NRC has determined that this proposed rule is the type of action described in 10 CFR 51.22(c)(1). Therefore, neither an environmental impact statement nor environmental assessment has been prepared for this proposed rule.

X. Paperwork Reduction Act

This proposed rule does not contain a collection of information as defined in the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) and, therefore, is not subject to the requirements of the Paperwork Reduction Act of 1995.

XI. Voluntary Consensus Standards

The National Technology Transfer and Advancement Act of 1995, Public Law 104–113, requires that Federal agencies use technical standards that are developed or adopted by voluntary consensus standards bodies unless the use of such a standard is inconsistent with applicable law or otherwise impractical. In this proposed rule, the NRC is proposing amend its licensing, inspection, and annual fee regulations to establish a variable annual fee structure for SMRs. This action does not constitute the establishment of a standard that contains generally applicable requirements.

XII. Public Meeting

The NRC will hold a public meeting to describe and explain the rationale for the variable annual fee structure and to accept questions from the public on this proposed rule.

The NRC will publish a notice of the location, time, and agenda of the meeting in the **Federal Register**, on Regulations.gov, and on the NRC's public meeting Web site at least 10 calendar days before the meeting. Stakeholders should monitor the NRC's public meeting Web site for information about the public meeting at: *http://www.nrc.gov/public-involve/public-meetings/index.cfm.*

XIII. Availability of Documents

The documents identified in the following table are available to interested persons as indicated.

Document	ADAMS Accession No.
Summary of ANPR Comments	ML14307A812.
ANS Position Paper, ''NRC Annual Fees for Licensees''	ML110040946.
NEI Position Paper, ''NRC Annual Fee Assessment for Small Reactors''	ML103070148. ML110380260.
Memorandum to the Commission, ''Resolution of Issue Regarding Variable Annual Fee Structure for Small and Medium-Sized Nuclear Power Reactors,'' February 7, 2011.	ML110380251.
SECY–15–0044, ''Proposed Variable Annual Fee Structure for Small Modular Reactors'', March 27, 2015	ML15051A092.
Staff Requirements Memorandum—SECY–15–0044, ''Proposed Variable Annual Fee Structure for Small Modular Reactors'', May 15, 2015.	ML15135A427.
Draft Regulatory Analysis for Proposed Changes to 10 CFR Part 171 ''Annual Fees for Reactor Licenses and Fuel Cycle Licenses and Materials Licenses, Including Holders of Certificates of Compliance, Registrations, and Quality Assurance Program Approvals and Government Agencies Licensed by the NRC''.	ML15226A588.

Throughout the development of this rule, the NRC may post documents related to this rule, including public comments, on the Federal rulemaking Web site at *http://www.regulations.gov* under Docket ID NRC–2008–0664. The Federal rulemaking Web site allows you to receive alerts when changes or additions occur in a docket folder. To subscribe: (1) Navigate to the docket folder NRC–2008–0664; (2) click the ''Sign up for Email Alerts'' link; and (3) enter your email address and select how frequently you would like to receive emails (daily, weekly, or monthly).

List of Subjects

10 CFR Part 170

Byproduct material, Import and export licenses, Intergovernmental relations, Non-payment penalties, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

10 CFR Part 171

Annual charges, Byproduct material, Holders of certificates, registrations, approvals, Intergovernmental relations, Nonpayment penalties, Nuclear materials, Nuclear power plants and reactors, Source material, Special nuclear material.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended; the Energy Reorganization Act of 1974, as amended; and 5 U.S.C. 552 and 553, the NRC is proposing to adopt the following amendments to 10 CFR parts 170 and 171:

PART 170—FEES FOR FACILITIES, MATERIALS IMPORT AND EXPORT LICENSES AND OTHER REGULATORY SERVICES UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

■ 1. The authority citation for part 170 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w) (42 U.S.C. 2014, 2201(w)); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 31 U.S.C. 901, 902, 9701; 44 U.S.C. 3504 note.

■ 2. In § 170.3, add, in alphabetical order, the definitions for *bundled unit, small modular reactor (SMR),* and *small modular reactor site (SMR site)* to read as follows:

§ 170.3 Definitions.

* * * * *

Bundled unit is a measure of the cumulative licensed thermal power rating for one or more SMRs located on a single SMR site. One bundled unit is less than or equal to 4,500 MWt.

* * * * *

Small modular reactor (SMR) for the purposes of calculating fees, means the class of light-water power reactors having a licensed thermal power rating less than or equal to 1,000 MWt per module. This rating is based on the thermal power equivalent of a light-water SMR with an electrical power

generating capacity of 300 MWe or less per module.

Small modular reactor site (SMR site) is the geographically bounded location of one or more SMRs and a basis on which SMR fees are calculated.

* * * * *

PART 171—ANNUAL FEES FOR REACTOR LICENSES AND FUEL CYCLE LICENSES AND MATERIALS LICENSES, INCLUDING HOLDERS OF CERTIFICATES OF COMPLIANCE, REGISTRATIONS, AND QUALITY ASSURANCE PROGRAM APPROVALS AND GOVERNMENT AGENCIES LICENSED BY THE NRC

■ 3. The authority citation for part 171 continues to read as follows:

Authority: Atomic Energy Act of 1954, secs. 11, 161(w), 223, 234 (42 U.S.C. 2014, 2201(w), 2273, 2282); Energy Reorganization Act of 1974, sec. 201 (42 U.S.C. 5841); 42 U.S.C. 2214; 44 U.S.C. 3504 note.

■ 4. In § 171.5, add, in alphabetical order, the definitions for *bundled unit, maximum fee, minimum fee, small modular reactor (SMR), small modular reactor site (SMR site), variable fee* and *variable rate* to read as follows:

§ 171.5 Definitions.

* * * * *

Bundled unit means a measure of the cumulative licensed thermal power rating for one or more SMRs located on a single SMR site. One bundled unit is less than or equal to 4,500 MWt.

* * * * *

Maximum fee is defined as the highest fee paid by a single bundled unit. It is applied to all bundled units on an SMR site with a licensed thermal power rating greater than 2,000 and less than or equal to 4,500 MWt and is equal to the annual fee paid by existing fleet power reactors.

Minimum fee means one annual fee component paid by the first bundled unit on a site with a cumulative licensed thermal power rating of 2,000 MWt or less. For the first bundled unit on a site with a licensed thermal power rating of 250 MWt or less, it is the only annual fee that a licensee pays.

* * * * *

Small modular reactor (SMR) for the purposes of calculating fees, means the class of light-water power reactors having a licensed thermal power rating less than or equal to 1,000 MWt per module. This rating is based on the thermal power equivalent of a light-water SMR with an electrical power generating capacity of 300 MWe or less per module.

Small modular reactor site (SMR site) means the geographical bounded location of one or more SMRs and a basis on which SMR fees are calculated.

* * * * *

Variable fee means the annual fee component paid by the first bundled unit on a site with a licensed thermal power rating greater than 250 and less than or equal to 2,000 MWt. For additional bundled units on a site, the variable fee is calculated based on the licensed thermal power rating equal to or less 2,000 MWt.

Variable rate means a per-MWt fee factor applied to the first bundled unit on a site with a licensed thermal power rating greater than 250 and or less than or equal to 2,000 MWt, or to additional bundled units on a site above the 4,500 MWt threshold based on the licensed thermal power rating equal to or less than 2,000 MWt. The factor is based on the difference between the maximum fee and the minimum fee, divided by the difference in the variable fee licensed thermal rating range (either 1,750 MWt for the 2,000 MWt for first bundled unit or 2,000 MWt for additional bundled units).

■ 5. In § 171.15, redesignate paragraph (e) as paragraph (f), and add new paragraph (e) to read as follows:

§ 171.15 Annual fees: Reactor licenses and independent spent fuel storage licenses.

* * * * *

(e)(1) Each person holding an operating license for a small modular reactor issued under part 50 of this chapter or that holds a combined license issued under part 52 of this chapter after the Commission has made the finding under 10 CFR 52.103(g) shall pay the annual fee for each license held during the fiscal year in which the fee is due.

(2) The annual fees for a small modular reactor(s) located on a single site to be collected by September 30 of each year, are as follows:

Bundled unit thermal power rating *	Minimum fee	Variable fee	Maximum fee
First Bundled Unit:			
0–250 MWt	TBD	N/A	N/A.
> 250 ≤ 2,000 MWt	TBD	TBD	N/A.
> 2,000 ≤ 4,500 MWt	N/A	N/A	TBD.
Additional Bundled Units:			
> 4,500 ≤ 6,500 MWt	N/A	TBD	N/A.
> 6,500 ≤ 9,000 MWt	N/A	N/A	TBD.

* Note that the total annual fee paid is cumulative for the first bundled unit and each additional bundled unit.

(3) The annual fee is assessed for the same activities listed for the power reactor base annual fee and spent fuel storage/reactor decommissioning reactor fee.

* * * * *

Dated at Rockville, Maryland, this 16th day of October 2015.

For the Nuclear Regulatory Commission.

Maureen E. Wylie,

Chief Financial Officer.

[FR Doc. 2015–28110 Filed 11–3–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 430

[Docket No. EERE–2009–BT–TP–0016]

RIN 1904–AD58

Energy Conservation Program: Clarification of Test Procedures for Fluorescent Lamp Ballasts

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The U.S. Department of Energy (DOE) proposes to clarify its test procedures for fluorescent lamp ballasts established under the Energy Policy and Conservation Act. DOE is proposing to replace all instances of ballast efficacy factor (BEF) with ballast luminous efficiency (BLE) in our regulations and to add rounding instructions to the same section for BLE and power factor. DOE also proposes to clarify the represented value instructions for power factor. Finally, DOE is proposing to revise Appendix Q to clarify the lamp-ballast pairings for testing.

DATES: DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) no later than January 4, 2016. See section V, ''Public Participation,'' for details.

ADDRESSES: Any comments submitted must identify the NOPR for Clarification of Test Procedures for Fluorescent Lamp Ballasts, and provide docket number EE–2009–BT–TP–0016 and/or regulatory information number (RIN) number 1904–AD58. Comments may be submitted using any of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

2. *Email:* [*FLB-2009-TP-0016@ee.doe.gov*] Include the docket number and/or RIN in the subject line of the message.

3. *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD. It is not necessary to include printed copies.

4. *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD. It is not necessary to include printed copies.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

Docket: The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at regulations.gov. All documents in the docket are listed in the regulations.gov index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

A link to the docket Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/product.aspx/productid/62.* This Web page will contain a link to the docket for this notice on the regulations.gov site. The regulations.gov Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V for information on how to submit comments through regulations.gov.

For further information on how to submit a comment or review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Lucy deButts, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Program, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 287–1604. Email: *fluorescent_lamp_ballasts@ee.doe.gov.*

Ms. Sarah Butler, U.S. Department of Energy, Office of the General Counsel, GC–71, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–1777. Email: *Sarah.Butler@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: DOE is incorporating by reference the following industry standard into 10 CFR part 430. Copies of this industry standard can be reviewed in person at U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. For further information on accessing standards incorporated by reference, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

IEC [1] 60081 (Amendment 4, Edition 5.0), ''Double-capped fluorescent lamps—Performance specifications.''

Copies of IEC 60081 can be obtained from American National Standards Institute, 25 West 43rd Street, 4th Floor, New York, NY 10036 or *http://webstore.iec.ch/.*

Table of Contents

I. Authority and Background
II. Synopsis of the Notice of Proposed Rulemaking
III. Discussion
A. Replacing Ballast Efficacy Factor with Ballast Luminous Efficiency
B. Rounding Requirements for Ballast Luminous Efficiency
C. Rounding Requirements and Represented Value for Power Factor
D. Lamp Pairing for Testing
IV. Procedural Issues and Regulatory Review
A. Review Under Executive Order 12866
B. Review Under the Regulatory Flexibility Act
C. Review Under the Paperwork Reduction Act of 1995
D. Review Under the National Environmental Policy Act of 1969
E. Review Under Executive Order 13132
F. Review Under Executive Order 12988
G. Review Under the Unfunded Mandates Reform Act of 1995
H. Review Under the Treasury and General Government Appropriations Act, 1999
I. Review Under Executive Order 12630
J. Review Under Treasury and General Government Appropriations Act, 2001
K. Review Under Executive Order 13211
L. Review Under Section 32 of the Federal Energy Administration Act of 1974
M. Description of Standards Incorporated by Reference
V. Public Participation
A. Submission of Comments
B. Issues on Which DOE Seeks Comment
VI. Approval of the Office of the Secretary

I. Authority and Background

Title III, Part B [2] of the Energy Policy and Conservation Act of 1975 (''EPCA'' or, ''the Act''), Public Law 94–163 (42 U.S.C. 6291–6309, as codified) sets forth a variety of provisions designed to improve energy efficiency and established the ''Energy Conservation Program for Consumer Products Other Than Automobiles.'' [3] These include fluorescent lamp ballasts, the subject of this proposed rule. (42 U.S.C. 6292(a)(13))

Under EPCA, the energy conservation program consists essentially of four parts: (1) Testing, (2) labeling, (3) Federal energy conservation standards, and (4) certification and enforcement procedures. The testing requirements consist of test procedures that manufacturers of covered products must use as the basis for (1) certifying to the Department of Energy (DOE) that their products comply with the applicable energy conservation standards adopted under EPCA, and (2) making representations about the efficiency of those products. Similarly, DOE must use these test procedures to determine whether the products comply with any relevant standards promulgated under EPCA.

DOE published test procedure final rules on April 24, 1991, October 22, 2009, and May 4, 2011 (hereafter the ''May 2011 test procedure final rule''), establishing active mode test procedures, standby and off mode test procedures, and revised active mode test procedures respectively. 56 FR 18677, 74 FR 54445, and 76 FR 25211. The May 2011 test procedure final rule established Appendix Q1 [4] to subpart B of 10 CFR part 430. DOE also published final rules establishing and amending energy conservation standards for fluorescent lamp ballasts on September 19, 2000, and November 14, 2011 (hereafter the ''November 2011 standards final rule''), which completed the two energy conservation standard rulemakings required under 42 U.S.C.

[1] International Electrotechnical Commission.

[2] For editorial reasons, upon codification in the U.S. Code, Part B was redesignated as Part A.

[3] All references to EPCA refer to the statute as amended through the Energy Efficiency Improvement Act of 2015 (EEIA 2015), Public Law 114–11 (April 30, 2015).

[4] Appendix Q1 was redesignated as Appendix Q in the June 2015 clarification final rule. 80 FR 31971 (June 5, 2015).

6295(g)(7). 65 FR 56740; 76 FR 70547. The November 2011 standards final rule established the regulations located at 10 CFR 430.32(m)(8)–(10). DOE also published final rules on February 4, 2015 (hereafter the ''February 2015 correction final rule'') and on June 5, 2015 (hereafter the ''June 2015 clarification final rule'') to correct and clarify certain requirements and specifications in the CFR relating to energy conservation standards and test procedures. 80 FR 5896; 80 FR 31971. This rulemaking proposes additional requirements in support of the current test procedure.

II. Synopsis of the Notice of Proposed Rulemaking

In this notice of proposed rulemaking (NOPR), DOE proposes several clarifications to the test procedure requirements for fluorescent lamp ballasts. DOE is proposing to replace all instances of ballast efficacy factor (BEF) with ballast luminous efficiency (BLE) in 10 CFR 429.26 and to add rounding instructions in 10 CFR 429.26 for BLE and power factor. DOE also proposes to clarify the represented value instructions for power factor. Finally, DOE is proposing revisions to Appendix Q to clarify the lamp-ballast pairings for testing.

Manufacturers would be required to comply with the requirements included in this rulemaking within 180 days after the publication of the final rule.

III. Discussion

A. Replacing Ballast Efficacy Factor With Ballast Luminous Efficiency

Manufacturers were previously required to use the test procedure for fluorescent lamp ballasts at 10 CFR part 430, subpart B, appendix Q to determine compliance with DOE's standards, which were a measurement of BEF. The May 2011 test procedure final rule, which changed the test procedure to a measurement of BLE, established appendix Q1 to subpart B of 10 CFR part 430 to determine compliance with DOE's fluorescent lamp ballast standards. 76 FR 25211. On November 14, 2011, DOE issued amended standards for fluorescent lamp ballasts based on BLE and compliance with those standards has been required since November 14, 2014. 76 FR 70548. 10 CFR 430.32 (m). Because the fluorescent lamp ballast standards based on BEF are no longer applicable, the June 2015 clarification final rule removed the test procedure for BEF at Appendix Q and redesignated the Appendix Q1 test procedure for BLE as Appendix Q. 80 FR 31971. To support the transition from BEF to BLE, DOE is proposing to replace all instances of BEF with BLE in 10 CFR 429.26.

B. Rounding Requirements for Ballast Luminous Efficiency

Currently, rounding requirements are not provided for the represented value of BLE. When developing standards in the November 2011 standards final rule, DOE rounded BLE to the thousandths place when analyzing the costs and benefits of the adopted standard. For consistency with the 2011 standards final rule, DOE proposed to specify rounding the represented value of BLE to the nearest thousandths place in a NOPR proposing clarifications to the test procedures for fluorescent lamp ballasts, published on January 6, 2015 (hereafter the ''January 2015 clarification NOPR''). 80 FR 404.

Regarding this proposal, NEMA commented that rounding to the thousandths place is acceptable as long as significant figures are handled correctly. (NEMA, No. 30 at p. 3) [5] DOE received no further comments on rounding BLE. However, DOE determined that rounding requirements would be more appropriately addressed in 10 CFR 429.26,[6] and thus did not adopt rounding requirements in the June 2015 clarification final rule. In this NOPR, DOE is proposing to amend 10 CFR 429.26 by specifying that the represented value of BLE must be rounded to the nearest thousandths place.

C. Rounding Requirements and Represented Value for Power Factor

Currently, rounding requirements are not provided for the represented value of power factor. Manufacturers have shown the capability to round to the nearest hundredths place. When reporting power factor in product literature and data sheets, it is standard for manufacturers to round to the nearest hundredths place. DOE proposes to amend 10 CFR 429.26 by specifying that the power factor must be rounded to the nearest hundredths place. DOE also proposes to add power factor to 10 CFR 429.26(a)(2)(ii) to clearly indicate the requirements for calculating the represented value of power factor prior to rounding.

D. Lamp Pairing for Testing

In the May 2011 test procedure final rule, DOE specified that ballasts are to be paired with the most common wattage lamp and provided a table (Table A of appendix Q of subpart B of 10 CFR part 430) to indicate which lamp should be used with each ballast. 76 FR 25211. Table A lists the ballast description along with the lamp type intended for testing. Though ballasts can frequently operate lamps of the same diameter but different wattages, DOE requires testing with only one lamp wattage per ballast. To clarify this requirement, in the January 2015 clarification NOPR, DOE proposed to indicate in section 2.3.1.7 of Appendix Q that each ballast should be tested with only one lamp type corresponding to the lamp diameter and base type the ballast is designed and marketed to operate. 80 FR 404, 415. For example, a ballast designed and marketed to operate both 32 watt (W) 4-foot medium bipin (MBP) T8 lamps and 28 W 4-foot MBP T8 lamps should only be tested with the 32 W lamp. DOE also proposed to indicate in section 2.3.1.5 of Appendix Q that a ballast designed and marketed to operate both T8 and T12 lamps must be tested with T8 lamps. 80 FR at 406. DOE adopted these proposed clarifications in the June 2015 clarification final rule. 80 FR 31971.

Regarding the proposal in the January 2015 clarification NOPR, NEMA recommended that DOE also include the American National Standards Institute (ANSI) lamp abbreviations from ANSI C78.81 [7] in Table A of Appendix Q of subpart B of 10 CFR part 430. (NEMA, No. 30 at p. 2) DOE did not address this lamp identification issue in the June 2015 clarification final rule because DOE wanted to provide opportunity for public comment on the proposed incorporation by reference of additional industry standards. DOE agrees that referencing the ANSI and IEC lamp specifications would further clarify the lamp pairings used for testing. Section 2.3.1.3 of Appendix Q states that the fluorescent lamp used for testing must meet the specifications of a reference lamp as defined by ANSI C82.13 (IBR 430.3), and ANSI C82.13 states that the lamps used must operate at values of lamp voltage, lamp wattage and lamp current, each within 2.5 percent of the values given in the corresponding lamp

[5] A notation in this form provides a reference for information that is in the docket of DOE's rulemaking to develop test procedures for fluorescent lamp ballasts (Docket No. EERE–2009–BT–TP–0016), which is maintained at *www.regulations.gov.* This notation indicates that the statement preceding the reference is document number 30 in the docket for the fluorescent lamp ballasts test procedure rulemaking, and appears at page 3 of that document.

[6] The January 2015 clarification NOPR proposed to include rounding requirements at 10 CFR 430.23.

[7] ''American National Standard for Electric Lamps: Double-Capped Fluorescent Lamps—Dimensional and Electrical Characteristics'' (approved Jan. 14, 2010).

standards found in ANSI C78.81 and ANSI C78.901.

In this NOPR, DOE proposes to add the appropriate page number corresponding to the lamp specifications in ANSI_ANSLG C78.81–2010 (hereafter ''ANSI C78.81–2010''), ANSI_IEC C78.901–2005 (hereafter ''ANSI C78.901–2005''),[8] and IEC 60081 (Amendment 4, Edition 5.0)[9] in parentheses alongside the contents of the Lamp Diameter and Base column of Table A of Appendix Q. To support these page number references, DOE proposes to incorporate by reference IEC 60081 (Amendment 4, Edition 5.0).

IV. Procedural Issues and Regulatory Review

A. Review Under Executive Order 12866

The Office of Management and Budget (OMB) has determined that test procedure rulemakings do not constitute ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was not subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget.

B. Review Under the Regulatory Flexibility Act

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

This rulemaking clarifies existing requirements for testing and compliance with standards and does not change the burden associated with fluorescent lamp ballast regulations on any entity, large or small. Therefore, DOE concludes and certifies that this rulemaking would not have a significant economic impact on a substantial number of small entities.

Accordingly, DOE has not prepared a regulatory flexibility analysis for this rulemaking. DOE's certification and supporting statement of factual basis will be provided to the Chief Counsel for Advocacy of the SBA[10] for review under 5 U.S.C. 605(b). DOE certifies that this rule would have no significant impact on a substantial number of small entities. DOE seeks comment regarding whether the proposed clarifications in this proposed rulemaking would have a significant economic impact on any small entities.

C. Review Under the Paperwork Reduction Act of 1995

Manufacturers of fluorescent lamp ballasts must certify to DOE that their products comply with any applicable energy conservation standards. In certifying compliance, manufacturers must test their products according to the DOE test procedures for fluorescent lamp ballasts, including any amendments adopted for those test procedures. DOE has established regulations for the certification and recordkeeping requirements for all covered consumer products and commercial equipment, including fluorescent lamp ballasts. (76 FR 12422 (March 7, 2011). The collection-of-information requirement for the certification and recordkeeping is subject to review and approval by OMB under the Paperwork Reduction Act (PRA). This requirement has been approved by OMB under OMB control number 1910–1400. Public reporting burden for the certification is estimated to average 30 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Notwithstanding any other provision of the 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 PRA, unless that collection of information displays a currently valid OMB Control Number.

D. Review Under the National Environmental Policy Act of 1969

In this proposed rule, DOE proposes revisions to test procedures for fluorescent lamp ballasts. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would amend the existing test procedures without affecting the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A5 under 10 CFR part 1021, subpart D, which applies to any rulemaking that interprets or amends an existing rule without changing the environmental effect of that rule. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

E. Review Under Executive Order 13132

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735. DOE has examined this proposed rule and has determined that it would not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. EPCA governs and prescribes Federal preemption of State regulations as to energy conservation for the products that are the subject of this proposed rule. States can petition DOE for exemption from such preemption to the extent, and based on criteria, set forth in EPCA. (42 U.S.C. 6297(d)) No further action is required by Executive Order 13132.

F. Review Under Executive Order 12988

Regarding the review of existing regulations and the promulgation of

[8] ''American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics'' (approved Mar. 23, 2005).

[9] ANSI C78.81 directs readers to IEC 60081 for lamp specifications for T5 miniature bipin lamps. IEC 60081 refers to ''International Electrotechnical Commission Double-capped fluorescent lamps—Performance specifications'' (approved Feb. 18, 2010).

[10] Small Business Administration.

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

G. Review Under the Unfunded Mandates Reform Act of 1995

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Public Law 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined today's proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

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

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

I. Review Under Executive Order 12630

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

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

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

K. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

This regulatory action to clarify test procedures for measuring the energy efficiency of fluorescent lamp ballasts is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

L. Review Under Section 32 of the Federal Energy Administration Act of 1974

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The proposed rule would incorporate testing methods contained in the following commercial standards: ANSI C78.901–2005, ''American National Standard for Electric Lamps—Single-Based Fluorescent Lamps—Dimensional and Electrical Characteristics'' and IEC 60081, ''International Electrotechnical Commission Double-capped fluorescent lamps—Performance specifications''

(Amendment 4, Edition 5). The Department has evaluated these standards and is unable to conclude whether they fully comply with the requirements of section 32(b) of the FEAA, (*i.e.,* that they were developed in a manner that fully provides for public participation, comment, and review). DOE will consult with the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

M. Description of Standards Incorporated by Reference

In this NOPR, DOE proposes to incorporate by reference the test standard published by IEC, titled ''International Electrotechnical Commission Double-capped fluorescent lamps—Performance specifications,'' IEC 60081 Amendment 4 Edition 5.0. IEC 60081 is an industry accepted standard that specifies dimensional and electrical characteristics related to fluorescent lamps (specifically T5 lamps) and is applicable to products sold in North America. The description of lamp-ballast pairings for testing proposed in this NOPR references IEC 60081. IEC 60081 is readily available on IEC's Web site at *https://webstore.iec.ch/.*

V. Public Participation

A. Submission of Comments

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this document.

Submitting comments via regulations.gov. The regulations.gov Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to regulations.gov information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through regulations.gov cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through regulations.gov before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that regulations.gov provides after you have successfully uploaded your comment.

Submitting comments via email, hand delivery, or mail. Comments and documents submitted via email, hand delivery, or mail also will be posted to regulations.gov. If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

Campaign form letters. Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

Confidential Business Information. According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include: (1) A description of the items; (2) whether and why such items are customarily treated as confidential within the industry; (3) whether the information is generally known by or available from other sources; (4) whether the information has previously been made available to others without obligation concerning its confidentiality; (5) an explanation of the competitive injury to the submitting person which would result from public disclosure; (6) when such information might lose its confidential character due to the passage of time; and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

B. Issues on Which DOE Seeks Comment

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the proposed clarification regarding rounding and lamp pairing for testing.

VI. Approval of the Office of the Secretary

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

List of Subjects

10 CFR Part 429

Confidential business information, Energy conservation, household appliances, Imports, Reporting and recordkeeping requirements.

10 CFR Part 430

Administrative practice and procedure, Confidential business information, Energy conservation, Household appliances, Imports, Incorporation by reference, Intergovernmental relations, Small businesses.

Issued in Washington, DC, on October 27, 2015.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

For the reasons stated in the preamble, DOE is proposing to amend parts 429 and 430 of Chapter II, Subchapter D, of Title 10, Code of Federal Regulations, as set forth below:

PART 429—CERTIFICATION, COMPLIANCE, AND ENFORCEMENT FOR CONSUMER PRODUCTS AND COMMERCIAL AND INDUSTRIAL EQUIPMENT

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

Authority: 42 U.S.C. 6291–6317.

■ 2. Section 429.26 is amended by revising paragraphs (a)(2)(ii) and (b)(2) and adding paragraph (c) to read as follows:

§ 429.26 Fluorescent lamp ballasts.

(a) * * *

(2) * * *

(ii) Any represented value of the ballast luminous efficiency, power factor, or other measure of the energy consumption of a basic model for which consumers would favor a higher value shall be less than or equal to the lower of:

* * * * *

(b) * * *

(2) Pursuant to § 429.12(b)(13), a certification report shall include the following public product-specific information: the ballast luminous efficiency, the ballast power factor, the number of lamps operated by the ballast, and the type of lamps operated by the ballast.

(c) *Rounding Requirements.*

(1) Round ballast luminous efficiency to the nearest thousandths place.

(2) Round power factor to the nearest hundredths place.

PART 430—ENERGY CONSERVATION PROGRAM FOR CONSUMER PRODUCTS

■ 3. The authority citation for Part 430 continues to read as follows:

Authority: 42 U.S.C. 6291–6309; 28 U.S.C. 2461 note.

■ 4. Section 430.3 is amended by:

■ a. Adding in paragraph (e)(7) the text ‘‘, appendix Q’’ after the text ‘‘§ 430.2’’;

■ b. Redesignating paragraphs (p)(2) through (p)(4) as paragraphs (p)(3) through (p)(5) respectively; and

■ c. Adding paragraph (p)(2) to read as follows:

§ 430.3 Materials incorporated by reference.

* * * * *

(p) * * *

(2) IEC Standard 60081 (‘‘IEC 60081’’), *Double-capped fluorescent lamps—Performance specifications.* (Amendment 4, Edition 5.0, 2010–02); IBR approved for appendix Q to subpart B.

* * * * *

■ 5. Appendix Q to subpart B of part 430 is amended by revising Table A as follows:

Appendix Q to Subpart B of Part 430—Uniform Test Method for Measuring the Energy Consumption of Fluorescent Lamp Ballasts

* * * * *

TABLE A—LAMP-AND-BALLAST PAIRINGS AND FREQUENCY ADJUSTMENT FACTORS

Ballast type	Lamp type		Frequency adjustment factor (β)	
	Lamp diameter and base	Nominal lamp wattage	Low-frequency	High-frequency
Ballasts that operate straight-shaped lamps (commonly referred to as 4-foot medium bipin lamps) with medium bipin bases and a nominal overall length of 48 inches.	T8 MBP (Data Sheet 7881–ANSI–1005–2) *.	32	0.94	1.0
	T12 MBP (Data Sheet 7881–ANSI–1006–1) *.	34	0.93	1.0
Ballasts that operate U-shaped lamps (commonly referred to as 2-foot U-shaped lamps) with medium bipin bases and a nominal overall length between 22 and 25 inches.	T8 MBP (Data Sheet 78901–ANSI–4027–1) *.	32	0.94	1.0
	T12 MBP **	34	0.93	1.0
Ballasts that operate rapid-start lamps (commonly referred to as 8-foot-high output lamps) with recessed double contact bases and a nominal overall length of 96 inches.	T8 HO RDC (Data Sheet 7881–ANSI–1501–1) *.	86	0.92	1.0
	T12 HO RDC (Data Sheet 7881–ANSI–1017–1) *.	95	0.94	1.0
Ballasts that operate instant-start lamps (commonly referred to as 8-foot slimline lamps) with single pin bases and a nominal overall length of 96 inches.	T8 slimline SP (Data Sheet 7881–ANSI–1505–1) *.	59	0.95	1.0
	T12 slimline SP (Data Sheet 7881–ANSI–3006–1) *.	60	0.94	1.0

TABLE A—LAMP-AND-BALLAST PAIRINGS AND FREQUENCY ADJUSTMENT FACTORS—Continued

Ballast type	Lamp type		Frequency adjustment factor (β)	
	Lamp diameter and base	Nominal lamp wattage	Low-frequency	High-frequency
Ballasts that operate straight-shaped lamps (commonly referred to as 4-foot miniature bipin standard output lamps) with miniature bipin bases and a nominal length between 45 and 48 inches.	T5 SO Mini-BP (Data Sheet 60081–IEC–6640–5) *.	28	0.95	1.0
Ballasts that operate straight-shaped lamps (commonly referred to as 4-foot miniature bipin high output lamps) with miniature bipin bases and a nominal length between 45 and 48 inches.	T5 HO Mini-BP (Data Sheet 60081–IEC–6840–4) *.	54	0.95	1.0
Sign ballasts that operate rapid-start lamps (commonly referred to as 8-foot high output lamps) with recessed double contact bases and a nominal overall length of 96 inches.	T8 HO RDC (Data Sheet 7881–ANSI–1501–1) *.	86	0.92	1.0
	T12 HO RDC (Data Sheet 7881–ANSI–1019–1) *.	110 †	0.94	1.0

MBP, Mini-BP, RDC, and SP represent medium bipin, miniature bipin, recessed double contact, and single pin, respectively.

A ballast must be tested with only one lamp type based on the ballast type description and lamp diameter it is designed and marketed to operate.

* Data Sheet corresponds to ANSI C78.81, ANSI C78.901, or IEC 60081 page number (incorporated by reference; see § 430.3).

** No ANSI or IEC Data Sheet exists for 34 W T12 MBP U-shaped lamps. For ballasts designed to operate only T12 2-foot U-shaped lamps with MBP bases and a nominal overall length between 22 and 25 inches, manufacturers should select a T12 U-shaped lamp designed and marketed as having a nominal wattage of 34 W.

† Lamp type is commonly marketed as 110 W, however the ANSI C78.81 Data Sheet (incorporated by reference; see § 430.3) lists nominal wattage of 113 W. Specifications for operation at 0.800 amperes (A) should be used for testing.

* * * * *

[FR Doc. 2015–28077 Filed 11–3–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. FAA–2015–5034; Notice No. 23–15–01–SC]

Special Conditions: Kestrel Aircraft Company, Model K–350 Turboprop, Lithium Batteries

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This action proposes special conditions for the Kestrel Aircraft Company, Model K–350 Turboprop airplane. This airplane will have a novel or unusual design feature associated with the installation of a rechargeable lithium battery. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These proposed special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: Send your comments on or before December 21, 2015.

ADDRESSES: Send comments identified by docket number FAA–2015–5034 using any of the following methods:

☐ *Federal eRegulations Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.

☐ *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.

☐ *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

☐ *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://regulations.gov*, including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m., and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ruth Hirt, Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, 901 Locust; Kansas City, Missouri 64106; telephone (816) 329–4108; facsimile (816) 329–4090.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change these special conditions based on the comments we receive.

Background

On November 22, 2011, Kestrel Aircraft Company applied for a type certificate for their new Model K–350. The Kestrel Aircraft Company Model K–350 is a single-engine turboprop airplane with the primary structure constructed largely of carbon and epoxy composite material. The turboprop engine will be a Honeywell Model TPE331–14GR–801KT that is integrated with a Hartzell 4 bladed, 110-inch carbon composite propeller. The standard seating configuration offers a one plus five cabin (one pilot and five passengers). Alternate interior configurations will be available from two seats (cargo configuration) up to eight seats total. The K–350 will incorporate an integrated avionics system, retractable landing gear, and a conventional tail configuration.

Specifications expected for the K–350 include the following:

- Maximum altitude: 31,000 Feet
- Maximum cruise speed: 320 Knots True Air Speed
- Maximum takeoff weight: 8,900 Pounds
- Maximum economy cruise: 1,200 Nautical Miles

The K–350 will be certified for single-pilot operations under part 91 and part 135 operating rules. The following operating conditions will be included:

- Day and Night Visual Flight Rules
- Instrument Flight Rules
- Flight Into Known Icing (Phase B certification)

Kestrel Aircraft Company proposes to utilize a rechargeable lithium Main Battery on their new Model K–350 turboprop airplane. The current regulatory requirements for part 23 airplanes do not contain adequate requirements for the application of rechargeable lithium batteries in airborne applications. This type of battery possesses certain failure and operational characteristics with maintenance requirements that differ significantly from that of the nickel cadmium and lead acid rechargeable batteries currently approved in other normal, utility, acrobatic, and commuter category airplanes. Therefore, the FAA is proposing this special condition to require that (1) all characteristics of the rechargeable lithium batteries and their installation that could affect safe operation of the K–350 are addressed, and (2) appropriate Instructions for Continued Airworthiness that include maintenance requirements are established to ensure the availability of electrical power from the batteries when needed.

Type Certification Basis

Under the provisions of 14 CFR 21.17, Kestrel Aircraft Company must show that the K–350 meets the applicable provisions of part 23, as amended by amendments 23–1 through 23–62 thereto.

If the Administrator finds that the applicable airworthiness regulations (*i.e.*, 14 CFR part 23) do not contain adequate or appropriate safety standards for the K–350 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

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

In addition to the applicable airworthiness regulations and special conditions, the K–350 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36, and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the Noise Control Act of 1972.

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

Novel or Unusual Design Features

The K–350 will incorporate the following novel or unusual design feature: Installation of a rechargeable lithium battery as the Main or Engine Start aircraft battery.

Discussion

The current regulatory requirements for part 23 airplanes do not contain adequate requirements for the application of rechargeable lithium batteries in electrical system design. This type of battery possesses certain failures with operational characteristics and maintenance requirements that differ significantly from that of the nickel cadmium and lead acid rechargeable batteries currently approved in other normal, utility, acrobatic, and commuter category airplanes. Therefore, the FAA is proposing this special condition to require that (1) all characteristics of the rechargeable lithium batteries and their installation that could affect safe operation of the K–350 are addressed, and (2) appropriate Instructions for Continuous Airworthiness which include maintenance requirements are established to ensure the availability of electrical power from the batteries when needed.

As previously mentioned, Kestrel Aircraft Company proposes to utilize a rechargeable lithium Main Battery on their new Model K–350 turboprop airplane. At the Kestrel Preliminary Type Certification Board Meeting it was brought to the attention of the FAA that the Lithium battery used in the K–350 will be qualified to RTCA standards DO–311, titled Minimum Operational Performance Standards for Rechargeable Lithium Battery Systems. Additionally, on July 18, 2013, Kestrel advised the Civil Aviation Contingency Operations (CACO) that the battery will have Technical Standard Order Authorization for TSO C–179a, titled Permanently Installed Rechargeable Lithium Cells, Batteries and Battery Systems. Finally, Kestrel plans to use the same manufacturer for both the lithium battery and the battery controller.

Presently, there is limited experience with use of rechargeable lithium batteries in applications involving commercial aviation. However, other users of this technology, ranging from wireless telephone manufacturers to the electric vehicle industry, have noted safety problems with lithium batteries. These problems include overcharging, over-discharging, and flammability of cell components, described in the following:

1. Overcharging: In general, lithium batteries are significantly more susceptible to internal failures that can result in self-sustaining increases in temperature and pressure (*i.e.*, thermal runaway) than the nickel-cadmium or lead-acid counterparts. This is especially true for overcharging which causes heating and destabilization of the components of the cell, leading to the formation (by plating) of highly unstable metallic lithium. The metallic lithium may ignite, resulting in a fire or explosion. Finally, the severity of thermal runaway due to overcharging increases with increasing battery capacity and physical size.

2. Over-discharging: Discharge of some types of lithium battery cells beyond a certain voltage (typically 2.4 volts) can cause corrosion of the electrodes of the cell, resulting in loss of battery capacity that cannot be reversed by recharging. This loss of capacity may not be detected by the simple voltage measurements commonly available to flight crews as a means of checking battery status, which is a problem shared with nickel-cadmium batteries.

3. Flammability of Cell Components: Unlike nickel-cadmium and lead-acid batteries, some types of lithium batteries use liquid electrolytes that are flammable. The electrolyte may serve as a source of fuel for an external fire, if there is a breach of the battery container.

These problems experienced by users of lithium batteries raise concern about the use of these batteries in commercial aviation. The intent of the proposed special condition is to establish appropriate airworthiness standards for lithium battery installations in the K–350 and to ensure, as required by §§ 23.1309 and 23.601, that these battery installations are not hazardous or unreliable.

Applicability

As previously discussed, these special conditions are applicable to the K–350. Should Kestrel Aircraft Company apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

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

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, Signs and symbols.

■ The authority citation for these special conditions is as follows:

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

The Proposed Special Conditions

■ Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Kestrel Aircraft Company, Model K–350 Turboprop airplanes.

1. Kestrel Aircraft Company, Model K–350 Turboprop, Lithium Batteries.

The FAA proposes special conditions that adopt the following requirements:

(a) The flammable fluid fire protection requirement is § 23.863. In the past, this rule was not applied to batteries of normal, utility, acrobatic, and commuter category airplanes since the electrolytes utilized in lead-acid batteries and nickel-cadmium batteries are not flammable.

(b) New Instructions for Continuous Airworthiness that include maintenance requirements to ensure that batteries used as spares have been maintained in an appropriate state of charge and installed lithium batteries have been sufficiently charged at appropriate intervals. These instructions must also describe proper repairs, if allowed, and battery part number configuration control.

(c) The applicant must conduct a system safety assessment for the failure condition classification of a failure of the battery charging and monitoring functionality (per Advisory Circular 23.1309–1E), and develop mitigation to preclude any adverse safety effects. Mitigation may include software, Airborne Electronic Hardware (AEH) or a combination of software and hardware, which should be developed to the appropriate Design Assurance Level(s) (DALs), respectively (per Advisory Circular 20–115C and Advisory Circular 20–152).

(d) New requirements, listed in paragraph (e), address the hazards of overcharging and over-discharging that are unique to lithium batteries, which should be applied to all rechargeable lithium battery and battery installations on the Model K–350 airplane in lieu of the requirements of § 23.1353(a)(b)(c)(d)(e), amendment 23–62.

Note 1: These special conditions are not intended to replace § 23.1353(a)(b)(c)(d)(e) at amendment 23–62 in the certification basis of airplane K–350 series airplanes. These special conditions apply only to rechargeable lithium batteries and lithium battery systems and their installations. The requirements of § 25.1353 at amendment 23–62 remains in effect for batteries and battery installations on K–350 series that do not use newly technologically developed batteries.

(e) Rechargeable lithium batteries and battery installations on the Model K–350 airplane must be designed and installed as follows:

(1) Safe cell temperatures and pressures must be maintained during—

i. Normal operations;

ii. Any probable failure conditions of charging or discharging or battery monitoring system;

iii. Any failure of the charging or battery monitoring system not shown to be extremely remote.

(2) The rechargeable lithium battery installation must be designed to preclude explosion or fire in the event of (e)(1)(ii) and (e)(1)(iii) failures.

(3) Design of the rechargeable lithium batteries must preclude the occurrence of self-sustaining, uncontrolled increases in temperature or pressure.

(4) No explosive or toxic gasses emitted by any rechargeable lithium battery in normal operation or as the result of any failure of the battery charging system, monitoring system, or battery installation which is not shown to be extremely remote, may accumulate in hazardous quantities within the airplane.

(5) Installations of rechargeable lithium batteries must meet the requirements of § 23.863(a) through (d) at amendment 23–34.

(6) No corrosive fluids or gases that may escape from any rechargeable lithium battery may damage surrounding structure or any adjacent systems, equipment, electrical wiring, or the airplane in such a way as to cause a major or more severe failure condition, in accordance with § 23.1309(c) at amendment 23–62 and applicable regulatory guidance.

(7) Each rechargeable lithium battery installation must have provisions to prevent any hazardous effect on structure or essential systems that may be caused by the maximum amount of heat the battery can generate during a short circuit of the battery or of its individual cells.

(8) Rechargeable lithium battery installations must have—

i. A system to automatically control the charging rate of the battery to prevent battery overheating and overcharging, or;

ii. A battery temperature sensing and over-temperature warning system with a means for automatically disconnecting the battery from its charging source in the event of an over-temperature condition, or;

iii. A battery failure sensing and warning system with a means for automatically disconnecting the battery from its charging source in the event of battery failure.

(9) Any rechargeable lithium battery installation functionally required for safe operation of the airplane must incorporate a monitoring and warning feature that will provide an indication to the appropriate flight crewmembers whenever the State of Charge (SOC) of the batteries has fallen below levels considered acceptable for dispatch of the airplane.

(10) The Instructions for Continued Airworthiness required by § 23.1529 at amendment 23–26 must contain maintenance requirements to assure that the battery has been sufficiently charged at appropriate intervals specified by the battery manufacturer and the equipment manufacturer that contain the rechargeable lithium battery or rechargeable lithium battery system. This is required to ensure that lithium rechargeable batteries and lithium rechargeable battery systems will not degrade below specified ampere-hour

levels sufficient to power the aircraft system. The Instructions for Continued Airworthiness must also contain procedures for the maintenance of replacement batteries in spares storage to prevent the installation of batteries that have degraded charge retention ability or other damage due to prolonged storage at a low state of charge. Replacement batteries must be of the same manufacturer and part number as approved by the FAA.

Note 2: The term ''sufficiently charged'' means that the battery will retain enough of a charge, expressed in ampere-hours, to ensure that the battery cells will not be damaged. A battery cell may be damaged by lowering the charge below a point where there is a reduction in the ability to charge and retain a full charge. This reduction would be greater than the reduction that may result from normal operational degradation.

(11) In showing compliance with the proposed special conditions herein, paragraphs (e)(1) through (e)(8), and the RTCA document, Minimum Operational Performance Standards for Rechargeable Lithium Battery Systems, DO–311, may be used. The list of planned DO–311 tests should be documented in the certification or compliance plan and agreed to by the CACO. Alternate methods of compliance other than DO–311 tests must be coordinated with the directorate and CACO.

Issued in Kansas City, Missouri, on October 28, 2015.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2015–28125 Filed 11–3–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3778; Directorate Identifier 2015–NE–27–AD]

RIN 2120–AA64

Airworthiness Directives; Rolls-Royce plc Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Rolls-Royce plc (RR) RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–C–37 turbofan engines. This proposed AD was prompted by a review of operational data that determined certain RR RB211–535E4–37 engines have been operated to a more severe flight profile than is consistent with the flight profile used to establish the cyclic life limits for the rotating parts. This proposed AD would require recalculating the cyclic life for certain engine life-limited rotating parts and removing those parts that have exceeded their cyclic life limit within specified compliance times. We are proposing this AD to prevent failure of life-limited rotating parts, which could result in uncontained parts release, damage to the engine, and damage to the airplane.

DATES: We must receive comments on this proposed AD by December 4, 2015.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 202–493–2251.

For service information identified in this proposed AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://customers.rolls-royce.com/public/rollsroycecare.* You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3778; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the mandatory continuing airworthiness information (MCAI), the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2015–3778; Directorate Identifier 2015–NE–27–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

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

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA AD 2015–0148, dated July 23, 2015 (corrected July 24, 2015), referred to hereinafter as ''the MCAI'', to correct an unsafe condition for the specified products. The MCAI states:

> A review of operational flight data has revealed that some RB211–535 engines may have been operated beyond the flight profile (FP) assumed by the operator when establishing the operational limits (life limits) within which the corresponding critical parts are allowed to remain installed.
>
> This condition, if not corrected, may lead to critical part failure, possibly resulting in release of high energy debris, damage to the aeroplane and/or injury to the occupants.

To preclude failure of an engine life-limited part, the MCAI specifies, and this proposed AD would require, recalculating the cyclic life for certain parts, and removing from service those parts that have exceeded their cyclic life limit within specified compliance times. This proposed AD would establish a new default Flight Profile G for RB211–535E4–37 engine life-limited parts. If, however, operators meet the requirements of Appendix 6 of RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AH972, Revision 3, dated August 28, 2015, they may operate to Flight Profile A or B. You may obtain further information by examining the MCAI in the AD docket

on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3778.

Related Service Information Under 1 CFR Part 51

RR has issued Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015. The NMSB describes a new flight profile, the consumed cyclic life corrections for prior operation of affected parts, and the removal from service recommendations for parts that have exceeded their cyclic life limit. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of the United Kingdom and is approved for operation in the United States. Pursuant to our bilateral agreement with the European Community, EASA has notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by EASA and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design. This proposed AD would require recalculation of the remaining cyclic life for the affected engine life-limited parts and removal from service of parts that exceed their cyclic life limit.

Costs of Compliance

We estimate that this proposed AD affects 107 engines installed on airplanes of U.S. registry. Pro-rated cost of the lost cyclic life as a result of the corrections would be about $25,417,324. We estimate it will take 1 hour to recalculate the consumed cyclic life and revise the engine records. The average labor rate is $85 per hour. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $25,426,419.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

(3) Will not affect intrastate aviation in Alaska to the extent that it justifies making a regulatory distinction, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Rolls-Royce plc: Docket No. FAA–2015–3778; Directorate Identifier 2015–NE–27–AD.

(a) Comments Due Date

We must receive comments by December 4, 2015.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Rolls-Royce plc (RR) RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–C–37 turbofan engines.

(d) Reason

This AD was prompted by a review of operational data that determined that certain RR RB211–535E4–37 engines have been operated to a more severe flight profile than is consistent with the flight profile used to establish the cyclic life limits for the rotating parts. We are issuing this AD to prevent failure of life-limited rotating parts, which could result in uncontained parts release, damage to the engine, and damage to the airplane.

(e) Actions and Compliance

Comply with this AD within the compliance times specified, unless already done. Within 21 days after the effective date of this AD:

(1) For RR RB211–535E4–37 engines, establish a new flight profile, Flight Profile G, as the new default profile for flight operations and new part lives for life-limited parts.

(i) Use Appendix 6 of RR Alert Non-Modification Service Bulletin (NMSB) No. RB.211–72–AH972, Revision 3, dated August 28, 2015, to define Flight Profile G.

(ii) Use the definition of Flight Profile G in Appendix 6 and the maximum approved cyclic lives in Appendix 2 of RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015, to identify the new lives for life-limited parts.

(iii) If operators meet the requirements of Appendix 6 of RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015, they may operate to Flight Profile A or B.

(2) For all RB211–535E4–37, RB211–535E4–B–37, and RB211–535E4–C–37 engines, determine if any part identified by part number and serial number in Appendix 4 of RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015, is installed on the engine.

(i) Do not return to service any engine with a part identified in paragraph (e)(2) of this AD after the part reaches the ''Compliance Time'' date or cycles, whichever occurs first, as specified in Appendix 4 of RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015.

(ii) For each part identified in paragraph (e)(2) of this AD without a ''Compliance Time'' that has a lifing correction identified, apply the lifing correction for each part using the ''Additional Life Consumed Flight Cycles'' specified in Appendix 4 of RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015.

(3) For RB211–535E4–37 engines operated to Flight Profile G with parts listed in Appendix 4 of RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015, do the following:

(i) Re-calculate the consumed cyclic life of the low-pressure (LP) compressor shaft, LP turbine shaft, LP turbine disk Stage 2, intermediate-pressure compressor rotor shaft Stage 1 to 6, high-pressure (HP) compressor rotor disk Stage 1 and 2, HP compressor rear rotor shaft assembly, and HP turbine disk as follows.

(ii) Determine the Flight Profile G cycles in service (CIS). Count all CIS accumulated since April 1, 2015, inclusive.

(iii) Use the Flight Profile G cycles in service from paragraph (e)(3)(ii) of this AD, the maximum approved lives in Appendix 2 of RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015, and Figure 1 to paragraph (e) of this AD to calculate the new consumed cyclic lives.

Figure 1 to Paragraph (e), Calculations to Move Group 'A' and Group 'B' Parts Between Engine Marks and/or Flight Profiles

Step (a) Calculate the fraction of the components life used (FLU) in each of the original Engine Marks (EM) or flight profiles (FP)

$$FLU1 = \frac{\text{Cycles in 1st EM or FP}}{\text{1st EM or FP Declared Life}}$$

$$FLU2 = \frac{\text{Cycles in 2nd EM or FP}}{\text{2nd EM or FP Declared Life}}$$

$$FLUn = \frac{\text{Cycles in nth EM or FP}}{\text{nth EM or FP Declared Life}}$$

Continue until the FLU has been calculated for all Engine Marks and flight profiles in which the component has been operated

Step (b) Calculate the total fraction of life used (TFLU)

TFLU = FLU1 + FLU2 + ... + FLUn

Step (c) Calculate equivalent cycles since new (CSN) for the component in the new Engine Mark or flight profile

Equivalent CSN = TFLU x Declared Life in the new Engine Mark or flight profile

Step (d) If required, calculate the cycles remaining to the Declared Life in the new Engine Mark or flight profile

Cycles remaining = Declared Life in the new Engine Mark or flight profile – Equivalent CSN

(f) Alternative Methods of Compliance (AMOCs)

The Manager, Engine Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request. You may email your request to: *ANE-AD-AMOC@faa.gov.*

(g) Related Information

(1) For more information about this AD, contact Robert Green, Aerospace Engineer, Engine Certification Office, FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA 01803; phone: 781–238–7754; fax: 781–238–7199; email: *robert.green@faa.gov.*

(2) Refer to MCAI European Aviation Safety Agency AD 2015–0148, dated July 23, 2015 (Corrected July 24, 2015), for more information. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2015–3778.

(3) RR Alert NMSB No. RB.211–72–AH972, Revision 3, dated August 28, 2015, and Task 05–00–01–800–000, ''Recording and Control of the Lives of Parts'', dated July 1, 2015, of the RR RB211–535E4 Time Limits Manual (TLM), publication reference T–211(535)–6RR, Revision 49, dated July 1, 2015, can be obtained from RR using the contact information in paragraph (g)(4) of this proposed AD.

(4) For service information identified in this proposed AD, contact Rolls-Royce plc, Corporate Communications, P.O. Box 31, Derby, England, DE24 8BJ; phone: 011–44–1332–242424; fax: 011–44–1332–249936; email: *http://www.rolls-royce.com/contact/civil_team.jsp;* Internet: *https://customers.rolls-royce.com/public/rollsroycecare.*

(5) You may view this service information at the FAA, Engine & Propeller Directorate, 12 New England Executive Park, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on October 28, 2015.

Colleen M. D'Alessandro,

Directorate Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2015–28080 Filed 11–3–15; 8:45 am]

BILLING CODE 4910–13–P

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 300

[Release No. SIPA–173; File No. SIPC–2015–01]

Securities Investor Protection Corporation

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Securities Investor Protection Corporation (''SIPC'') filed proposed rules with the Securities and Exchange Commission (''Commission''). SIPC proposes to adopt the SIPC Series 600 Rules, entitled ''Rules Relating to Supplemental Report of SIPC Membership,'' in accordance with paragraph (e)(4) of Rule 17a–5 under the Securities Exchange Act of 1934 (''Exchange Act''). The Commission is publishing the proposed rules for public comment. Because SIPC rules have the force and effect as if promulgated by the

Commission, those rules are published in Title 17 of the Code of Federal Regulations.

DATES: Comments are to be received on or before November 25, 2015.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments concerning the foregoing by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SIPC–2015–01 on the subject line.

Paper Comments

- Send paper comments to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All comments should refer to File Number SIPC–2015–01. 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/other.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 a.m. and 3 p.m. 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.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, Associate Director, at (202) 551–5525; Thomas K. McGowan, Associate Director, at (202) 551–5521; Randall W. Roy, Deputy Associate Director, at (202) 551–5522; Rose Russo Wells, Senior Counsel, at (202) 551–5527; Office of Financial Responsibility, Division of Trading and Markets, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–7010.

SUPPLEMENTARY INFORMATION: Pursuant to Section 3(e)(2)(A) of the Securities Investor Protection Act of 1970 (''SIPA''),[1] notice is hereby given that SIPC filed with the Commission on April 17, 2015, proposed rules, and subsequently filed amendments to the proposed rules on June 23, 2015, July 24, 2015, and September 29, 2015 as described in Item I below, which item has been substantially prepared by SIPC. The Commission is publishing this notice to solicit comments on the proposed rules from interested persons.

I. SIPC's Statement of the Purpose of, and Statutory Basis for, the Proposed Rules

In its filing with the Commission, SIPC included statements concerning the purpose of and basis for the proposed rules. The text of these statements may be examined at the places specified above.

Pursuant to 15 U.S.C. 78ddd(c), and SIPC Bylaws, broker-dealers that are SIPC members pay assessments into the SIPC Fund. As long as the assessment is a percentage of revenue, each member must file with SIPC a Form SIPC–6 (General Assessment Payment Form) and a Form SIPC–7 (General Assessment Reconciliation Form) which show the member's calculation of the assessment.[2] If the broker-dealer is exempt from having to pay an assessment, it files a Form SIPC–3, which is a certification by the broker-dealer that it is excluded from SIPC membership under 15 U.S.C. 78ccc(a)(2)(A).

In 1972, as a result of significant discrepancies between the assessment information reported to SIPC and information supplied in reports filed with the Commission on which the calculation of the assessment was based, the Commission amended its broker-dealer reporting rule, Rule 17a–5,[3] to require every member of a national securities exchange and every broker-dealer subject to the reporting requirements of Rule 17a–5 to file a supplemental report.[4] The supplemental report must include forms showing a detailed calculation of the member's SIPC assessment payments or the broker-dealer's exclusion from membership, and be accompanied by a report of the independent public accountant of the broker-dealer. The independent public accountant must be engaged to perform certain procedures specified in Rule 17a–5.[5]

The annual reports that broker-dealers file with the Commission under paragraph (d) of Rule 17a–5 contain detailed information regarding the financial condition of the broker-dealer. On July 30, 2013, the Commission, among other things, made significant amendments to Rule 17a–5 (''the 2013 amendments'').[6] Effective December 31, 2013, the Commission's amendments to paragraph (d)(6) of Rule 17a–5 require that a copy of the annual reports also be provided to SIPC if the broker-dealer is a member of SIPC.[7] In addition, effective June 1, 2014, the Commission's amendments to paragraph (e)(4) of Rule 17a–5 provide that the broker-dealer must file with SIPC a report on the SIPC annual general assessment reconciliation or exclusion from membership forms that contains such information and is in such format as determined by SIPC by rule and approved by the Commission.[8] The Commission determined that because Forms SIPC–3 and SIPC–7 are used solely by SIPC for purposes of levying its assessments, SIPC should prescribe by rule the form of the report. Under the amendments to paragraph (e)(4), broker-dealers are required to file the SIPC supplemental reports using the existing formats for the reports until the earlier of the Commission approving a rule adopted by SIPC or two years from the effective date of the amendment and if, after two years, no such rule has been approved, broker-dealers would no longer be required to file the reports.[9] The proposed rule change would add SIPC Rule 600 (''Rule 600''), entitled ''Rules Relating to Supplemental Report of SIPC Membership.'' [10] The purpose of the proposed rule is to prescribe the information that must be included in, and the format of, a broker-dealer's supplemental report to SIPC.

In a letter to SIPC dated January 9, 1989, Commission staff advised that it would not recommend action by the Commission if a SIPC member reporting $500,000 or less in total revenue did not

[1] 15 U.S.C. 78ccc(e)(2)(A).

[2] Form SIPC–6 reflects the assessment calculation for the first half of the fiscal year. Form SIPC–7 is submitted at the end of the member's fiscal year and provides for a deduction of the amount paid with the Form SIPC–6.

[3] 17 CFR 240.17a–5.

[4] *See* Report of Securities Investor Protection Corporation Assessments, Exchange Act Release No. 9766 (Sep. 15, 1972), 37 FR 18909 (Sep. 16, 1972).

[5] The items that must be included in the report and the procedures to be performed by the accountant are listed in paragraphs (e)(4)(ii)(A), (B), and (C) of Rule 17a–5.

[6] *See Broker-Dealer Reports,* Exchange Act Release No. 70073 (Jul. 30, 2013), 78 FR 51910 (Aug. 21, 2013) (''Broker-Dealer Reports'').

[7] *See Broker-Dealer Reports,* 78 FR 51990.

[8] *See Broker-Dealer Reports,* 78 FR 51926–7, 51991. Under 15 U.S.C. 78ccc(e)(2)(A), to be final, rules proposed by SIPC must be approved by the Commission.

[9] *See Broker-Dealer Reports,* 78 FR 51927, 51991.

[10] 17 CFR 300.600.

file the supplemental report.[11] The proposed SIPC rules incorporate this relief by providing that a SIPC member broker-dealer is exempt from filing the supplemental report if the broker-dealer reports $500,000 or less in total revenue in its ''annual audited statement of income'' filed with the Commission. The proposed rules also provide that the independent public accountant must be independent in accordance with the provisions of 17 CFR 240.2–01 and that the accountant must be engaged to perform the enumerated agreed-upon procedures in accordance with standards of the Public Company Accounting Oversight Board. Finally, under paragraph (e) of Rule 17a–5, a broker-dealer's annual reports must be prepared and filed in accordance with certain enumerated requirements. Paragraph (e)(4) of Rule 17a–5 requires the broker-dealer to file the supplemental report, and paragraph (e)(5) of Rule 17a–5 requires that a broker-dealer's annual reports be filed not more than 60 calendar days after the fiscal year end of the broker-dealer. Accordingly, the proposed rules provide that a broker-dealer must file the supplemental report within 60 days after the end of its fiscal year. In other respects, the proposed rules largely mirror the text of paragraphs (e)(4)(ii)(A), (B), and (C) of Rule 17a–5.

II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register**, or within such longer period (i) as the Commission may designate of not more than ninety days after such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which SIPC consents, the Commission shall:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether such proposed rule change should be disapproved.

To allow public access to SIPC's rules, SIPC rules that are approved by the Commission are published under Part 300 of 17 CFR Chapter II.

III. Statutory Authority

Pursuant to SIPA, 15 U.S.C. 78aaa *et seq.,* and particularly, section 3(e) (15 U.S.C. 78ccc(e), SIPC proposes to adopt 300.600 of Title 17 of the Code of Federal Regulations.

[11] *See* Letter dated January 9, 1989 from Michael A. Macchiaroli, SEC, to Theodore H. Focht, President and General Counsel, SIPC (SEC No-Action Letter 1989 WL 245631).

List of Subjects in 17 CFR Part 300

Brokers, Securities.

Text of the Amendments

In accordance with the foregoing, Title 17, Chapter II of the Code of Federal Regulations is proposed to be amended as follows:

PART 300—RULES OF THE SECURITIES INVESTOR PROTECTION CORPORATION

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 15 U.S.C. 78ccc.

■ 2. An undesignated center heading and § 300.600 are added to read as follows:

Rules Relating to Supplemental Report on SIPC Membership

§ 300.600 Rules relating to supplemental report on SIPC membership.

(a)(i) *Who must file the supplemental report.* Except as provided in paragraph (a)(ii) of this section, a broker or dealer must file with SIPC, within 60 days after the end of its fiscal year, a supplemental report on the status of its membership in SIPC (commonly referred to as the ''Independent Accountants' Report on Applying Agreed-Upon Procedures'') if a rule of the Securities and Exchange Commission (SEC) requires the broker or dealer to file audited financial statements annually.

(ii) If the broker or dealer is a member of SIPC, the broker or dealer is not required to file the supplemental report for any year in which it reports $500,000 or less in total revenues in its annual audited statement of income filed with the SEC.

(b) *Requirements of the supplemental report.* The supplemental report must cover the SIPC Annual General Assessment Reconciliation Form (Form SIPC–7) or the Certification of Exclusion From Membership Form (Form SIPC–3) for each year for which an SEC Rule requires audited financial statements to be filed. The supplemental report must include the following:

(i) A copy of the form filed or a schedule of assessment payments showing any overpayments applied and overpayments carried forward, including payment dates, amounts, and name of SIPC collection agent to whom mailed; or

(ii) If exclusion from membership was claimed, a statement that the broker or dealer qualified for exclusion from membership under the Securities Investor Protection Act of 1970, as amended, and the date the Form SIPC–3 was filed with SIPC; and

(iii) An independent public accountant's report. The independent public accountant, who must be independent in accordance with the provisions of 17 CFR 240.210.2–01, must be engaged to perform the following agreed-upon procedures in accordance with standards of the Public Company Accounting Oversight Board (PCAOB):

(A) Compare assessment payments made in accordance with the General Assessment Payment Form (Form SIPC–6) and applied to the General Assessment calculation on the Form SIPC–7 with respective cash disbursements record entries;

(B) For all or any portion of a fiscal year, compare amounts reflected in the audited financial statements required by SEC Rule with amounts reported in the Form SIPC–7;

(C) Compare adjustments reported in the Form SIPC–7 with supporting schedules and working papers supporting the adjustments;

(D) Verify the arithmetical accuracy of the calculations reflected in the Form SIPC–7 and in the schedules and working papers supporting any adjustments; and

(E) Compare the amount of any overpayment applied with the Form SIPC–7 on which it was computed; or

(F) If exclusion from membership is claimed, compare the income or loss reported in the audited financial statements required by SEC Rule with the Form SIPC–3.

* * * * *

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Dated: October 28, 2015.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–27921 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG–139483–13]

RIN 1545–BL87

Treatment of Certain Transfers of Property to Foreign Corporations; Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

[12] 17 CFR 200.30–3(f)(3).

ACTION: Correction to a notice of proposed rulemaking.

SUMMARY: This document contains corrections to a notice of proposed rulemaking (REG–139483–13) that was published in the **Federal Register** on Wednesday, September 16, 2015 (80 FR 55568). The proposed regulations are relating to certain transfers of property by United States persons to foreign corporations.

DATES: Written or electronic comments and requests for a public hearing for the notice of proposed rulemaking published at 80 FR 55568, September 16, 2015 are still being accepted and must be received by December 15, 2015.

FOR FURTHER INFORMATION CONTACT: Ryan A. Bowmen at (202) 317–6937 (not a toll free number).

SUPPLEMENTARY INFORMATION:

Background

The notice of proposed rulemaking (REG–139483–13) that is the subject of these corrections is under section 367 of the Internal Revenue Code.

Need for Correction

As published, the notice of proposed rulemaking (REG–139483–13) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the notice of proposed rulemaking (REG–139483–13), that was the subject of FR Doc. 2015–23279, is corrected as follows:

1. On page 55571, in the preamble, third column, fourth line from the top of the column, the language ''intangible property. The proposed'' is corrected to read ''intangible property. The specific provisions of the temporary regulations that will be replaced by the proposed regulations will be removed upon finalization. The proposed''.

2. On page 55571, in the preamble, third column, sixth line from the bottom of the column, the language ''under proposed § 1.367(a)–2. The'' is corrected to read ''under proposed § 1.367(a)–2. Accordingly, upon finalization of the proposed regulations, current §§ 1.367(a)–2T, 4T, and 5T will be removed. The''.

§ 1.367(a)–4 [Corrected]

3. On Page 55580, first column, the twenty-sixth line of paragraph (a)(1)(ii), the language ''paragraph (b)(3) the term ''related'' is corrected to read ''paragraph (a)(3) the term ''related''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2015–28013 Filed 11–3–15; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0032; FRL–9936–13]

Receipt of Several Pesticide Petitions Filed for Residues of Pesticide Chemicals in or on Various Commodities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of filing of petitions and request for comment.

SUMMARY: This document announces the Agency's receipt of several initial filings of pesticide petitions requesting the establishment or modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before December 4, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number and the pesticide petition number (PP) of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (RD) (7505P), main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.* The mailing address for each contact person is: Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001. As part of the mailing address, include the contact person's name, division, and mail code. The division to contact is listed at the end of each pesticide petition summary.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT** for the division listed at the end of the pesticide petition summary of interest.

B. What should I consider as i prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement

of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the agency taking?

EPA is announcing its receipt of several pesticide petitions filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the establishment or modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the requests before responding to the petitioners. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petitions described in this document contain the data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting of the pesticide petitions. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on these pesticide petitions.

Pursuant to 40 CFR 180.7(f), a summary of each of the petitions that are the subject of this document, prepared by the petitioner, is included in a docket EPA has created for each rulemaking. The docket for each of the petitions is available at *http://www.regulations.gov.*

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notice of the petition so that the public has an opportunity to comment on this request for the establishment or modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

New Tolerance

1. *PP 3E8203.* (EPA–HQ–OPP–2013–0730). Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201 W., Princeton, NJ 08540, requests to amend petition, PP 3E8203, that originally published in the **Federal Register** of December 30, 2013 (78 FR 79359), to establish a tolerance in 40 CFR part 180 for the combined residues of the insecticide spinetoram, expressed as a combination of XDE–175–J: 1–H-as-indaceno[3,2-d]oxacyclododecin-7,15-dione, 2-[(6-deoxy-3–O-ethyl-2,4-di-O-methyl-a-L-mannopyranosyl)oxy]-13-[[(2R,5S,6R)-5-(dimethylamino) tetrahydro-6-methyl-2H-pyran-2-yl] oxy]-9-ethyl-2,3,3a,4,5,5a,5b,6,9,10, 11,12,13,14,16a,16b-hexadecahydro 14-methyl- (2R,3aR,5aR,5bS,9S,13S, 14R,16aS,16bR); XDE–175–L: 1H-as-indaceno[3,2-d]oxacyclododecin-7,15-dione, 2-[(6-deoxy-3–O-ethyl-2,4-di-O-methyl-a-L-mannopyranosyl)oxy]-13-[[(2R,5S,6R)-5-(dimethylamino) tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11, 12,13,14,16a,16b-tetradecahydro-4,14-dimethyl-((2S,3aR,5aS,5bS,9S,13S,14R, 16aS, 16bS); ND–J: (2R,3aR,5aR, 5bS,9S,13S,14R,16aS,16bR)-9-ethyl-14-methyl-13-[[(2S,5S,6R)-6-methyl-5-(methylamino)tetrahydro-2H-pyran-2-yl]oxy]-7,15-dioxo-2,3,3a,4,5,5a, 5b,6,7,9,10,11,12,13,14,15,16a,16b-octadecahydro-1H-as-indaceno[3,2-d] oxacyclododecin-2-yl 6-deoxy-3–O-ethyl-2,4-di-O-methyl-alpha-L-mannopyranoside; and NF–J: (2R,3S,6S)-6-([(2R,3aR,5aR,5bS,9S, 13S,14R,16aS,16bR)-2-[(6-deoxy-3–O-ethyl-2,4-di-O-methyl-alpha-L-mannopyranosyl) oxy]-9-ethyl-14-methyl-7,15-dioxo-2,3,3a,4,5,5a,5b,6,7, 9,10,11,12,13,14,15,16a,16b-octadecahydro-1H-as-indaceno[3,2-d] oxacyclododecin-13-yl]oxy)-2-methyl tetrahydro-2H-pyran-3-yl(methyl) formamide in or on the following raw agricultural commodity: Quinoa, grain at 0.04 part per million (ppm). Adequate tolerance enforcement methods are available for spinetoram residues in a variety of plant matrices including a number of high-performance liquid chromatography (HPLC)/Mass Spectrometry (MS)/MS methods. For more details on relevant enforcement methods for spinetoram, see EPA Memorandum—''SUBJECT: Spinosad and Spinetoram; Human-Health Assessment Scoping Document in Support of Registration Review'' dated August 9, 2011. *Contact:* (RD)

2. PP 3E8204. (EPA–HQ–OPP–2013–0727). Interregional Research Project Number 4 (IR–4), 500 College Road East, Suite 201 W., Princeton, NJ 08540, requests to amend petition, PP 3E8204, that originally published in the **Federal Register** of December 30, 2013 (78 FR 79359), to establish a tolerance in 40 CFR part 180 for residues of the insecticide spinosad, a fermentation product of *Saccharopolyspora spinosa,* consisting of two related active ingredients: Spinosyn A (Factor A: CAS Registry No. 131929–60–7) or 2-[(6-deoxy-2,3,4-tri-O-methyl-α-L-manno-pyranosyl)oxy]-13-[[5-(dimethylamino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9, 10,11,12,13,14,16a,16b-tetradecahydro-14-methyl-1H-as-Indaceno[3,2-d]oxacyclododecin-7,15-dione; and Spinosyn D (Factor D: CAS Registry No. 131929–63–0) or 2-[(6-deoxy-2,3,4-tri-O-methyl-α-L-manno-pyranosyl)oxy]-13-[[5-(dimethyl-amino)-tetrahydro-6-methyl-2H-pyran-2-yl]oxy]-9-ethyl-2,3,3a,5a,5b,6,9,10,11,12,13,14,16a,16b-tetradecahydro-4,14-methyl-1H-as-Indaceno[3,2-d]oxacyclododecin-7,15-dione, in or on the raw agricultural commodities: Quinoa, grain at 1.0 part per million (ppm). Adequate analytical enforcement methods are available for spinosad residues in a variety of plant matrices including; a number of high-performance liquid chromatography (HPLC)/ultraviolet (UV), and HPLC/MS (mass spectrometry) methods as well as various immunochemical methods. For more details on relevant enforcement methods, see EPA Memorandum—''SUBJECT: Spinosad and Spinetoram; Human-Health Assessment Scoping Document in Support of Registration Review'' dated August 9, 2011. *Contact:* (RD).

Authority: 21 U.S.C. 346a.

Dated: October 22, 2015.

Susan Lewis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–28102 Filed 11–3–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

45 CFR Part 95

Administration for Children and Families

45 CFR Parts 1355 and 1356

RIN 0970–AC59

Comprehensive Child Welfare Information System

AGENCY: Administration on Children, Youth and Families (ACYF), Administration for Children and Families (ACF), Department of Health and Human Services (HHS).

ACTION: Notice; Reopening of Comment Period.

SUMMARY: The Administration for Children and Families reopens the comment period for the notice of proposed rulemaking entitled, ''Comprehensive Child Welfare Information System.'' We take this action to respond to requests from the public for more time to submit comments. The notice of proposed rulemaking and our request for comments appeared in the **Federal Register** on August 11, 2015. We initially set October 13, 2015 as the deadline for the comment period. The Web site for submitting public comments, *http://www.regulations.gov,* experienced technical difficulties and was unavailable for periods of time during the several days prior to this deadline and many commenters reported difficulty submitting their comments using this mechanism. To allow the public more time, we are reopening the comment period for an additional 7 days.

DATES: ACF reopens the comment period for notice of proposed rulemaking entitled, ''Comprehensive Child Welfare Information System'' published on August 11, 2015 (80 FR 48200). Submit either electronic or written comments by November 12, 2015.

ADDRESSES: Follow online instructions at *www.regulations.gov* to submit comments. This approach is our preferred method for receiving comments. An electronic version of the NPRM is available for download on *http://www.regulations.gov.* Interested persons may submit written comments regarding this NPRM via regular postal mail to Terry Watt, Director, Division of State Systems, Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families, 1250 Maryland Avenue SW., 8th Floor, Washington, DC 20024. If you choose to use an express, overnight, or other special delivery method, please ensure that the carrier will deliver to the above address Monday through Friday during the hours of 9 a.m. to 5 p.m., excluding holidays.

FOR FURTHER INFORMATION CONTACT: Terry Watt, Director, Division of State Systems, Children's Bureau, Administration on Children, Youth, and Families, (202) 690–8177 or by email at *Terry.Watt@acf.hhs.gov.* Do not email comments on the NPRM to this address. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1–800–877–8339 between 8 a.m. and 7 p.m. Eastern Time.

SUPPLEMENTARY INFORMATION: HHS published the Comprehensive Child Welfare Information System notice of proposed rulemaking in the **Federal Register** on August 11, 2015 (80 FR 48200) with a deadline for public comments on October 13, 2015. In response to requests for more time from the public, we are reopening the comment period for 7 days beginning November 12, 2015.

Mark H. Greenberg,

Acting Assistant Secretary for Children and Families.

Approved: October 27, 2015.

Sylvia M. Burwell,

Secretary.

[FR Doc. 2015–28057 Filed 11–3–15; 8:45 am]

BILLING CODE 4150–28–P

Notices

Federal Register
Vol. 80, No. 213
Wednesday, November 4, 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.

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Business and Professional Classification Report.

OMB Control Number: 0607–0189.

Form Number(s): SQ–CLASS.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 52,000.

Average Hours per Response: 13 minutes.

Burden Hours: 11,267.

Needs and Uses: The SQ–CLASS report covers employer firms with establishments located in the United States. These firms can be classified in all sectors covered by the Economic Census as defined by the North American Industry Classification System (NAICS). The SQ–CLASS report requests firms to designate their type of business activity, two months of sales or receipts, principle lines of merchandise, whether the firm is owned or owns another establishment, not-for-profit status, wholesale type of operation, inventories, and method of selling for retail and wholesale firms.

The data collected by the SQ–CLASS report are used to update the current business surveys to reflect newly opened establishments. Additionally, establishments sampled during the Economic Census will receive a data collection instrument specifically tailored to their industry based on the classification information obtained by the SQ–CLASS report.

To keep current with rapid changes in the marketplace caused by business births, deaths, and changes in company organization the Census Bureau samples newly assigned Employer Identification Numbers (EINs) obtained from the Internal Revenue Service (IRS). Each EIN can only be selected once for the SQ–CLASS report. Based on information collected on the SQ–CLASS report, EINs meeting the criteria for inclusion in the Census Bureau's current business surveys are eligible for a second phase of sampling. The EINs selected in this second phase of sampling are asked to report annually on the annual retail, wholesale, and service surveys. A subsample of the retail and wholesale EINs are also asked to report on the monthly retail and wholesale surveys. Similarly, a subsample of the service EINs are asked to report on the Quarterly Services Survey.

The Economic Census and current business surveys represent the primary source of facts about the structure and function of the U.S. economy, providing essential information to government and the business community in making sound decisions. This information helps build the foundation for the calculation of Gross Domestic Product (GDP) and other economic indicators. Crucial to its success are the accuracy and reliability of the Business Register (BR) data, which provides the Economic Census and current business surveys with their establishment lists. The BR is used to identify the set of statistical units that represents an economic data collection's target population, which is defined by a specific reference period and scope. Critical to the quality of information housed in the BR is that each of the statistical units has an accurate industry classification, measure of size, activity status, and physical address assigned to it. The vital information obtained from the SQ–CLASS report is fed back to the BR to represent changes in industries and confirm coverage between the years of the Economic Census.

We are proposing one major change to the collection. The change will be the way the respondent reports their type of business activity. Currently respondents choose the economic sector of their business and then provide a brief description of their business activity. Instead of providing this description, respondents will select their type of business from a list of business activities based on their response to the question about their economic sector. If the respondent does not see their business activity listed, then they will provide a brief description of their business activity. This is the same methodology that the Census Bureau uses in the Economic Census to assign industry classification.

The SQ–CLASS Survey is used to supplement the other economic surveys at the Census Bureau with business births. At the end of each SQ–CLASS processing quarter, a sample of business births is added to the other economic surveys. The Census Bureau needs to obtain the proper industry classification and a measure of size to be able to properly supplement these other surveys with these births. By incuding these businesses in the SQ–CLASS survey, we are attempting to assign the proper classification to these establishments to ensure that the correct Economic Census questionnaire is mailed to the business. Certain Economic Census questions are tailored by the industry classification. Data are also used for the Census Bureau's County Business Patterns program, which is conducted on an annual basis.

Although no statistical tables are prepared or published, the outputs of the SQ–CLASS report directly and critically affect the quality of the estimates published for the following surveys:

- Advance Monthly Retail Trade and Food Services Survey (OMB No. 0607–0104)
- Monthly Wholesale Trade Survey (OMB No. 0607–0190)
- Services Annual Survey (OMB No. 0607–0422)
- Annual Retail Trade Survey (OMB No. 0607–0013)
- Annual Wholesale Trade Survey (OMB No. 0607–0195)
- Quarterly Service Survey (OMB No. 0607–0907)

The SQ–CLASS report keeps the sample universe current for the above-mentioned surveys by a process known as second phase sampling. The retail and wholesale EIN units selected in this second sampling are placed on a panel to report on monthly surveys. Additional selected units are included on a panel to report on annual surveys. The other selected EIN units report on an annual and/or quarterly basis in the survey for which they are selected. Timely coverage of business births by the SQ–CLASS report increases the

reliability and relevance of the data for these surveys.

Affected Public: Business or other for-profit, Not-for-profit institutions.

Frequency: One time.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 U.S.C., Sections 131, 182 and 193.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 29, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–28031 Filed 11–3–15; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

President's Advisory Council on Doing Business in Africa: Meeting of the President's Advisory Council on Doing Business in Africa

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting by teleconference.

SUMMARY: The President's Advisory Council on Doing Business in Africa (Council) will hold an open call to deliberate a recommendation related to infrastructure development in Sub-Saharan Africa and to conduct Council business. The final agenda will be posted at least one week in advance of the meeting on the Council's Web site at *http://trade.gov/pac-dbia.*

DATES: November 19, 2015 at 10:00 a.m. ET The deadline for members of the public to register, including requests for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5:00 p.m. ET on November 17, 2015.

ADDRESSES: Via teleconference. The call-in number and passcode will be provided by email to registrants. Requests to register (including for auxiliary aids) and any written comments should be submitted to Tricia Van Orden, Executive Secretary, President's Advisory Council on Doing Business in Africa, electronically via email sent to *dbia@trade.gov* or via letter mailed to Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230. Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Tricia Van Orden, Executive Secretary, President's Advisory Council on Doing Business in Africa, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–5876, email: *dbia@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: President Barack Obama directed the Secretary of Commerce to establish the President's Advisory Council on Doing Business in Africa by Executive Order No. 13675 dated August 5, 2014. The Council was established by Charter on November 3, 2014, to advise the President, through the Secretary of Commerce, on strengthening commercial engagement between the United States and Africa, with a focus on advancing the President's Doing Business in Africa Campaign as described in the U.S. Strategy Toward Sub-Saharan Africa of June 14, 2012. This Council is established in accordance with the provisions of the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C. App.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. All listeners are required to register in advance by sending an electronic request to *dbia@trade.gov* or by sending a paper request to the address listed above. Requests must be received by 5:00 p.m. ET on November 17, 2015. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill.

Public Submissions: The public is invited to submit written statements to the President's Advisory Council on Doing Business in Africa. Statements must be received by 5:00 p.m. ET on November 17, 2015, by either of the following methods:

a. Electronic Submissions

Submit statements electronically to Tricia Van Orden, Executive Secretary, President's Advisory Council on Doing Business in Africa, via email: *dbia@trade.gov.*

b. Paper Submissions

Send paper statements to Tricia Van Orden, Executive Secretary, President's Advisory Council on Doing Business in Africa, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230.

Statements will be provided to the members in advance of the meeting for consideration and will be posted on the President's Advisory Council on Doing Business in Africa Web site (*http://trade.gov/pac-dbia*) without change, including any business or personal information provided such as names, addresses, email addresses, or telephone numbers. All statements received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. You should submit only information that you wish to make publicly available.

Meeting Recording: A recording of the Council's call will be available within ninety (90) days of the meeting on the Council's Web site at *http://trade.gov/pac-dbia.*

Dated: October 29, 2015.

Archana Sahgal,

Deputy Director, Office of Advisory Committees and Industry Outreach.

[FR Doc. 2015–28113 Filed 11–3–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–471–807]

Certain Uncoated Paper From Portugal: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation

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

DATES: Effective date: November 4, 2015.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2593.

Background

On August 26, 2015, the Department of Commerce (''the Department'') published its preliminary determination in the antidumping duty investigation of certain uncoated paper from Portugal.[1] On September 28, 2015, Petitioners[2]

[1] *See Certain Uncoated Paper From Portugal: Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination,* 80 FR 51777 (August 26, 2015) (''*Preliminary Determination*'').

[2] Petitioners are United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial

Continued

filed a timely critical circumstances allegation, pursuant to 19 CFR 351.206, alleging that critical circumstances exist with respect to imports of the merchandise under consideration.[3] On September 29, 2015, the Department issued a letter to Portucel S.A. (''Portucel''), the sole respondent in this investigation, requesting monthly shipment data from July 2014 through August 2015.[4] On October 6, 2015, Portucel filed its response to the Department's request for monthly shipment data.[5]

In accordance with 19 CFR 351.206(c)(1), when a critical circumstances allegation is filed 30 days or more before the scheduled date of the final determination, the Department will issue a preliminary finding whether there is a reasonable basis to believe or suspect that critical circumstances exist. Because the critical circumstances allegation in this case was submitted after the preliminary determination was published, the Department must issue its preliminary findings of critical circumstances no later than 30 days after the allegation was filed.[6]

Legal Framework

Section 733(e)(1) of the Tariff Act of 1930, as amended (''the Act''), provides that the Department, upon receipt of a timely allegation of critical circumstances, will determine whether there is a reasonable basis to believe or suspect that: (A)(i) There is a history of dumping and material injury by reason of dumped imports in the United States or elsewhere of the subject merchandise, or (ii) the person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the subject merchandise at less than its fair value and that there was likely to be material injury by reason of such sales; and (B) there have been massive imports of the subject merchandise over a relatively short period.

Further, 19 CFR 351.206(h)(1) provides that, in determining whether imports of the subject merchandise have been ''massive,'' the Department normally will examine: (i) The volume and value of the imports; (ii) seasonal trends; and (iii) the share of domestic consumption accounted for by the imports. In addition, 19 CFR 351.206(h)(2) provides that, ''{i}n general, unless the imports during the 'relatively short period' . . . have increased by at least 15 percent over the imports during an immediately preceding period of comparable duration, the Secretary will not consider the imports massive.'' 19 CFR 351.206(i) defines ''relatively short period'' generally as the period starting on the date the proceeding begins (*i.e.,* the date the petition is filed) and ending at least three months later. This section of the regulations further provides that, if the Department ''finds that importers, or exporters or producers, had reason to believe, at some time prior to the beginning of the proceeding, that a proceeding was likely,'' then the Department may consider a period of not less than three months from that earlier time.

Critical Circumstances Allegation

In their allegation, Petitioners contend that, based on the dumping margins assigned by the Department in the *Preliminary Determination,* importers knew or should have known that the merchandise under consideration was being sold at less than fair value (''LTFV'').[7] Petitioners also contend that, based on the preliminary determination of injury by the U.S. International Trade Commission (''ITC''), there is a reasonable basis to impute importers' knowledge that material injury is likely by reason of such imports.[8] Finally, as part of their allegation and pursuant to 19 CFR 351.206(h)(2), Petitioners submitted import statistics for the HTS numbers included in the scope for the period between August 2014 and July 2015 as evidence of massive imports of uncoated paper from Portugal during a relatively short period.[9]

Analysis

The Department's normal practice in determining whether critical circumstances exist pursuant to the statutory criteria has been to examine evidence available to the Department, such as: (1) The evidence presented in Petitioners' critical circumstances allegation; (2) import statistics released by the ITC; and (3) shipment information submitted to the Department by the respondents selected for individual examination.[10] As further provided below, in determining whether the above statutory criteria have been satisfied in this case, we have examined: (1) The evidence presented in Petitioners' September 28, 2015, allegation; (2) information obtained since the initiation of this investigation; and (3) the ITC's preliminary injury determination.

Section 733(e)(1)(A)(i) of the Act: History of Dumping and Material Injury by Reason of Dumped Imports in the United States or Elsewhere of the Subject Merchandise

In determining whether a history of dumping and material injury exists, the Department generally has considered current or previous antidumping duty orders on subject merchandise from the country in question in the United States and current orders in any other country.[11] In this case, the current investigation of the subject merchandise marks the first instance that the Department has examined whether the goods are dumped into the United States. As a result, the Department previously has not imposed an antidumping duty order on the subject merchandise. Moreover, the Department is not aware of any antidumping duty order on subject merchandise from Portugal in another country. Therefore, the Department finds no history of injurious dumping of the subject merchandise pursuant to section 733(e)(1)(A)(i) of the Act.

Section 733(e)(1)(A)(ii): The Importer Knew or Should Have Known That Exporter Was Selling at Less Than Fair Value and That There Was Likely To Be Material Injury

In determining whether an importer knew or should have known that the exporter was selling subject merchandise at LTFV and that there was likely to be material injury by reason of such sales, the Department must rely on the facts before it at the time the determination is made. The Department generally bases its decision with respect to knowledge on the margins calculated

and Service Workers International Union; Domtar Corporation; Finch Paper LLC; P.H. Glatfelter Company; and Packaging Corporation of America (collectively ''Petitioners'').

[3] *See* Letter to the Secretary of Commerce from Petitioners ''Petitioners' Critical Circumstances Allegation'' (September 28, 2015) (''Petitioners' Critical Circumstances Allegation'').

[4] *See* Letter to Portucel from Catherine Bertrand, Program Manager, Office V ''Request for Monthly Quantity and Value Shipment Data'' (September 29, 2015).

[5] *See* Letter to Catherine Bertrand, Program Manager, Office V, from Portucel ''Portucel's Monthly Quantity and Value Shipment Data'' (October 6, 2015).

[6] *See* 19 CFR 351.206(c)(2)(ii).

[7] *See* Petitioners' Critical Circumstances Allegation, dated September 28, 2015, at 2–4.

[8] *Id.*

[9] *Id.* at 4–6, Exhibit 1.

[10] *See, e.g., Notice of Final Determination of Sales at Less Than Fair Value and Affirmative Final Determination of Critical Circumstances: Circular Welded Carbon Quality Steel Pipe from the People's Republic of China,* 73 FR 31970, 31972–73 (June 5, 2008) (''*Carbon Steel Pipe*''); *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 2049, 2052–53 (January 14, 2009) (''*SDGE*'').

[11] *See Carbon Steel Pipe,* 73 FR at 31972–73; *see also SDGE,* 74 FR 2052–53.

in the preliminary determination and the ITC's preliminary injury determination.

The Department normally considers margins of 25 percent or more for export price (''EP'') sales and 15 percent or more for constructed export price (''CEP'') sales sufficient to impute importer knowledge of sales at LTFV.[12] Portucel had only CEP sales and the Department preliminarily determined a margin of 29.53 percent for Portucel, which was also assigned as the ''all others'' rate.[13] Therefore, because the preliminary margins are greater than 15 percent for all producers and exporters, we preliminarily find, with respect to all producers and exporters, that there is a reasonable basis to believe or suspect that importers knew, or should have known, that exporters were selling the merchandise under consideration at LTFV.

In determining whether an importer knew or should have known that there was likely to be material injury caused by reason of such imports, the Department normally will look to the preliminary injury determination of the ITC.[14] If the ITC finds a reasonable indication of present material injury to the relevant U.S. industry, the Department will determine that a reasonable basis exists to impute importer knowledge that material injury is likely by reason of such imports.[15] Here, the ITC found that ''there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Australia, Brazil, China, Indonesia, and Portugal of certain uncoated paper, provided for in subheadings 4802.56 and 4802.57 of the Harmonized Tariff Schedule of the United States. . . .''[16]

Section 733(e)(1)(B): Whether There Have Been Massive Imports of the Subject Merchandise Over a Relatively Short Period

Pursuant to 19 CFR 351.206(h)(2), the Department will not consider imports to be massive unless imports in the comparison period have increased by at least 15 percent over imports in the base period. The Department normally considers a ''relatively short period'' as the period beginning on the date the proceeding begins and ending at least three months later.[17] For this reason, the Department normally compares the import volumes of the subject merchandise for at least three months immediately preceding the filing of the petition (*i.e.,* the ''base period'') to a comparable period of at least three months following the filing of the petition (*i.e.,* the ''comparison period'').[18]

In their September 28, 2015 allegation, Petitioners included U.S. import data collected from the ITC's Dataweb.[19] Specifically, Petitioners provided data for a six-month base period (August 2014 through January 2015) and a six-month comparison period (February 2015 through July 2015), the most recent data available at the time of filing, in showing whether imports were massive.[20] In response to a request by the Department, on October 6, 2015, Portucel submitted monthly shipment data for merchandise shipped from Portucel to the United States for a seven-month base period (July 2014 through January 2015) and a seven-month comparison period (February 2015 through August 2015).[21] The quantity of Portucel's shipments of uncoated paper increased in the comparison period by 18.6 percent over the base period.[22] Our practice with respect to companies subject to the ''all others'' rate is to base our critical circumstances analysis on the experience of the investigated companies.[23]

Preliminary Affirmative Determination of Critical Circumstances

Record evidence indicates that importers of uncoated paper knew, or should have known, that exporters were selling the merchandise at LTFV, and that there was likely to be material injury by reason of such sales. In addition, we have found that Portucel had massive imports during a relatively short period. Therefore, in accordance with section 733(e)(1) of the Act, we preliminarily find that there is reason to believe or suspect that critical circumstances exist for imports of the merchandise under consideration from Portucel and companies subject to the all others rate.[24]

Suspension of Liquidation

In accordance with section 733(e)(2)(A) of the Act, we are directing the U.S. Customs and Border Protection to suspend liquidation of any unliquidated entries of the merchandise under consideration from Portugal entered, or withdrawn from warehouse for consumption, on or after May 27, 2015, which is 90 days prior to the date of publication of the *Preliminary Determination* in the **Federal Register**.

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our preliminary affirmative critical circumstances determination.

This determination is published pursuant to sections 733(f) and 777(i) of the Act and 19 CFR 351.206(c)(2)(ii).

Dated: October 28, 2015.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2015–28112 Filed 11–3–15; 8:45 am]

BILLING CODE 3510–DS–P

[12] *See, e.g., Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances,* 67 FR 6224, 6225 (February 11, 2002); *Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People's Republic of China,* 70 FR 5606, 5607 (February 3, 2005).

[13] *See Preliminary Determination,* 80 FR at 51778.

[14] *See, e.g., Certain Potassium Phosphate Salts from the People's Republic of China: Preliminary Affirmative Determination of Critical Circumstances in the Antidumping Duty Investigation,* 75 FR 24572, 24573 (May 5, 2010) (''*Salt Critical Circumstances Prelim*'').

[15] *See, e.g., Carbon and Alloy Steel Wire Rod From Germany, Mexico, Moldova, Trinidad and Tobago, and Ukraine: Preliminary Determination of Critical Circumstances,* 67 FR 6224, 6225 (February 11, 2002); *Affirmative Preliminary Determination of Critical Circumstances: Magnesium Metal from the People's Republic of China,* 70 FR 5606, 5607 (February 3, 2005).

[16] *See Certain Uncoated Paper from Australia, Brazil, China, Indonesia, and Portugal,* Investigation Nos. 701–TA–528–529 and 731–TA–1264–1268 (Preliminary), 80 FR 13890 (March 17, 2015).

[17] *See* 19 CFR 351.206(i).

[18] *See Salt Critical Circumstances Prelim,* 75 FR at 24574.

[19] *See* Petitioners' Critical Circumstances Allegation at 4–5, Exhibit 1.

[20] *Id.* 5, Exhibit 1. At the time of filing, import data was available only through July 2015.

[21] *See* Portucel's Monthly Quantity and Value Shipment Data, filed on October 6, 2015.

[22] *See* Memoradum to the File from Ryan Mullen, International Trade Analyst, Office V, through Catherine Bertrand, Program Manager, Office V ''Antidumping Duty Investigation of Certain Uncoated Paper from Portugal: Import Statistics for Critical Circumstances Analysis'' at Exhibit 1.

[23] *See, e.g. Notice of Preliminary Determination of Sales at Less Than Fair Value: Sodium Nitrate from the Federal Republic of Germany,* 73 FR 21909, 21912 (April 23, 2008), unchanged in *Notice of Final Determination of Sales at Less Than Fair Value: Sodium Nitrate from the Federal Republic of Germany,* 73 FR 38986, 38987 (July 8, 2008), and accompany Issues and Decision Memorandum at Comment 2.

[24] *See* section 733(f) of the Act; 19 CFR 351.206(c)(2)(ii).

DEPARTMENT OF COMMERCE

International Trade Administration

United States Travel and Tourism Advisory Board: Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: The United States Travel and Tourism Advisory Board (Board) will hold an open meeting at the Department of Commerce on Friday, November 20, 2015. The Board was re-chartered in August 2015, to advise the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

The purpose of the meeting is for Board members to review and deliberate on recommendations developed by the BrandUSA subcommittee looking at a new vetting process for matching fund requests submitted by Brand USA as well as two recommendations by the Cultural and Natural Heritage subcommittee looking at recommendations of promoting domestic travel and arts funding. The final agenda will be posted on the Department of Commerce Web site for the Board at *http://trade.gov/ttab,* at least one week in advance of the meeting.

DATES: Friday, November 20, 2015, 10:00 a.m.–2:00 p.m. The deadline for members of the public to register, including requests to make comments during the meeting and for auxiliary aids, or to submit written comments for dissemination prior to the meeting, is 5 p.m. EDT on November 13, 2015.

ADDRESSES: The meeting will be held at the Department of Commerce. Requests to register (including to speak or for auxiliary aids) and any written comments should be submitted to: U.S. Travel and Tourism Advisory Board, U.S. Department of Commerce, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, *archana.sahgal@trade.gov*. Members of the public are encouraged to submit registration requests and written comments via email to ensure timely receipt.

FOR FURTHER INFORMATION CONTACT: Archana Sahgal, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–482–1369, email: *archana.sahgal@trade.gov*.

SUPPLEMENTARY INFORMATION:

Background: The Board advises the Secretary of Commerce on matters relating to the U.S. travel and tourism industry.

Public Participation: The meeting will be open to the public and will be accessible to people with disabilities. All guests are required to register in advance by the deadline identified under the **DATES** caption. Requests for auxiliary aids must be submitted by the registration deadline. Last minute requests will be accepted, but may be impossible to fill. There will be fifteen (15) minutes allotted for oral comments from members of the public joining the meeting. To accommodate as many speakers as possible, the time for public comments may be limited to three (3) minutes per person. Individuals wishing to reserve speaking time during the meeting must submit a request at the time of registration, as well as the name and address of the proposed speaker. If the number of registrants requesting to make statements is greater than can be reasonably accommodated during the meeting, the International Trade Administration may conduct a lottery to determine the speakers. Speakers are requested to submit a written copy of their prepared remarks by 5:00 p.m. on Friday, November 13, 2015, for inclusion in the meeting records and for circulation to the members of the Travel and Tourism Advisory Board.

In addition, any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Archana Sahgal at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5:00 p.m. EDT on November 13, 2015, to ensure transmission to the Board prior to the meeting. Comments received after that date and time will be distributed to the members but may not be considered on the call. Copies of Board meeting minutes will be available within 90 days of the meeting.

Dated: October 30, 2015.

Archana Sahgal,

Executive Secretary, United States Travel and Tourism Advisory Board.

[FR Doc. 2015–28111 Filed 11–3–15; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business Development Agency

Title: Online Customer Relationship Management (CRM)/Performance Databases, Online Phoenix Database, and Online Opportunity Database.

OMB Control Number: 0640–0002.

Form Number(s): 0640–002.

Type of Request: Regular Submission.

Number of Respondents: 29,206.

Average Hours per Response: 1 to 210 minutes depending upon function.

Burden Hours: 4,496.

Needs and Uses: This request is for a revision with change to a current information collection. This revision continues an existing collection but adds a revised form to be used by the MBDA Business Centers. As part of its national service delivery system, MBDA awards cooperative agreements each year to fund the provision of business development services to eligible minority business enterprises (MBEs). The recipient of each cooperative agreement is competitively selected to operate one of the following business center programs: (1) An MBDA Business Center or (2) an American Indian Alaska Native (AIAN) Center. In accordance with the Government Performance Results Act (GPRA), MBDA requires all center operators to report basic client information, service activities and progress on attainment of program goals via the online CRM/Performance Databases. The data collected through the Online CRM/Performance Databases is used to regularly monitor and evaluate the progress of MBDA's funded centers, to provide the Department and OMB with a summary of the quantitative information that it requires about government supported programs, and to implement the GPRA. This information is also summarized and included in the MBDA Annual Performance Report, which is made available to the public, and may be used to support federal government research studies regarding minority business development issues.

Additionally, the AINA program award recipients are required to maintain content for the CRM/Performance system and the Phoenix and other available online tools. The content registered in the Phoenix and other online business databases is used to match those registered MBEs with opportunities entered in the online databases by public and private sector entities. The MBEs may also self-register via the Online Phoenix Database for notification of potential business opportunities.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; individuals or households; Federal, State, Local or Tribal governments.

Frequency: On occasion, semi-annually, annually.

Respondent's Obligation: Voluntary.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of

Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: October 30, 2015.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2015–28043 Filed 11–3–15; 8:45 am]

BILLING CODE 3510–JE–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE257

Atlantic Highly Migratory Species; Exempted Fishing, Scientific Research, Display, Shark Research Fishery, and Chartering Permits; Letters of Acknowledgment

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

ACTION: Notice of intent; request for comments.

SUMMARY: NMFS announces its intent to issue Exempted Fishing Permits (EFPs), Scientific Research Permits (SRPs), Display Permits, Letters of Acknowledgment (LOAs), Shark Research Fishery Permits, and Chartering Permits for Atlantic highly migratory species (HMS) in 2016. Exempted fishing permits and related permits would authorize collection of a limited number of tunas, swordfish, billfishes, and sharks (collectively known as HMS) from Federal waters in the Atlantic Ocean, Caribbean Sea, and Gulf of Mexico for the purposes of scientific data collection, bycatch research, and public display. Chartering permits allow the collection of HMS on the high seas or in the Exclusive Economic Zone of other nations under certain conditions. Generally, EFPs and related permits will be valid from the date of issuance through December 31, 2016, unless otherwise specified, subject to the terms and conditions of individual permits.

DATES: Written comments on these activities received in response to this notice will be considered by NMFS when issuing EFPs and related permits and must be received on or before *December 4, 2015.*

ADDRESSES: Comments may be submitted by any of the following methods:

- *Email: nmfs.hms.efp2016@noaa.gov.* Include in the subject line the following identifier: 0648–XE257.
- *Mail:* Craig Cockrell, Highly Migratory Species Management Division (F/SF1), NMFS, 1315 East-West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Craig Cockrell, phone: (301) 427–8503

SUPPLEMENTARY INFORMATION: Issuance of EFPs and related permits are necessary for the collection of HMS for scientific research; the acquisition of information and data; the enhancement of safety at sea; the purpose of collecting animals for public education or display; and the investigation of bycatch, economic discards and regulatory discards. These permits exempt permit holders from regulations (*e.g.,* fishing seasons, prohibited species, authorized gear, closed areas, and minimum sizes) that may otherwise prohibit the collection of HMS. Collection under EFPs, SRPs, LOAs, display, shark research fishery, and chartering permits represents a small portion of the overall fishing mortality for HMS, and this mortality is counted against the quota of the species harvested, as appropriate and applicable. The terms and conditions of individual permits are unique; however, all permits will include reporting requirements, limit the number and/or species of HMS to be collected, and only authorize collection in Federal waters of the Atlantic Ocean, Gulf of Mexico, and Caribbean Sea.

EFPs and related permits are issued under the authority of the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act (Magnuson-Stevens Act) (16 U.S.C. 1801 *et seq.*) and/or the Atlantic Tunas Convention Act (ATCA) (16 U.S.C. 971 *et seq.*). Regulations at 50 CFR 600.745 and 635.32 govern scientific research activity, exempted fishing, chartering arrangements, and exempted public display and educational activities with respect to Atlantic HMS. Since the Magnuson-Stevens Act does not define fishing to include scientific research, scientific research is exempt from this statute, and NMFS does not issue EFPs for bona fide research activities (*e.g.,* research conducted from a research vessel and not a commercial or recreational fishing vessel) involving species that are only regulated under the Magnuson-Stevens Act (*e.g.,* most species of sharks) and not under ATCA. NMFS generally does not consider recreational or commercial vessels to be bona fide research vessels. However, if the vessels have been contracted only to conduct research and not participate in any commercial or recreational fishing activities during that research, NMFS may consider those vessels as bona fide research platforms while conducting the specified research. For example, in the past, NMFS has determined that commercial pelagic longline vessels assisting with population surveys for sharks may be considered ''bona fide research vessels'' while engaged only in the specified research. NMFS requests copies of scientific research plans for these activities and acknowledges the activity by issuing an LOA to researchers to indicate that the proposed activity meets the definition of research. Examples of research conducted under LOAs include tagging and releasing of sharks during bottom longline surveys to understand the distribution and seasonal abundance of different shark species, and collecting and sampling sharks caught during trawl surveys for life history studies.

Scientific research is not exempt from regulation under ATCA. NMFS issues SRPs which authorize researchers to collect HMS from bona fide research vessels for collection of species managed under this statute (*e.g.,* tunas, swordfish, billfish, and some species of sharks). One example of research conducted under SRPs consists of scientific surveys of HMS conducted from NOAA research vessels. EFPs are issued to researchers collecting ATCA and Magnuson-Stevens Act-managed species and conducting research from commercial or recreational fishing vessels. NMFS regulations concerning the implantation or attachment of archival tags in Atlantic HMS require scientists to report their activities associated with these tags. Examples of research conducted under EFPs include deploying pop-up satellite archival tags (PSAT) on billfish, sharks, and tunas to determine migration patterns of these species; conducting billfish larval tows to determine billfish habitat use, life history, and population structure; and determining catch rates and gear characteristics of the swordfish buoy gear fishery.

NMFS is also seeking public comment on its intent to issue display permits for the collection of sharks and other HMS for public display in 2016. Collection of sharks and other HMS sought for public display in aquaria often involves collection when the commercial fishing seasons are closed, collection of otherwise prohibited species, and collection of fish below the regulatory minimum size. NMFS established a 60-metric ton (mt) whole weight (ww)

(approximately 3,000 sharks, although conversion factors, and thus final numbers, differ by species) quota for the public display and research of sharks (combined) in the final Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP). Out of this 60 mt ww quota, 1.4 mt ww is set aside to collect sandbar sharks under a display permit and 1.4 mt ww is set aside to collect sandbar sharks under EFPs, created in 2008 under Amendment 2 to the 2006 Consolidated HMS FMP. Public display of dusky sharks is prohibited; NMFS considers collection of dusky sharks for research under an EFP and/or SRP on a case-by-case basis. NMFS has also established separate large coastal and sandbar shark quotas for the shark research fishery. The environmental effects of these quotas have been analyzed in conjunction with other sources of mortality in the 2006 Consolidated HMS FMP and its amendments, and NMFS has determined that harvesting this amount for public display and scientific research will not have a significant impact on shark stocks. The number of sharks harvested for display and research, other than the shark research fishery, has remained under the annual 60-mt ww quota every year since establishment of the quota. In 2015, permits issued by NMFS requested approximately 26 percent of the 60 mt ww quota for sharks. Amendment 3 to the 2006 Consolidated HMS FMP established a separate set-aside quota of 6 mt ww for smoothhound sharks (*i.e.,* smooth dogfish, Florida smoothhounds, and Gulf smoothhounds) taken for research purposes, which would be in addition to the overall 60-mt ww quota for the public display and research of all sharks. NMFS expects Amendment 9 to the 2006 Consolidated HMS FMP to be finalized before the beginning of 2016, which would establish an effective date for the research set-aside for smoothhound sharks. Once Amendment 9 is finalized, NMFS expects to issue EFPs and related permits for the public display and research of smoothhound sharks, as appropriate.

The majority of EFPs and related permits described in this annual notice relate to scientific sampling and tagging of Atlantic HMS, within existing quotas, the impacts of which have been previously analyzed in various environmental assessments and environmental impact statements for Atlantic HMS. NMFS intends to issue these permits without additional opportunity for public comment beyond what is provided in this notice. Occasionally, NMFS receives applications for research activities that were not anticipated, or for research that is outside the scope of general scientific sampling and tagging of Atlantic HMS, or rarely, for research that is particularly controversial. Should NMFS receive such applications, NMFS will provide additional opportunity for public comment.

In 2016, NMFS expects to once again receive an application for an EFP from the owner of an Atlantic bluefin tuna purse seine vessel. A 2015 application requested an exemption from the annual incidental purse seine retention limit on the harvest of large medium Atlantic bluefin tuna. On October 27, 2014, NMFS published a notice of intent (79 FR 63896) requesting comments on the application and the issuance of a permit. NMFS did not receive any comments in response to the issuance of the 2015 EFP, and on June 5, 2015, NMFS issued an EFP to the vessel owner. The 2015 EFP contained the following terms and conditions: (1) Mandatory observer coverage on all trips, (2) all dead bluefin tuna at haul back must available to observers for sampling, (3) sub-legal bluefin tuna that are released alive and in good condition will not be counted against the vessel's quota, (4) any sub-legal bluefin tuna that are dead at haulback may not be released by the vessel operator, and (5) only the observer has discretion over dead sub-legal fish that may be released without sampling. Compared to the dead discards that occurred in 2013, while fishing under an EFP in 2014 and 2015, the overall reduction in dead discards was 69 and 64 percent, respectively. NMFS expects to receive a similar request for an EFP in 2016 and requests comments, via this notice, on the continuation of such an EFP with similar terms and conditions. If the application from the purse seine vessel requests exemptions that are significantly different than those provided in the 2014 and 2015 permits, NMFS will provide additional opportunity for public comment.

NMFS is also requesting comments on chartering permits considered for issuance in 2016 to U.S. vessels fishing for HMS while operating under chartering arrangements with foreign countries. NMFS has not issued any chartering permits since 2004. A chartering arrangement is a contract or agreement between a U.S. vessel owner and a foreign entity by which the control, use, or services of a vessel are secured for a period of time for fishing for Atlantic HMS. Before fishing under a chartering arrangement, the owner of the U.S. fishing vessel must apply for a chartering permit. The vessel chartering regulations can be found at 50 CFR 635.5(a)(4) and 635.32(e).

In addition, Amendment 2 to the 2006 Consolidated HMS FMP implemented a shark research fishery. This research fishery is conducted under the auspices of the exempted fishing permit program. Research fishery permit holders assist NMFS in collecting valuable shark life history data and data for future shark stock assessments. Since the shark research fishery was established in 2008, the research fishery has allowed for: the collection of fishery dependent data for current and future stock assessments; the operation of cooperative research to meet NMFS' ongoing research objectives; the collection of updated life-history information used in the sandbar shark (and other species) stock assessment; the collection of data on habitat preferences that might help reduce fishery interactions through bycatch mitigation; and the evaluation of the utility of the mid-Atlantic closed area on the recovery of dusky sharks and collection of hook-timer and pop-up satellite archival tag information to determine at-vessel and post-release mortality of dusky sharks. Fishermen who wish to participate must fill out an application for a shark research permit under the exempted fishing program. Shark research fishery participants are subject to 100-percent observer coverage in addition to other terms and conditions (which in the past have included hook and soak time limitations and a requirement to land all dead sharks, unless the shark is a prohibited species). A **Federal Register** notice describing the specific objectives for the shark research fishery in 2016 and requesting applications from interested and eligible shark fishermen is expected to publish in the near future. NMFS requests public comment regarding NMFS' intent to issue shark research fishery permits in 2016 during the comment period of this notice.

The authorized number of species for 2015, as well as the number of specimens collected in 2014, is summarized in Table 1. The number of specimens collected in 2015 will be available when all 2015 interim and annual reports are submitted to NMFS. In 2014, the number of specimens collected was less than the number of authorized specimens for all permit types.

In all cases, mortality associated with an EFP, SRP, Display Permit, or LOA (except for larvae) is counted against the appropriate quota. NMFS issued a total of 37 EFPs, SRPs, Display Permits, and LOAs in 2014 for the collection of HMS and a total of 5 shark research fishery

permits. As of October 29, 2015, NMFS has issued a total of 35 EFPs, SRPs, Display Permits, and LOAs and a total of 7 shark research fishery permits.

TABLE 1—SUMMARY OF HMS EXEMPTED FISHING PERMITS ISSUED IN 2014 AND 2015, OTHER THAN SHARK RESEARCH FISHERY PERMITS

[''HMS'' refers to multiple species being collected under a given permit type]

Permit type	2014					2015		
	Permits issued	Authorized fish (Num)	Authorized larvae (Num)	Fish kept/ discarded dead (Num)	Larvae kept (Num)	Permits issued	Authorized fish (Num)	Authorized larvae (Num)
EFP:								
HMS	3	188	0	57	0	4	207	0
Shark	10	3,145	0	168	0	11	1,192	0
Tuna	3	1,677	0	0	0	3	928	0
Billfish	0	35	1,000	.....	.....	.....	.....	.....
SRP:								
HMS	3	941	0	9	0	1	480	0
Shark	2	2,008	0	166	0	4	875	0
Tuna	2	80	2,000	0	0	1	60	0
Display:								
HMS	3	94	0	5	0	1	67	0
Shark	3	121	0	29	0	3	114	0
Total	29	8,289	3,000	434	0	28	3,923	0
LOA:*								
Shark	8	2,770	0	1,633	0	8	2,205	0

* LOAs are issued for bona fide scientific research activities involving non-ATCA managed species (*e.g.,* most species of sharks). Collections made under an LOA are not authorized; rather this estimated harvest for research is acknowledged by NMFS. Permittees are encouraged to report all fishing activities in a timely manner.

Final decisions on the issuance of any EFPs, SRPs, Display Permits, Shark Research Fishery Permits, and Chartering Permits will depend on the submission of all required information about the proposed activities, NMFS' review of public comments received on this notice, an applicant's reporting history on past permits issued any prior violations of marine resource laws administered by NOAA, consistency with relevant NEPA documents, and any consultations with appropriate Regional Fishery Management Councils, states, or Federal agencies. NMFS does not anticipate any significant environmental impacts from the issuance of these EFPs as assessed in the 1999 FMP, the 2006 Consolidated HMS FMP and its amendments, 2012 Swordfish Specifications, and 2015 Bluefin Tuna Specifications.

Authority: 16 U.S.C. 971 *et seq.* and 16 U.S.C. 1801 *et seq.*

Dated: October 29, 2015.

Emily H. Menashes,

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

[FR Doc. 2015–28051 Filed 11–3–15; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0117]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DWHS P45, entitled ''OSD/Joint Staff Voluntary Leave Transfer Program Records'' to manage the OSD/Joint Staff Voluntary Leave Transfer (VLTP) program.

Employees experiencing a personal or family medical emergency, who have exhausted their own leave, may apply to be a recipient of annual leave donated by other Federal employees, or from leave donors in other Federal agencies eligible to participate in the program.

Employees may donate annual leave to an approved leave recipient in their own agency or in another Federal agency covered by the provisions of the program.

DATES: Comments will be accepted on or before December 4, 2015. This proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination.

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

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

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

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

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for

systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at *http://dpcld.defense.gov/.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 28, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DWHS P45

SYSTEM NAME:

OSD/Joint Staff Voluntary Leave Transfer Program Records (April 4, 2000, 65 FR 17636).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Washington Headquarters Services (WHS), Human Resources Directorate (HRD), Labor Management and Employee Relations (LMER), 4800 Mark Center Drive, Alexandria, VA 22350–3200.

Decentralized records may also be maintained by Component administrative officers. For a complete list, contact the system manager.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Civilian employees of the Office of the Secretary of Defense (OSD), WHS and DoD field activities or DoD agencies serviced by WHS, HRD who have volunteered to participate in the voluntary leave transfer program either as a recipient or a donor.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''As required by the Defense Finance and Accounting Service (DFAS) systems to effectuate the transfer of leave from the donor's account into the recipient's account, each leave recipient record contains the employee's name, Social Security Number (SSN), employee number, position title, organization, salary, grade, step, leave balance data to include the number of donated leave hours transferred and the number of donated leave hours used, description of the medical emergency to include expected duration and frequency, and the employee's contact information during the period of emergency. The file may also contain medical or physical documentation or certifications, and agency approvals or denials, if applicable.

As required by the DFAS systems to effectuate the transfer of leave from the donor's account to the recipient's account, each donor record contains the employee's name, SSN, employee number, position title, organization, salary, grade, step, leave balance data to include the number of hours to be donated, designated leave, recipient's contact information, and preferences for restoration of unused donated leave, if applicable.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. 6331 *et seq.*, Definitions; 5 CFR 630, Subpart I, Voluntary Leave Transfer Program; DoD Directive (DoDD) 5110.4, Washington Headquarters Services (WHS); Director of Administration and Management, Administrative Instruction 67, Leave Administration; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To manage the OSD/Joint Staff Voluntary Leave Transfer (VLTP) program.

Employees experiencing a personal or family medical emergency, who have exhausted their own leave, may apply to be a recipient of annual leave donated by other Federal employees, or from leave donors in other Federal agencies eligible to participate in the program.

Employees may donate annual leave to an approved leave recipient in their own agency or in another Federal agency covered by the provisions of the program.''

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

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

To the Department of Labor in connection with a claim filed by an employee for compensation due to a job-connected injury or illness.

To the personnel and pay offices of the Federal agency involved to effectuate the leave transfer where leave donor and leave recipient are employed by different Federal agencies.

Law Enforcement Routine Use: If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

DISCLOSURE WHEN REQUESTING INFORMATION ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DoD Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

DISCLOSURE OF REQUESTED INFORMATION ROUTINE USE:

A record from a system of records maintained by a DoD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Disclosure to the Office of Personnel Management Routine Use: A record from a system of records subject to the Privacy Act and maintained by a DoD Component may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

Disclosure of Information to the National Archives and Records

Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a DoD Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.*''

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

STORAGE:

Delete entry and replace with ''Electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Records are retrieved by employee name, or SSN.''

SAFEGUARDS:

Delete entry and replace with ''Electronic records are only accessible to LMER personnel, or approved officials, who require access in order to perform their official duties. Access to electronic records requires a Common Access Card (CAC). Work areas are access controlled by CACs, and security guards protect the building.''

* * * * *

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Assistant Director, Labor Management and Employee Relations, Human Resources Directorate, 4800 Mark Center Drive, Alexandria, VA 22350–3200.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to Assistant Director for Labor and Management Employee Relations, Human Resources Directorate, 4800 Mark Center Drive, Alexandria, VA 22350–3200.

Signed, written requests should include the full name and SSN and the approximate date the record was completed.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Office of the Secretary of Defense Freedom of Information Act Requester Service Center, Office of Freedom of Information, 4800 Mark Center Drive, Alexandria, VA 22352–3200.

Signed, written requests for information must include the individual's full name and SSN, the approximate date the record was completed, and the name and number of this System of Records Notice.''

CONTESTING RECORD PROCEDURES:

Delete entry and replace with ''The OSD rules for accessing records, for contesting contents and appealing initial agency determinations are published in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.''

* * * * *

[FR Doc. 2015–28053 Filed 11–3–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2015–HA–0119]

Proposed Collection; Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

SUMMARY: In compliance with the *Paperwork Reduction Act of 1995,* the Office of the Assistant Secretary of Defense for Health Affairs announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by January 4, 2016.

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

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

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

Any associated form(s) for this collection may be located within this same electronic docket and downloaded for review/testing. Follow the instructions at *http://www.regulations.gov* for submitting comments. Please submit comments on any given form identified by docket number, form number, and title.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the Defense Health Agency, Pharmacy Operations Division, ATTN: CAPT Nita Sood, 7700 Arlington Boulevard, Falls Church, VA 22042–5101.

SUPPLEMENTARY INFORMATION:

Title; Associated Form; and OMB Number: Federal Agency Retail

Pharmacy Program; OMB Control Number 0720–0032.

Needs and Uses: The Department of Defense (DoD) is extending the information collection requirements under current OMB Control Number 0720–0032. Specifically, under the collection of information, pharmaceutical manufacturers will base refund calculation reporting requirements on the difference between the average non-Federal price of the drug sold by the pharmaceutical manufacturer to wholesalers, as represented by the most recent annual non-Federal average manufacturing prices (non-FAMP) (reported to the Department of Veterans Affairs (VA)) and the corresponding Federal Ceiling Price (FCP) or, in the discretion of the pharmaceutical manufacturer, the difference between the FCP and direct commercial contract sales prices specifically attributable to the reported TRICARE paid pharmaceuticals determined for each applicable National Drug Code (NDC) listing, per Refund Procedures outlined in CFR 199.21. DoD will use the reporting and audit capabilities of the Pharmacy Data Transaction Service (PDTS) to validate refunds owed to the Government. In Fiscal Year (FY) 15, the government received approximately $1.1 billion from pharmaceutical manufacturers as a result of this program/refund calculation reporting requirements.

Affected Public: Business or other for profit; Not-for-profit institutions

Annual Burden Hours: 9,600.

Number of Respondents: 300.

Responses per Respondent: 4.

Annual Responses: 1200.

Average Burden per Response: 8 hours.

Frequency: Quarterly.

10 United States Code (U.S.C.) 1074g(f) makes drugs provided to eligible covered beneficiaries through the TRICARE Retail Pharmacy Program subject to the pricing standards of the Veterans Health Care Act. Under the authority of 10 U.S.C. 1074g(h), 32 Code of Federal Regulation (CFR) 199.21(q)(3) requires information collection to implement 10 U.S.C. 1074g(f). The DoD is extending the information collection control number 0720–0032. Specifically, under the collection of information, pharmaceutical manufacturers will base refund calculation reporting requirements on the difference between the average non-Federal price of the drug sold by the pharmaceutical manufacturer to wholesalers, as represented by the most recent annual non-FAMP (reported to the VA) and the corresponding FCP or, in the discretion of the pharmaceutical manufacturer, the difference between the FCP and direct commercial contract sales prices specifically attributable to the reported TRICARE paid pharmaceuticals determined for each applicable NDC listing, per Refund Procedures outlined in CFR 199.21. The DoD will use the reporting and audit capabilities of the PDTS to validate refunds owed to the Government.

Dated: October 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 2015–28072 Filed 11–3–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DoD–2015–OS–0120]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a system of records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DHRA 06, entitled ''Defense Sexual Assault Incident Database'' to centralize case-level sexual assault data involving a member of the Armed Forces, in a manner consistent with statute and DoD regulations for Unrestricted and Restricted reporting.

Records may also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, conducting research, and case and business management. De-identified data may also be used to respond to mandated reporting requirements.

DATES: Comments will be accepted on or before December 4, 2015. This proposed action will be effective the date following the end of the comment period unless comments are received which result in a contrary determination.

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

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

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

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

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy and Civil Liberties Division Web site at *http://dpcld.defense.gov/.* The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 29, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DHRA 06

SYSTEM NAME:

Defense Sexual Assault Incident Database (July 8, 2014, 79 FR 38524).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Washington Headquarters Services (WHS), Enterprise Information Technology Support Directorate, 1155 Defense Pentagon, Washington, DC 20301–1155.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Individuals who may be victims and/

or alleged perpetrators in a sexual assault involving a member of the Armed Forces, including: Active duty Army, Navy, Marine Corps, and Air Force members; active duty Reserve members and National Guard members covered by title 10 or title 32 (hereafter 'service members'); service members who were victims of a sexual assault prior to enlistment or commissioning; military dependents age 18 and older; DoD civilians; DoD contractors; other Federal government employees; U.S. civilians; and foreign military members who may be lawfully admitted into the U.S. or who are not covered under the Privacy Act.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Victim and alleged perpetrator information includes: Age at the time of incident; gender, race, ethnicity; affiliation (*e.g.,* military, DoD civilian/contractor, other government employee, U.S. civilian, foreign national/military, unknown, and military dependent); Service, grade/rank, status (*e.g.,* Active Duty, Reserve, National Guard); and location of assignment and incident. Additional victim and alleged perpetrator information, maintained in Unrestricted Reports only, includes: full name; identification type and number (*e.g.,* DoD Identification number, Social Security Number, passport, U.S. Permanent Residence Card, foreign identification); and date of birth.

Additional victim information includes: Defense Sexual Assault Incident Database (DSAID) control number (*i.e.,* system generated unique control number; relationship to alleged perpetrator; and any related data on allegations of retaliation associated with reports of sexual misconduct. Additional victim information maintained in Unrestricted Reports only includes: Work or personal contact information (*e.g.,* phone number, address, email address); and name of commander.

For Restricted Reports (reports that do not initiate investigation), no personally identifying information for the victim and/or alleged perpetrator is maintained in DSAID.

Other data collected to support case and business management includes: Date and type of report (*e.g.,* Unrestricted or Restricted); tracking information on Sexual Assault Forensic Examinations performed, and referrals to appropriate resources; information on line of duty determinations; victim safety information; case management meeting information; and information on memoranda of understanding. For Unrestricted reports, information on expedited transfers and civilian/military protective orders may also be collected.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 3013, Secretary of the Army; 10 U.S.C. 5013, Secretary of the Navy; 10 U.S.C. 8013, Secretary of the Air Force; 32 U.S.C. 102, National Guard; DoD Directive 6495.01, Sexual Assault Prevention and Response (SAPR) Program; DoD Instruction 6495.02, Sexual Assault Prevention and Response (SAPR) Program Procedures; Army Regulation 600–20, Chapter 8, Army Command Policy (Sexual Assault Prevention and Response Program); Secretary of the Navy Instruction 1752.4B, Sexual Assault Prevention and Response; Marine Corps Order 1752.5B, Sexual Assault Prevention and Response (SAPR) Program; Air Force Instruction 90–6001, Sexual Assault Prevention and Response (SAPR) Program; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To centralize case-level sexual assault data involving a member of the Armed Forces, in a manner consistent with statute and DoD regulations for Unrestricted and Restricted reporting.

Records may also be used as a management tool for statistical analysis, tracking, reporting, evaluating program effectiveness, conducting research, and case and business management. De-identified data may also be used to respond to mandated reporting requirements.''

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

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

To permit the disclosure of records of closed cases of unrestricted reports to the Department of Veterans Affairs (DVA) for purpose of providing medical care to former Service members and retirees, to determine the eligibility for or entitlement to benefits, and to facilitate collaborative research activities between the DoD and DVA.

Law Enforcement Routine Use: If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

Disclosure When Requesting Information Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to a federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a DoD Component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

Disclosure of Requested Information Routine Use: A record from a system of records maintained by a DoD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Congressional Inquiries Disclosure Routine Use: Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Disclosure to the Office of Personnel Management Routine Use:

Disclosure to the Office of Personnel Management Routine Use: A record from a system of records subject to the Privacy Act and maintained by a DoD Component may be disclosed to the Office of Personnel Management (OPM) concerning information on pay and leave, benefits, retirement deduction, and any other information necessary for the OPM to carry out its legally authorized government-wide personnel management functions and studies.

Disclosure to the Department of Justice for Litigation Routine Use: A record from a system of records

maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

Disclosure of Information to the National Archives and Records Administration Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

Disclosure to the Merit Systems Protection Board Routine Use: A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation, including administrative proceedings, appeals, special studies of the civil service and other merit systems, review of OPM or Component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

Data Breach Remediation Purposes Routine Use: A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found Online at: *http://dpclo.defense.gov/Privacy/SORNsIndex/BlanketRoutineUses.aspx.''*

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Victim records are retrieved by first name, last name, identification number and type of identification provided, and/or Defense Sexual Assault Incident Database control number assigned to the incident.

Alleged perpetrator records are retrieved by first name, last name, and/or identification number and type of identification provided.''

SAFEGUARDS:

Delete entry and replace with ''Records are maintained in a controlled facility. Physical entry is restricted by the use of guards, identification badges, key cards, and locks. Access to case files in the system is role-based and requires the use of a Common Access Card (CAC) and password. Access rights and permission lists for Sexual Assault Response Coordinators (SARCs) and authorized Military Service legal officers are granted by Military Service Sexual Assault Prevention and Response program managers through the assignment of appropriate user roles. Periodic security audits are also conducted. Technical safeguards include firewalls, passwords, encryption of data, and use of a virtual private network. Access is further restricted to authorized users on the Nonsecure Internet Protocol Router Network and with a CAC. In addition, the local drive resides behind a firewall and the direct database cannot be accessed from the outside.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individuals, SARCs, Military Service Legal Officers (*i.e.* attorneys provided access to the system), Army Law Enforcement Reporting and Tracking System (Army), Consolidated Law Enforcement Operations Center (Navy), and Investigative Information Management System (Air Force).''

* * * * *

[FR Doc. 2015–28081 Filed 11–3–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DoD–2015–OS–0118]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice to alter a System of Records.

SUMMARY: The Office of the Secretary of Defense proposes to alter a system of records, DMDC 02 DoD, entitled ''Defense Enrollment Eligibility Reporting Systems (DEERS)'' to record the issuance of DoD badges and identification cards, *i.e.,* Common Access Cards (CAC) or beneficiary identification cards; to authenticate and identify DoD affiliated personnel (*e.g.,* contractors); to grant physical and logical access to DoD facilities; to provide a database for determining eligibility for DoD entitlements and privileges; to detect fraud and abuse of the benefit programs by claimants and providers to include appropriate collection actions arising out of any debts incurred as a consequence of such programs; to identify current DoD civilian and military personnel for purposes of detecting fraud and abuse of benefit programs; to ensure benefit eligibility is retained after separation from the military; to maintain the Servicemembers' Group Life Insurance (SGLI) and Family SGLI (FSGLI) coverage elections and beneficiaries' information; to support DoD health care management programs, to include research and analytical projects, through Defense Health Agency (previously the TRICARE Management Activity); to support benefit administration for those beneficiaries that have granted permission for use of their personal email address for notification purposes relating to their benefits; to register current DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are entitled; to provide identification of deceased members; to assess manpower, support personnel and readiness functions, to include Continuous Evaluation programs; to perform statistical analyses; to determine Servicemember Civil Relief Act (SCRA) duty status as it pertains to SCRA legislation; to determine Military Lending Act (MLA) eligibility as it pertains to MLA legislation; information will be used by agency officials and employees, or authorized contractors, and other DoD

Components in the preparation of studies and policy as related to manpower and the health and well-being of current and past Armed Forces and DoD-affiliated personnel; to assist in recruiting prior-service personnel; and to notify military members eligible to vote about information for registration and voting procedures; to provide rosters of DoD affiliated persons at the time of an official declared natural or man-made disaster; and to provide appropriate contact information of DoD personnel and beneficiaries for the purpose of conducting surveys authorized by the Department of Defense. Authorized surveys are used as a management tool for statistical analysis, policy planning, reporting, evaluation of program effectiveness, conducting research, to provide direct feedback on key strategic indicators, and for other policy planning purposes.

DATES: Comments will be accepted on or before December 4, 2015. This proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination.

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

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

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, Regulatory and Audit Matters Office, 9010 Defense Pentagon, Washington, DC 20301–9010.

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

FOR FURTHER INFORMATION CONTACT: Ms. Cindy Allard, Chief, OSD/JS Privacy Office, Freedom of Information Directorate, Washington Headquarters Service, 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0461.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at *http://dpcld.defense.gov/.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on October 29, 2015, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: October 30, 2015.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

DMDC 02 DoD

SYSTEM NAME:

Defense Enrollment Eligibility Reporting Systems (DEERS) (November 21, 2012, 77 FR 69807).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''DMDC at DISA DECC Columbus, 3990 East Broad St, Bldg 23, Columbus, OH 43213–0240.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Members, former members, retirees, civilian employees (includes non-appropriated fund) and contractor employees of the DoD and all of the Uniformed Services; Presidential appointees of all Federal Government agencies; Medal of Honor recipients; U.S. Military Academy students; non-Federal agency civilian associates (*e.g.,* American Red Cross paid employees, United Service Organization (USO), Intergovernmental Personnel Act Employees (IPA), Boy and Girl Scout Professionals, non-DoD contract employees); DoD local national hires; Foreign Affiliates (military, civil, contractor, students); DoD beneficiaries; dependents; guardians and other protectors; prior military eligible for Department of Veterans Affairs (VA) benefits; VA beneficiaries; beneficiaries of Servicemembers' Group Life Insurance (SGLI)/Family SGLI (FSGLI); members of the public treated for a medical emergency in a DoD or joint DoD/VA medical facility; and individuals requiring a Common Access Card to access DoD IT applications (*i.e.,* Department of Homeland Security employees, state National Guard Employees, and Affiliated Volunteers).''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Individual's name; Service or Social Security Number (SSN); DoD ID number; residence address; mailing address; personal and work email addresses; date of birth; gender; mother's maiden name, branch of Service; primary and secondary fingerprints and photographs; Foreign National Identification Numbers; emergency contact person information; stored documents for proofing identity and association.

DEERS Benefits Number; relationship of beneficiary to sponsor, to include relationship and eligibility qualifiers (*i.e.* percent of support by sponsor, student or incapacitation status, guardian authorizations); SGLI/FSGLI beneficiaries information and amounts of coverage; pharmacy benefits; dates of beginning and ending eligibility; number of family members of sponsor; multiple birth code/birth order; primary unit duty location of sponsor; race and ethnic origin; occupation; rank/pay grade.

Disability documentation; wounded, ill and injured identification information; other health information (*i.e.,* tumor/reportable disease registry, immunizations); Medicare eligibility and enrollment data; CHAMPVA and FEHB eligibility indicators; blood test results; Deoxyribonucleic Acid (DNA); dental care eligibility codes and dental x-rays.

Patient registration data for shared DoD/VA beneficiary populations, including VA Integration Control Number (ICN), VA patient type, patient category code and patient category TRICARE enrollment data (*i.e.,* plan name, effective dates, primary care manager information, premium payment details), identity and relationship data, command interest code and name, command security code and name, medical fly status code.

Catastrophic Cap and Deductible (CCD) transactions, including monetary amounts; third party health insurance information on dependents; in addition to identity data and demographic data for beneficiaries such as contact information, family membership, and personnel information is captured as required to determine and maintain benefits; VA disability payment records; digital signatures where appropriate to assert validity of data; care giver information; immunization data; education benefit eligibility and usage; special military pay information; SGLI/FGLI; Privacy Act audit logs.

Character of service; reenlistment eligibility; entitlement conditions; activations and deployments; medals and awards data; citizenship data/country of birth; civil service employee employment information (agency and bureau, pay plan and grade, nature of action code and nature of action effective date, occupation series, dates of promotion and expected return from overseas, service computation date); compensation data (*i.e.,* Department of Labor Compensation data); date of separation of former enlisted and officer personnel. Information Assurance (IA) Work Force information; language data; military personnel information (rank, assignment/deployment, length of service, military occupation, education, and benefit usage); reason leaving military service or DoD civilian service; Reserve member's civilian occupation and employment information; workforces information (*e.g.,* acquisition, first responders).''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''5 U.S.C. App. 3, Inspector General Act of 1978; 5 U.S.C. Chapter 90, Federal Long-Term Care Insurance; 10 U.S.C. 136, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. Chapter 53, Miscellaneous Rights and Benefits; 10 U.S.C. Chapter 54, Commissary and Exchange Benefits; 10 U.S.C. Chapter 58, Benefits and Services for Members being Separated or Recently Separated; 10 U.S.C. Chapter 75, Deceased Personnel; 10 U.S.C. 2358, Research and Development Projects; 10 U.S.C. Chapter 49, Section 987, Terms of Consumer Credit Extended to Members and Dependents; 20 U.S.C. 1070a (f)(4), Higher Education Opportunity Act; 31 U.S.C. 3512(c), Executive Agency Accounting and Other Financial Management Reports and Plans; 42 U.S.C. 18001 note, Patient Protection and Affordable Care Act (Public Law 111–148); 42 U.S.C. 1973ff, Federal Responsibilities; 50 U.S.C. Chapter 23, Internal Security; 50 U.S.C. 501, Servicemember Civil Relief Act; DoD Directive 1000.04, Federal Voting Assistance Program (FVAP); DoD Directive 1000.25, DoD Personnel Identity Protection (PIP) Program; DoD Instruction 1015.9, Professional United States Scouting Organization Operations at United States Military Installations Located Overseas; DoD Instruction 1100.13, DoD Survey; DoD Instruction 1241.03 TRICARE Retired Reserve (TRS) Program; DoD Instruction 1241.04, TRICARE Reserve Select (TRS) Program; DoD Instruction 1336.05, Automated Extract of Active Duty Military Personnel Records; DoD Instruction 1341.2, Defense Eligibility Enrollment Reporting System (DEERS) Procedures; DoD Instruction 3001.02, Personnel Accountability in Conjunction with Natural or Manmade Disasters; Homeland Security Presidential Directive 12, Policy for a Common Identification Standard for Federal Employees and Contractors; DoD Instruction 7730.54, Reserve Components Common Personnel Data System (RCCPDS); 38 CFR part 9.20, Traumatic injury protection; 38 U.S.C. Chapter 19, Subchapter III, Servicemembers' Group Life Insurance; 42 U.S.C. 18001 note, Patient Protection and Affordable Care Act (Public Law 111–148); and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''To record the issuance of DoD badges and identification cards, *i.e.,* Common Access Cards (CAC) or beneficiary identification cards.

To authenticate and identify DoD affiliated personnel (*e.g.,* contractors); to grant physical and logical access to DoD facilities.

To provide a database for determining eligibility for DoD entitlements and privileges; to detect fraud and abuse of the benefit programs by claimants and providers to include appropriate collection actions arising out of any debts incurred as a consequence of such programs; to identify current DoD civilian and military personnel for purposes of detecting fraud and abuse of benefit programs; to ensure benefit eligibility is retained after separation from the military; to maintain the Servicemembers' Group Life Insurance (SGLI) and Family SGLI (FSGLI) coverage elections and beneficiaries' information.

To support DoD health care management programs, to include research and analytical projects, through Defense Health Agency (previously the TRICARE Management Activity); to support benefit administration for those beneficiaries that have granted permission for use of their personal email address for notification purposes relating to their benefits; to register current DoD civilian and military personnel and their authorized dependents for purposes of obtaining medical examination, treatment or other benefits to which they are entitled; to provide identification of deceased members.

To assess manpower, support personnel and readiness functions, to include Continuous Evaluation programs; to perform statistical analyses; to determine Servicemember Civil Relief Act (SCRA) duty status as it pertains to SCRA legislation; to determine Military Lending Act (MLA) eligibility as it pertains to MLA legislation; information will be used by agency officials and employees, or authorized contractors, and other DoD Components in the preparation of studies and policy as related to manpower and the health and well-being of current and past Armed Forces and DoD-affiliated personnel; to assist in recruiting prior-service personnel; and to notify military members eligible to vote about information for registration and voting procedures; and to provide rosters of DoD affiliated persons at the time of an official declared natural or man-made disaster.

To provide appropriate contact information of DoD personnel and beneficiaries for the purpose of conducting surveys authorized by the Department of Defense. Authorized surveys are used as a management tool for statistical analysis, policy planning, reporting, evaluation of program effectiveness, conducting research, to provide direct feedback on key strategic indicators, and for other policy planning purposes.''

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

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

1. To Federal agencies and/or their contractors, the Transportation Security Administration and other federal transportation agencies, for purposes of authenticating the identity of individuals who, incident to the conduct of official business, present the Common Access Card or other valid identification as proof of identity to gain physical or logical access to government and contractor facilities, locations, networks, systems, or programs.

2. To Federal and State agencies to validate demographic data (*e.g.,* SSN, citizenship status, date and place of birth, etc.) for individuals in DMDC personnel and pay files so that accurate information is available in support of DoD requirements.

3. To the Social Security Administration for the purpose of verifying an individual's identity.

4. To the Department of Veterans Affairs (DVA):

a. To provide uniformed service personnel (pay, wounded, ill, and

injured) identification data for present and former uniformed service personnel for the purpose of evaluating use of veterans' benefits, validating benefit eligibility and maintaining the health and well-being of veterans and their family members.

b. To provide identifying uniformed service personnel data to the DVA and its insurance program contractor for the purpose of conducting outreach and administration of benefits to qualified Service Members, Veterans and their dependents (38 U.S.C. 1977), notifying separating eligible Reservists of their right to apply for Veteran's Group Life Insurance coverage under the Veterans Benefits Improvement Act of 1996 (38 U.S.C. 1968) and for DVA to administer the Traumatic Servicemember's Group Life Insurance (TSGLI) (Traumatic Injury Protection Rider to Servicemember's Group Life Insurance (TSGLI), 38 CFR part 9.20).

c. To register eligible veterans and their dependents for DVA programs.

d. To provide former uniformed service personnel and survivor's financial benefit data to DVA for the purpose of identifying retired pay and survivor benefit payments for use in the administration of the DVA's Compensation and Pension Program (38 U.S.C. 5106). The information is to be used to process all DVA award actions more efficiently, reduce subsequent overpayment collection actions, and minimize erroneous payments.

e. To provide identifying uniformed service personnel data to the DVA for the purpose of notifying such personnel of information relating to educational assistance as required by the Veterans Programs Enhancement Act of 1998 (38 U.S.C. 3011 and 3034).

f. Providing to the Veterans Benefits Administration, DVA uniformed service personnel and financial data for the purpose of determining initial eligibility and any changes in eligibility status to insure proper payment of benefits for GI Bill education and training benefits by the DVA under the Montgomery GI Bill (10 U.S.C. Chapter 1606—Selected Reserve and 38 U.S.C. Chapter 30—Active Duty), the REAP educational benefit (Title 10 U.S.C Chapter 1607), and the National Call to Service enlistment educational benefit (10 Chapter 510), the Post 9/11 GI Bill (38 U.S.C. Chapter 33) and The Transferability of Education Assistance to Family Members. The administrative responsibilities designated to both agencies by the law require that data be exchanged in administering the programs.

5. To consumer reporting agencies to obtain identity confirmation and current addresses of separated uniformed services personnel to notify them of potential benefits eligibility.

6. To Federal Agencies, to include OPM, United States Postal Service, Executive Office of the President and Administrative Office of the Courts; Department of Health and Human Services; Department of Education; Department of Veterans Affairs to conduct computer matching programs regulated by the Privacy Act of 1974, as amended (5 U.S.C. 552a), for the purpose of:

a. Providing all members of the Reserve Component of the Armed Forces to be matched against the Federal agencies for identifying those Reserve Component Service members that are also Federal civil service employees with eligibility for the Federal Employees Health Benefits (FEHB) program. This disclosure by the Federal agencies will provide the DoD with the FEHB program eligibility and Federal employment information necessary to determine initial and continuing eligibility for the TRICARE Reserve Select (TRS) program and the TRICARE Retired Reserve (TRR) program (collectively referred to as purchased TRICARE programs). Reserve Component members who are not eligible for FEHB program are eligible for TRS (section 1076d of title 10) or TRR (section 1076e of title 10).

b. Providing all members of the Reserve Component of the Armed Forces to be matched against the Federal agencies for the purpose of identifying the Ready Reserve Component Service members who are also employed by the Federal Government in a civilian position, so that reserve status can be terminated if necessary. To accomplish an emergency mobilization, individuals occupying critical civilian positions cannot be mobilized as Reservists.

c. Providing to the Department of Education for the purpose of identifying dependent children of those Armed Forces members killed in Operation Iraqi Freedom and Operation Enduring Freedom (OIF/OEF), Iraq and Afghanistan Only, for possible benefits.

d. Providing to the Veterans Benefits Administration, DVA uniformed service data for the purpose of determining eligibility and any changes in eligibility status to insure proper administration of benefits for GI Bill education and training benefits under the Montgomery GI Bill (10 U.S.C. Chapter 1606—Selected Reserve and 38 U.S.C. Chapter 30—Active Duty), the Post 9/11 GI Bill (38 U.S.C. Chapter 33).

e. Providing to the Centers for Medicaid and Medicare Services, Department of Health and Human Service, for the purpose of identifying DoD eligible beneficiaries both over and under the age of 65 who are Medicare eligible. Current law requires TMA to discontinue military health care benefits to Military Heath Services beneficiaries who are Medicare eligible unless they are enrolled in Medicare Part B.

f. Providing to the Centers for Medicaid and Medicare Services, Department of Health and Human Services, for the purpose of verifying individual's healthcare eligibility status, in accordance with the Affordable Care Act. Data provided to CMS will be used to make eligibility determinations for insurance affordability programs, administered by Medicaid, the Children's Health Insurance Program (CHIP), the Basic Health Program (BHP) and the American Health Benefit Exchange.

7. To Federal agencies for the purpose of notifying Servicemember and dependent individuals of payments or other benefits for which they are eligible under actions of the Federal agencies.

8. To State agencies for the purpose of supporting State Veteran Affairs activities.

9. To the Department of Labor for unemployment compensation calculations.

10. To other Federal agencies and state, local and territorial governments to identify fraud and abuse of the Federal agency's programs and to identify debtors and collect debts and overpayment in the DoD health care programs.

11. To each of the fifty states and the District of Columbia for the purpose of determining the extent to which state Medicaid beneficiaries may be eligible for Uniformed Services health care benefits, including CHAMPUS, TRICARE, and to recover Medicaid monies from the CHAMPUS program.

12. To State and local child support enforcement agencies for purposes of providing information, consistent with the requirements of 29 U.S.C. 1169(a), 42 U.S.C. 666(a)(19), and E.O. 12953 and in response to a National Medical Support Notice (NMSN) (or equivalent notice if based upon the statutory authority for the NMSN), regarding the military status of identified individuals and whether, and for what period of time, the children of such individuals are or were eligible for DoD health care coverage. NOTE: Information requested by the States is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

13. To the Department of Health and Human Services (HHS):

a. For purposes of providing information, consistent with the

requirements of 42 U.S.C. 653 and in response to an HHS request, regarding the military status of identified individuals and whether the children of such individuals are or were eligible for DoD healthcare coverage and for what period of time they were eligible. Note: Information requested by HHS is not disclosed when it would contravene U.S. national policy or security interests (42 U.S.C. 653(e)).

b. For purposes of providing information so that specified Medicare determinations, specifically late enrollment and waiver of penalty, can be made for eligible (1) DoD military retirees and (2) spouses (or former spouses) and/or dependents of either military retirees or active duty military personnel, pursuant to section 625 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2002 (as codified at 42 U.S.C. 1395p and 1395r).

c. To the Office of Child Support Enforcement, Federal Parent Locator Service, pursuant to 42 U.S.C. 653 and 653a; to assist in locating individuals for the purpose of establishing parentage; establishing, setting the amount of, modifying, or enforcing child support obligations; or enforcing child custody or visitation orders; the relationship to a child receiving benefits provided by a third party and the name and SSN of those third party providers who have a legal responsibility. Identifying delinquent obligors will allow state child support enforcement agencies to commence wage withholding or other enforcement actions against the obligors.

d. For purposes of providing information to the Centers for Medicare and Medicaid Services (CMS) to account for the impact of DoD healthcare on local reimbursement rates for the Medicare Advantage program as required in 42 CFR 422.306.

14. To Coast Guard and Public Health Service to complete Individual Mandate Reporting and Employer Mandate reporting to the Internal Revenue Service (IRS) as required by Patient Protection and Affordable Care Act of 2010 (PL 111–148) and Sections 6055 and 6056 of the IRS Code.

15. To Federal and contractor medical personnel at joint DoD/VA health care clinics, for purposes of authenticating the identity of individuals who are registered as patients at the clinic and maintaining, through the correlation of DoD ID number and Integration Control Number (ICN), a shared population of DoD and VA beneficiaries who are users of the clinic.

16. To the American Red Cross for purposes of providing emergency notification and assistance to members of the Armed Forces, retirees, family members or survivors.

17. To the Office of Disability and Insurance Security Programs, for the purpose of expediting disability processing of wounded military service members and veterans.

18. To Federally Funded Research Centers and grantees for the purpose of performing research on manpower problems for statistical analyses.

19. To Defense contractors to monitor the employment of former DoD employees and uniformed service personnel subject to the provisions of 41 U.S.C. 423.

20. Disclosure of Requested Information Routine Use: A record from a system of records maintained by a DoD Component may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

21. To Federal and quasi Federal agencies, territorial, state and local governments, and contractors and grantees for the purpose of supporting research studies concerned with the health and well-being of active duty, reserve, and retired uniformed service personnel or veterans, to include family members. DMDC will disclose information from this system of records for research purposes when DMDC:

a. has determined that the use or disclosure does not violate legal or policy limitations under which the record was provided, collected, or obtained;

b. has determined that the research purpose (1) cannot be reasonably accomplished unless the record is provided in individually identifiable form, and (2) warrants the risk to the privacy of the individual that additional exposure of the record might bring;

c. has required the recipient to (1) establish reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of the record, and (2) remove or destroy the information that identifies the individual at the earliest time at which removal or destruction can be accomplished consistent with the purpose of the research project, unless the recipient has presented adequate justification of a research or health nature for retaining such information, and (3) make no further use or disclosure of the record except (A) in emergency circumstances affecting the health or safety of any individual, (B) for use in another research project, under these same conditions, and with written authorization of the Department, (C) for disclosure to a properly identified person for the purpose of an audit related to the research project, if information that would enable research subjects to be identified is removed or destroyed at the earliest opportunity consistent with the purpose of the audit, or (D) when required by law;

d. has secured a written statement attesting to the recipients' understanding of, and willingness to abide by these provisions.

22. To the Department of Homeland Security for the conduct of studies related to the health and well-being of Coast Guard members and to authenticate and identify Coast Guard personnel.

23. To Federal and State agencies for purposes of obtaining socioeconomic information on uniformed service personnel so that analytical studies can be conducted with a view to assessing the present needs and future requirements of such personnel.

24. To the Bureau of Citizenship and Immigration Services, Department of Homeland Security, for purposes of facilitating the verification of individuals who may be eligible for expedited naturalization (Pub. L. 108–136, Section 1701, and E.O. 13269, Expedited Naturalization).

25. To Coast Guard recruiters in the performance of their assigned duties.

The DoD Blanket Routine Uses set forth at the beginning of the Office of the Secretary of Defense (OSD) compilation of systems of records notices may apply to this system. The complete list of DoD Blanket Routine Uses can be found online at: *http://dpcld.defense.gov/Privacy/SORNsindex/BlanketRoutineUses.aspx''*.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Delete entry and replace with ''Paper records and electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Records about individuals can be retrieved using a search algorithm utilizing primary identity traits: Personal identifier (*e.g.,* SSN, service number, foreign identification number, etc.), name, date of birth and gender, but can also include mailing address, telephone number, mother's maiden

name and place of birth when available. Individuals can be directly retrieved utilizing their DoD ID Number or DoD Benefits Number. Retrievals may be done by biometrics (*i.e.* fingerprints, photograph).

Retrievals for the purposes of generating address lists for direct mail distribution may be made using selection criteria based on geographic and demographic keys.''

* * * * *

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Deputy Director, Defense Manpower Data Center, DoD Center Monterey Bay, 400 Gigling Road, Seaside, CA 93955–6771.

Signed written requests should contain the full name, identifier (*i.e.* SSN, DoD ID or DoD Benefits Number), date of birth, and current address and telephone number of the individual.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20301–1155.

Signed written requests should contain the name and number of this system of records notice along with the full name, SSN, date of birth, current address, and telephone number of the individual.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individuals and the personnel, pay, and benefit systems of the military and civilian departments, and agencies of the Uniformed Services, Department of Veteran Affairs, and other Federal agencies.''

* * * * *

[FR Doc. 2015–28064 Filed 11–3–15; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

AGENCY: Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under Section 9008(d) of the Food, Conservation, and Energy Act of 2008 amended by the Agricultural Act of 2014. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that agencies publish these notices in the **Federal Register** to allow for public participation.

Dates and Times: November 18, 2015; 8:30 a.m.–5:30 p.m., November 19, 2015; 8:30 a.m.–12:30 p.m.

ADDRESSES: Hilton Garden Inn, 1800 Powell St., Emeryville, California 94608.

FOR FURTHER INFORMATION CONTACT: Elliott Levine, Designated Federal Official for the Committee, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com*.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To develop advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Update on USDA Biomass R&D Activities
- Update on DOE Biomass R&D Activities
- Update the Biomass Research and Development Initiative
- California Perspective on Biofuels and Energy
- Annual Committee Recommendations

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you must contact Elliott Levine at; Email: *Elliott.Levine@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com* at least 5 business days prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Co-chairs of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Co-chairs will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The minutes of the meeting will be available for public review and copying at *http://biomassboard.gov/committee/meetings.html*.

Issued at Washington, DC on October 29, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–28076 Filed 11–3–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

DOE/NSF High Energy Physics Advisory Panel

AGENCY: Department of Energy, Office of Science.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the DOE/NSF High Energy Physics Advisory Panel (HEPAP). The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, December 9, 2015, 8:30 a.m. to 6:00 p.m., Thursday, December 10, 2015, 8:30 a.m. to 6:00 p.m., Friday, December 11, 2015, 8:30 a.m. to 4:00 p.m.

ADDRESSES: Newport Beach Marriott Hotel & Spa, 900 Newport Center Drive, Newport Beach, CA 92660.

FOR FURTHER INFORMATION CONTACT: John Kogut, Executive Secretary; High Energy Physics Advisory Panel (HEPAP); U.S. Department of Energy; SC–25/Germantown Building, 1000 Independence Avenue SW., Washington, DC 20585–1290; Telephone: (301) 903–1298.

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To provide advice and guidance on a continuing basis to the Department of Energy and the National Science Foundation on scientific priorities within the field of high energy physics research.

Tentative Agenda: December 9–11, 2015

- Discussion of Department of Energy High Energy Physics Program
- Discussion of National Science Foundation Elementary Particle Physics Program
- Reports on and Discussions of Topics of General Interest in High Energy Physics
- Public Comment (10-minute rule)

Public Participation: The meeting is open to the public. A webcast of this meeting will be available. Please check the Web site below for updates and information on how to view the

meeting. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. If you would like to make oral statements regarding any of these items on the agenda, you should contact John Kogut at (301) 903–1298 or by email at: *John.Kogut@science.doe.gov.* You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Chairperson of the Panel will conduct the meeting to facilitate the orderly conduct of business. Public comment will follow the 10-minute rule.

Minutes: The minutes of the meeting will be available on the U.S. Department of Energy's Office of High Energy Physics Advisory Panel Web site, at: (*http://science.energy.gov/hep/hepap/meetings/*).

Issued at Washington, DC, on October 29, 2015.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2015–28075 Filed 11–3–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13563–003—Alaska]

Juneau Hydropower, Inc.; Notice of Availability of the Draft Environmental Impact Statement for the Sweetheart Lake Hydroelectric Project and Intention To Hold Public Meetings

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission (Commission or FERC) regulations contained in the Code of Federal Regulations (CFR) (18 CFR part 380 [FERC Order No. 486, 52 FR 47897]), the Office of Energy Projects has reviewed the application for an original license for the Sweetheart Lake Hydroelectric Project (FERC No. 13563) and prepared a draft environmental impact statement (EIS) for the project.

The proposed project would be located on Sweetheart Lake and Sweetheart Creek in the City and Borough of Juneau, Alaska. The proposed project, if licensed, would occupy 2,058.24 acres of federal lands within the Tongass National Forest, administered by the U.S. Department of Agriculture, Forest Service.

The draft EIS contains staff's analysis of the applicant's proposal and the alternatives for licensing the Sweetheart Lake Hydroelectric Project. The draft EIS documents the views of governmental agencies, non-governmental organizations, affected Indian tribes, the public, the license applicant, and Commission staff.

A copy of the draft EIS is available for review at the Commission or may be viewed on the Commission's Web site at *http://www.ferc.gov,* using the ''e-Library'' link. Enter the docket number, excluding the last three digits, to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

All comments must be filed by Tuesday, December 29, 2015, and should reference Project No. 13563–003. The Commission strongly encourages electronic filing. Please file comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support. In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–13563–003.

Anyone may intervene in this proceeding based on this draft EIS (18 CFR 380.10). You must file your request to intervene as specified above. You do not need intervenor status to have your comments considered.

In addition to or in lieu of sending written comments, you are invited to attend public meetings that will be held to receive comments on the draft EIS. The agency meeting will focus on resource agency and non-governmental input, while the public meeting is primarily for public input. The time and locations of the meetings are as follows:

Agency Meeting

DATE: Wednesday, December 2, 2015.
TIME: 9:00 a.m.–12:00 p.m.
PLACE: Centennial Hall Convention Center, Hickel Room.
ADDRESS: 101 Egan Drive, Juneau, AK 99801.

Public Meeting

DATE: Wednesday, December 2, 2015.
TIME: 6:00 p.m.–9:00 p.m.
PLACE: Centennial Hall Convention Center, Hickel Room.
ADDRESS: 101 Egan Drive, Juneau, AK 99801.

At these meetings, resource agency personnel and other interested persons will have the opportunity to provide oral and written comments and recommendations regarding the draft EIS. The meeting will be recorded by a court reporter, and all statements (verbal and written) will become part of the Commission's public record for the project. These meetings are posted on the Commission's calendar located at *http://www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

For further information, contact John Matkowski at (202) 502–8576 or at *john.matkowski@ferc.gov.*

Dated: October 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28090 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–35–000]

Brown's Energy Services, 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 Brown's Energy Services, 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 November 17, 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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28084 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RA15–1–000]

Vaughn Thermal Corporation; Notice of Termination of Proceeding

On May 11, 2015, Vaughn Thermal Corporation (Vaughn) filed a Petition for Review of Denial of Adjustment Request (Petition) under Subpart J of the Commission's Rules of Practice and Procedure.[1] Vaughn's petition asserted that the Department of Energy (DOE) Office of Hearings and Appeals (OHA) had improperly denied a November 21, 2014 application by Vaughn for an exception from DOE efficiency standards applicable to residential water heaters (exception application).

On September 15, 2015, the Administrative Law Judge designated to serve as the presiding officer in this proceeding submitted a report to the Commission, stating that, on September 2, 2015, the parties had filed a unanimous Stipulation and Notice of Withdrawal of Pleadings (Stipulation and Notice). The Stipulation and Notice obligated Vaughn to withdraw its Petition on the condition that DOE vacate the OHA order under review. The judge stated that, on September 11, 2015, Vaughn and DOE filed a joint notice that they had satisfied the conditions in the Stipulation and Notice. Accordingly, the judge deemed the Petition, the underlying OHA order denying Vaughn's exception application and the pending DOE motion to dismiss the Petition to be withdrawn in accordance with the Stipulation and Notice.

Take notice that the proceeding in Docket No. RA15–1–000 is, as a consequence, deemed terminated.

Dated: October 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28093 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

[1] 18 CFR 385.1001 *et seq.* (2015).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC15–13–000]

Commission Information Collection Activities (FERC–912); Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the currently approved information collection, FERC–912, Cogeneration and Small Power Production, PURPA Section 210(m) Regulations for Termination or Reinstatement of Obligation to Purchase or Sell. The Commission previously issued a Notice in the **Federal Register** (80 FR 51252, 8/24/2015) requesting public comments. The Commission received no comments on the FERC–912 and is making this notation in its submittal to OMB.

DATES: Comments on the collection of information are due December 4, 2015.

ADDRESSES: Comments filed with OMB, identified by the OMB Control No. 1902–0237 or collection number (FERC–912), should be sent via email to the Office of Information and Regulatory Affairs: *oira_submission@omb.gov.* Attention: Federal Energy Regulatory Commission Desk Officer. The Desk Officer may also be reached via telephone at 202–395–0710.

A copy of the comments should also be sent to the Commission, in Docket No. IC15–13–000, by either of the following methods:

- eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* by telephone at (202) 502–8663, and by fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

Title: FERC–912, PURPA Section 210(m) Notification Requirements Applicable to Cogeneration and Small Power Production Facilities.

OMB Control No.: 1902–0237

Type of Request: Three-year extension of the FERC–912 information collection requirements with no changes to the current reporting requirements.

Abstract: On 8/8/2005, the Energy Policy Act of 2005 (EPAct 2005)[1] was signed into law. Section 1253(a) of EPAct 2005 amends Section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA) by adding subsection ''(m),'' that provides, based on a specified showing, for the termination and subsequent reinstatement of an electric utility's obligation to purchase from, and sell energy and capacity to, qualifying facilities (QFs). 18 CFR

[1] Public Law 109–58, 119 Stat. 594 (2005)

292.309–292.313 are the implementing regulations, and provide procedures for:

• An electric utility to file an application for the termination of its obligation to purchase energy and capacity from, or sell to, a QF; [2] and

• An affected entity or person to subsequently apply to the Commission for an order reinstating the electric utility's obligation to purchase energy and capacity from, or sell to, a QF.[3]

Type of Respondents: Electric utilities, principally.

Estimate of Annual Burden: [4] The Commission estimates the total Public Reporting Burden for this information collection as:

FERC–912—COGENERATION AND SMALL POWER PRODUCTION, PURPA SECTION 210(m) REGULATIONS FOR TERMINATION OR REINSTATEMENT OF OBLIGATION TO PURCHASE OR SELL

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response [5] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
Termination of obligation to purchase	5	1	5	12 $864	60 $4,320	$864
Reinstatement of obligations to purchase	0	0	0	0 $0	0 $0	0
Termination of obligation to sell	0	0	0	0 $0	0 $0	0
Reinstatement of obligation to sell	0	0	0	0 $0	0 $0	0
Total					60 $4,320	864

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: October 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28092 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

[2] Contained within 18 CFR 292.310 and 292.312.

[3] Contained within 18 CFR 292.311 and 292.313.

[4] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC16–2–000]

Commission Information Collection Activities (FERC–538, FERC–740, FERC–729, FERC–715, FERC–592, FERC–60, FERC–61, and FERC–555A); Consolidated Comment Request; Extension

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of information collections and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. 3506(c)(2)(A), the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on the requirements and burden [1] of the information collections described below.

DATES: Comments on the collections of information are due January 4, 2016.

ADDRESSES: You may submit comments (identified by Docket No. IC16–2–000) by either of the following methods:

• eFiling at Commission's Web site: *http://www.ferc.gov/docs-filing/efiling.asp.*

• Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Please reference the specific collection number and/or title in your comments.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: *http://www.ferc.gov/help/submission-guide.asp.* For user assistance contact FERC Online Support by email at *ferconlinesupport@ferc.gov,* or by phone at: (866) 208–3676 (toll-free), or (202) 502–8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at *http://www.ferc.gov/docs-filing/docs-filing.asp.*

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at *DataClearance@FERC.gov,* telephone at (202) 502–8663, and fax at (202) 273–0873.

SUPPLEMENTARY INFORMATION:

[5] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC Full-Time Equivalent (FTE) average salary plus benefits ($149,489/year). The Commission believes the FERC FTE average salary plus benefits to be representative of wages for industry respondents.

[1] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

Type of Request: Three-year extension of the information collection requirements for all collections described below with no changes to the current reporting requirements. Please note that each collection is distinct from the next.

Comments: Comments are invited on: (1) Whether the collections of information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

FERC–538, Gas Pipelines Certificates: Sections 7(a) Mandatory Initial Service

OMB Control No.: 1902–0061.

Abstract: Under sections 7(a), 10(a) and 16 of Natural Gas Act (NGA),[2] upon application by a person or municipality authorized to engage in the local distribution of natural gas, the Commission may order a natural gas company to extend or improve its transportation facilities, and sell natural gas to the municipality or person and, for such purpose, to extend its transportation facilities to communities immediately adjacent to such facilities or to territories served by the natural gas pipeline company. The Commission uses the application data in order to be fully informed concerning the applicant, and the service the applicant is requesting.

Type of Respondent: Persons or municipalities authorized to engage in the local distribution of natural gas.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–538—GAS PIPELINE CERTIFICATES: SECTION 7(a) MANDATORY INITIAL SERVICE

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response [3] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
Gas Pipeline Certificates	1	1	1	240 $17,280	240 $17,280	$17,280

FERC–740, Availability of e-Tag Information to Commission Staff

OMB Control No.: 1902–0254.

Abstract: In Order 771,[4] the FERC–740 information collection (providing Commission staff access to e-Tag data) was implemented to provide the Commission, Market Monitoring Units (MMUs), Regional Transmission Organizations (RTOs), and Independent System Operators (ISOs) with information that allows them to perform market surveillance and analysis more effectively. The e-Tag information is necessary to understand the use of the interconnected electricity grid, particularly transactions occurring at interchanges. Due to the nature of the electricity grid, an individual transaction's impact on an interchange cannot be assessed adequately in all cases without information from all connected systems, which is included in the e-Tags. The details of the physical path of a transaction included in the e-Tags helps the Commission to monitor, in particular, interchange transactions effectively, detect and prevent price manipulation over interchanges, and ensure the efficient and orderly use of the transmission grid. For example, the e-Tag data allows the Commission to identify transmission reservations as they go from one market to another and link the market participants involved in that transaction.

Order No. 771 provided the Commission access to e-Tags by requiring that Purchasing-Selling Entities [5] (PSEs) and Balancing Authorities (BAs), list the Commission on the ''CC'' list of e-Tags so that the Commission can receive a copy of the e-Tags. The Commission accesses the e-Tags by contracting with a commercial vendor, OATI. In early 2014, the North American Energy Standards Board (NAESB) incorporated the requirement that the Commission be added to the ''CC'' list on e-Tags as part of the tagging process.[6] Even before NAESB added the FERC requirement to the tagging standards, the rules behind the ''CC'' list requirement had already been programmed into the industry standard tagging software so as to make the inclusion of FERC in the ''CC'' list automatic. The Commission expects that PSEs and BAs will continue to use existing, automated procedures to create and validate the e-Tags in a way that provides the Commission with access to them. In the rare event that a new BA would need to alert e-Tag administrators that certain tags it generates qualify for exemption under the Commission's regulations (*e.g.,* transmissions from a new Canadian BA into another Canadian BA), this administrative function would be expected to require less than an hour of effort total from both the BA and an e-Tag administrator to include the BA on the exemption list. New exempt BAs occur less frequently than every year, but for the purpose of estimation we will conservatively assume one appears each year creating an additional burden associated with the Commission's FERC–740 requirement of $60.59.[7]

Type of Respondent: Purchasing-Selling Entities and Balancing Authorities.

[2] 15 U.S.C. 717f–w.

[3] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary of $149,489/year.

[4] Order 771 was issued in Docket No. RM11–12 (77 FR 76367, 12/28/2012).

[5] A Purchasing-Selling Entity is the entity that purchases or sells, and takes title to, energy, capacity, and Interconnected Operations Services. Purchasing-Selling Entities may be affiliated or unaffiliated merchants and may or may not own generating facilities. Purchasing-Selling Entities are typically E-Tag Authors.

[6] *NAESB Electronic Tagging Functional Specifications, Version 1.8.2.*

[7] The estimated hourly cost (salary plus benefits) provided in this section is based on the figures for May 2014 posted by the Bureau of Labor Statistics for the Utilities sector (available at *http://www.bls.gov/oes/current/naics2_22.htm#13-0000*) assuming:

- 15 minutes legal (code 23–0000), $129.87 hourly
- 45 minutes information and record clerk (code 43–4199), $37.50 hourly.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden (rounded) for the information collection as:

FERC–740—AVAILABILITY OF e-TAG INFORMATION TO COMMISSION STAFF

FERC–740	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden hours & cost per response (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
Purchasing-Selling Entities (e-Tag Authors)	369	4,404	1,625,326	0	0	$0
Balancing Authorities	101	16,092	1,625,326	0	0	0
New Balancing Authority [as noted above]	1	1	1	1 hr.; $60.59	1 hr.; $60.59	60.59
Total	470				1 hr.; $60.59	60.59

FERC–729, Electric Transmission Facilities

OMB Control No.: 1902–0238.

Abstract: This information collection implements the Commission's mandates under EPAct 2005 section 1221 which authorizes the Commission to issue permits under FPA section 216(b) for electric transmission facilities and the Commission's delegated responsibility to coordinate all other federal authorizations under FPA section 216(h). The related FERC regulations seek to develop a timely review process for siting of proposed electric transmission facilities. The regulations provide for (among other things) an extensive pre-application process that will facilitate maximum participation from all interested entities and individuals to provide them with a reasonable opportunity to present their views and recommendations, with respect to the need for and impact of the facilities, early in the planning stages of the proposed facilities as required under FPA section 216(d).

Additionally, FERC has the authority to issue a permit to construct electric transmission facilities if a state has withheld approval for more than a year or has conditioned its approval in such a manner that it will not significantly reduce transmission congestion or is not economically feasible.[8] FERC envisions that, under certain circumstances, the Commission's review of the proposed facilities may take place after one year of the state's review. Under section 50.6(e)(3) the Commission will not accept applications until one year after the state's review and then from applicants who can demonstrate that a state may withhold or condition approval of proposed facilities to such an extent that the facilities will not be constructed.[9] In cases where FERC's jurisdiction rests on FPA section 216(b)(1)(C),[10] the pre-filing process should not commence until one year after the relevant State applications have been filed. This will give states one full year to process an application without any intervening Federal proceedings, including both the pre-filing and application processes. Once that year is complete, an applicant may seek to commence FERC's pre-filing process. Thereafter, once the pre-filing process is complete, the applicant may submit its application for a construction permit.

Type of Respondent: Electric transmission facilities.

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–729—ELECTRIC TRANSMISSION FACILITIES

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response [11] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
Electric Transmission Facilities	1	1	1	9,600 $691,200	9,600 $691,200	$691,200

FERC–715, Annual Transmission Planning and Evaluation Report

OMB Control No.: 1902–0171

Abstract: Acting under FPA section 213,[12] FERC requires each transmitting utility that operates integrated transmission system facilities rated above 100 kilovolts (kV) to submit annually:

- Contact information for the FERC–715;
- Base case power flow data (if it does not participate in the development and use of regional power flow data);
- Transmission system maps and diagrams used by the respondent for transmission planning;

[8] FPA section 216(b)(1)(C).

[9] However, the Commission will not issue a permit authorizing construction of the proposed facilities until, among other things, it finds that the state has, in fact, withheld approval for more than a year or had so conditioned its approval.

[10] In all other instances (*i.e.* where the state does not have jurisdiction to act or otherwise to consider interstate benefits, or the applicant does not qualify to apply for a permit with the State because it does not serve end use customers in the State), the pre-filing process may be commenced at any time.

[11] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72.00 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary of $149,489/year.

[12] 16 U.S.C. 824l.

• A detailed description of the transmission planning reliability criteria used to evaluate system performance for time frames and planning horizons used in regional and corporate planning;

• A detailed description of the respondent's transmission planning assessment practices (including, but not limited to, how reliability criteria are applied and the steps taken in performing transmission planning studies); and

• A detailed evaluation of the respondent's anticipated system performance as measured against its stated reliability criteria using its stated assessment practices.

The FERC–715 enables the Commission to use the information as part of their regulatory oversight functions which includes:

• The review of rates and charges;

• The disposition of jurisdictional facilities;

• The consolidation and mergers;

• The adequacy of supply and;

• Reliability of nation's transmission grid

The FERC–715 enables the Commission to facilitate and resolve transmission disputes. Additionally, the Office of Electric Reliability (OER) uses the FERC–715 data to help protect and improve the reliability and security of the nation's bulk power system. OER oversees the development and review of mandatory reliability and security standards and ensures compliance with the approved standards by the users, owners, and operators of the bulk power system. OER also monitors and addresses issues concerning the nation's bulk power system including assessments of resource adequacy and reliability.

Without the FERC–715 data, the Commission would be unable to evaluate planned projects or requests related to transmission.

Type of Respondent: Integrated transmission system facilities rated at or above 100 kilovolts (kV).

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–715—ANNUAL TRANSMISSION PLANNING AND EVALUATION REPORT

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=3	Average burden & cost per response [13] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
Annual Transmission Planning and Evaluation Report	115	1	115	160 $11,520	18,400 $ 1,324,800	$11,520
Total			115		18,400 $ 1,324,800	$11,520

FERC–592: Standards of Conduct for Transmission Provider and Marketing Affiliates of Interstate Pipelines

OMB Control No.: 1902–0157

Type of Request: Three-year extension of the FERC–592 information collection requirements with no changes to the current reporting requirements.

Abstract: The Commission uses the information maintained and posted by the respondents to monitor the pipeline's transportation, sales, and storage activities for its marketing affiliate to deter undue discrimination by pipeline companies in favor of their marketing affiliates. Non-affiliated shippers and other entities (*e.g.* state commissions) also use information to determine whether they have been harmed by affiliate preference and to prepare evidence for proceedings following the filing of a complaint.

18 CFR Part 358 (Standards of Conduct)

Respondents maintain and provide the information required by part 358 on their internet Web sites. When the Commission requires a pipeline to post information on its Web site following a disclosure of non-public information to its marketing affiliate, non-affiliated shippers obtain comparable access to the non-public transportation information, which allows them to compete with marketing affiliates on a more equal basis.

18 CFR 250.16, and the FERC–592 log/format

This form (log/format) provides the electronic formats for maintaining information on discounted transportation transactions and capacity allocation to support monitoring of activities of interstate pipeline marketing affiliates. Commission staff considers discounts given to shippers in litigated rate cases.

Without this information collection:

• The Commission would be unable to effectively monitor whether pipelines are giving discriminatory preference to their marketing affiliates; and

• non-affiliated shippers and state commissions and others would be unable to determine if they have been harmed by affiliate preference or prepare evidence for proceedings following the filing of a complaint.

Type of Respondents: Natural gas pipelines.

Estimate of Annual Burden: [14] The Commission estimates the annual public reporting burden for the information collection as:

[13] The estimates for cost per response are derived using the following formula: Average Burden Hours per Response * $72 per Hour = Average Cost per Response. The hourly cost figure comes from the FERC average salary of $149,489. Subject matter experts found that industry employment costs closely resemble FERC's regarding the FERC–715 information collection.

[14] The Commission defines burden as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, reference 5 Code of Federal Regulations 1320.3.

FERC–592—STANDARDS FOR CONDUCT FOR TRANSMISSION PROVIDERS MARKETING AFFILIATES OF INTERSTATE PIPELINES

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response [15] (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
FERC 592 [16]	85	1	85	116.62 $8,396	9,913 $713,736	$8,396

FERC–60 (Annual Report of Centralized Service Companies), FERC–61 (Narrative Description of Service Company Functions), and FERC–555A (Preservation of Records Companies and Service Companies Subject to PUHCA)

OMB Control No.: 1902–0215.

Abstract: On August 8, 2005, the Energy Policy Act of 2005, was signed into law, repealing the Public Utility Holding Company Act of 1935 (PUHCA 1935) and enacting the Public Utility Holding Company Act of 2005 (PUHCA 2005). Section 1264 [17] and section 1275 [18] of PUHCA 2005 supplemented FERC's existing ratemaking authority under the Federal Power Act (FPA) to protect customers against improper cross-subsidization or encumbrances of public utility assets, and similarly, FERC's ratemaking authority under the Natural Gas Act (NGA). These provisions of PUHCA 2005 supplemented the FERC's broad authority under FPA section 301 and NGA section 8 to obtain the books and records of regulated companies and any person that controls or is under the influence of such companies if relevant to jurisdictional activities.

FERC Form 60

Form No. 60 is an annual reporting requirement under 18 CFR 366.23 for centralized service companies. The report's function is to collect financial information (including balance sheet, assets, liabilities, billing and charges for associated and non-associated companies) from centralized service companies subject to the jurisdiction of the FERC. Unless Commission rule exempts or grants a waiver pursuant to 18 CFR 366.3 and 366.4 to the holding company system, every centralized service company in a holding company system must prepare and file electronically with the FERC the Form No. 60, pursuant to the General Instructions in the form.

FERC–61

FERC–61 is a filing requirement for service companies in holding company systems (including special purpose companies) that are currently exempt or granted a waiver of FERC's regulations and would not have to file FERC Form 60. Instead, those service companies are required to file, on an annual basis, a narrative description of the service company's functions during the prior calendar year (FERC–61). In complying, a holding company may make a single filing on behalf of all of its service company subsidiaries.

FERC–555A

FERC prescribed a mandated preservation of records requirements for holding companies and service companies (unless otherwise exempted by FERC). This requires them to maintain and make available to FERC, their books and records. The preservation of records requirement provides for uniform records retention by holding companies and centralized service companies subject to PUHCA 2005.

Data from the FERC Form 60, FERC–61, and FERC–555A provide a level of transparency that: (1) Helps protect ratepayers from pass-through of improper service company costs, (2) enables FERC to review and determine cost allocations (among holding company members) for certain non-power goods and services, (3) aids FERC in meeting its oversight and market monitoring obligations, and (4) benefits the public, both as ratepayers and investors. In addition, the FERC's audit staff used these records during compliance reviews and special analyses.

If data from the FERC Form 60, FERC–61, and FERC–555A were not available, FERC would not be able to meet its statutory responsibilities, under EPAct 1992, EPAct of 2005, and PUHCA 2005, and FERC would not have all of the regulatory mechanisms necessary to ensure customer protection.

Type of Respondent: Electric transmission facilities

Estimate of Annual Burden: The Commission estimates the annual public reporting burden for the information collection as:

FERC–60 (ANNUAL REPORT OF CENTRALIZED SERVICE COMPANIES), FERC–61 (NARRATIVE DESCRIPTION OF SERVICE COMPANY FUNCTIONS), & FERC–555A (PRESERVATION OF RECORDS COMPANIES AND SERVICE COMPANIES SUBJECT TO PUHCA)

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
FERC–60 [19]	39	1	39	75 $4,280	2,925 $166,929	$4,280

[15] The estimates for cost per response are derived using the FERC average salary of $149,489/year (or $72.00/hour). Commission staff finds that the work done for this information collection is typically done by wage categories similar to those at FERC.

[16] The requirements for this collection are contained in 18 CFR part 358 and 18 CFR part 250.16.

[17] Federal Books and Records Access Provision.

[18] Non-Power Goods and Services Provision.

FERC–60 (ANNUAL REPORT OF CENTRALIZED SERVICE COMPANIES), FERC–61 (NARRATIVE DESCRIPTION OF SERVICE COMPANY FUNCTIONS), & FERC–555A (PRESERVATION OF RECORDS COMPANIES AND SERVICE COMPANIES SUBJECT TO PUHCA)—Continued

	Number of respondents (1)	Annual number of responses per respondent (2)	Total number of responses (1)*(2)=(3)	Average burden & cost per response (4)	Total annual burden hours & total annual cost (3)*(4)=(5)	Cost per respondent ($) (5)÷(1)
FERC–61 [20]	100	1	100	0.5 $18.75	50 $1,875	18.75
FERC–555A [21]	100	1	100	1,080 $33,480	108,000 $3,348,000	33,480
Total				1155.50 $37,779	110,975 $3,516,804	37,779

The total estimated annual cost burden to respondents is $3,516,262 [$166,725 (FERC Form 60) + $1,537.00 (FERC–61) + $3,348,000 (FERC–555A) = $3,516,600].

FERC Form 60: 2,925 hours * $57.07/hour = $166,929.00.

FERC–61: 50 hours * $37.50/hour = $1,875.

FERC–555A: [22]

- Labor costs for paper storage: 108,000 hours * $31.00/hours = $3,348,000
- Record Retention/storage cost for paper storage (using an estimate of 6,000 ft^3): $38,763.75
- Electronic record retention/storage cost: $2,335,500 [108,000 hours ÷ 2 = 54,000 * $28.00/hour [23] = $1,512,000; electronic record storage cost: 54,000 hours * $15.25/year [24] = $823,500; total electronic record storage: $2,335,500].

Dated: October 28, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28086 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

[19] For the FERC–60 the $57.00 (rounded from $57.07) hourly cost figure comes from the average cost of an management analyst (Occupation Code 13–1111) and an accountant (Occupation Code 13–2011) as posted on the Bureau of Labor Statistics (BLS) Web site (*http://www/bls.gov/oes/current/naics2_22.htm*).

[20] For the FERC–61 the $37.50 hourly cost figure comes from the cost of a records clerk (Occupation Code 43–4199) as posted on the BLS Web site (*http://www/bls.gov/oes/current/naics2_22.htm*).

[21] For the FERC–555 the $31.00 hourly cost figure (rounded from $30.71) comes from the cost of a file clerk (Occupation Code 43–4071) as posted on the BLS Web site (*http://www/bls.gov/oes/current/naics2_22.htm*).

[22] Internal analysis assumes 50% electronic and 50% paper storage.

[23] The Commission bases the $28/hour figure on a FERC staff study that included estimating public utility recordkeeping costs.

[24] Per entity; the Commission bases this figure on the estimated cost to service and to store 1 GB of data (based on the aggregated cost of an IBM advanced data protection server).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM15–14–000]

Revised Critical Infrastructure Protection; Reliability Standards; Notice of Techinical Conference

Take notice that the Federal Energy Regulatory Commission (Commission) will hold a Commission staff-led technical conference on Critical Infrastructure Protection Supply Chain Risk Management issues identified in the Notice of Proposed Rulemaking (NOPR) in the above-captioned docket on January 28, 2016. The conference will begin at 9:00 a.m. and end at approximately 5:00 p.m. (Eastern Time). The conference will be held at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The technical conference shall facilitate a structured dialogue on supply chain risk management issues identified by the Commission in the Revised Critical Infrastructure Protection (CIP) Standards NOPR. Technical Conference panelists may be asked to address: (1) The NOPR proposal to direct that NERC develop a Reliability Standard to address supply chain risk management; (2) the anticipated features of, and requirements that should be included in, such a standard; and (3) a reasonable timeframe for development of a standard. The technical conference will be led by Commission staff, with prepared remarks to be presented by invited panelists, which must be submitted to the Commission in advance of the conference. A subsequent notice providing an agenda and details on the topics for discussion will be issued in advance of the conference. Commissioners may attend and participate.

There is no fee for attendance. However, members of the public are encouraged to preregister online at: *https://www.ferc.gov/whats-new/registration/01-28-16-form.asp.*

Those wishing to participate in panel discussions should submit nominations no later than close of business on November 20, 2015 online at: *https://www.ferc.gov/whats-new/registration/01-28-16-speaker-form.asp.*

There will be no webcast of this event. However, it will be transcribed. Transcripts of the conference will be immediately available for a fee from Ace-Federal Reporters, Inc. (202–347–3700).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free (866) 208–3372 (voice) or (202) 502–8659 (TTY), or send a fax to (202) 208–2106 with the requested accommodations.

For more information about the technical conference, please contact: Sarah McKinley, Office of External Affairs, 202–502–8368, *sarah.mckinley@ferc.gov.*

Dated: October 28, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28091 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–34–000]

Harborside 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 Harborside Energy, 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 November 17, 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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28094 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application for Transfer of Licenses and Soliciting Comments, Motions To Intervene, and Protests

	Project No.
Duke Energy Progress, Inc ..	432–138
Duke Energy Progress, LLC	2206–052

On September 25, 2015, Duke Energy Progress, Inc. (transferor) and Duke Energy Progress, LLC (transferee) filed an application for transfer of licenses of the Walters Hydroelectric Project, FERC No. 432 located on the Pigeon River in Haywood County, North Carolina and the Yadkin Pee-Dee Hydroelectric Project, FERC No. 2206, located on the Yadkin and Pee Dee Rivers in Anson, Montgomery, Richmond, and Stanly Counties, North Carolina.

Duke Energy Progress, Inc. is an indirect subsidiary of Duke Energy Corporation. To modernize and simplify Duke Energy Corporation's structure, Duke Energy Progress, Inc. intends to convert to an LLC, (Duke Energy Progress, LLC). Duke Energy Progress, Inc. seeks Commission approval to transfer the licenses for the Walters Hydroelectric Project and the Yadkin Pee-Dee Hydroelectric Project to Duke Energy Progress, LLC in association with the conversion, effective on the date Duke Energy Progress, LLC submits certified copies of its articles of conversion, plans of conversion, and limited liability company operating agreements to the Commission.

Applicant Contact: For *Applicants:* Mr. Garry S. Rice, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, Mail Code DEC45A, Charlotte, NC 28202, Phone: 704–382–8111, Email: *Garry.Rice@duke-energy.com* and John A. Whittaker, IV, Winston & Strawn LLP, 1700 K Street NW., Washington, DC 20006–3817, Phone: 202–282–5766, Email: *jwhittaker@wiston.com.*

FERC Contact: Patricia W. Gillis, (202) 502–8735.

Deadline for filing comments, motions to intervene, and protests: 30 days from the date that the Commission issues this notice. The Commission strongly encourages electronic filing. Please file motions to intervene, comments, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number(s) P–432–138 or P–2206–052.

Dated: October 29, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28088 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 13272–004–AK]

Alaska Village Electric Cooperative, Inc.; Notice of Availability of Final Environmental Assessment

In accordance with the National Environmental Policy Act of 1969, Title XI of the Alaska National Interest Lands Conservation Act, and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47,897), the Office of Energy Projects has reviewed the application for an original license to construct the Old Harbor Hydroelectric Project, and has prepared a final environmental assessment (EA) with the cooperation of the U.S. Fish and Wildlife Service (FWS).

The proposed 525 kilowatt (kW) project would be constructed on the East Fork of Mountain Creek and transfer water into a powerhouse on the Lagoon Creek Tributary, near the town of Old Harbor, Kodiak Island Borough, Alaska. The project intake and a portion of the penstock would be located on approximately 7.74 acres of federal land that is part of the Kodiak National Wildlife Refuge and approximately 3.24 acres of Old Harbor Native Corporation land that is subject to a conservation

easement administered by the FWS and the State of Alaska.

The final EA contains Commission staff's analysis and response to comments filed on the draft EA issued on May 7, 2015. The FWS staff reviewed the analysis of the potential environmental impacts of the proposed hydroelectric project. The final EA concludes that licensing the project, with appropriate environmental protective measures, would not constitute a major federal action that would significantly affect the quality of the human environment.

A copy of the final EA is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll-free at 1–866–208–3676, or for TTY, 202–502–8659.

You may also register online at *www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Please contact Adam Beeco (Commission Staff) by telephone at (202) 502–8655, or by email at *adam.beeco@ferc.gov,* if you have any questions concerning the hydroelectric licensing process or contact Diana Biesanz (FWS Staff) by telephone at (907) 786–3426 or by email at *diana_biesanz@fws.gov,* if you have questions concerning the right-of-way permit.

Dated: October 28, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28089 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER16–141–000]

Conetoe II Solar, 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 Conetoe II Solar, 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 November 17, 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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: October 28, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28085 Filed 11–3–15; 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 meetings related to the transmission planning activities of the PJM Interconnection, L.L.C. (PJM):

PJM Planning Committee

November 5, 2015, 9:30 a.m.–12:00 p.m. (EST)

PJM Transmission Expansion Advisory Committee

November 5, 2015, 11:00 a.m.–3:00 p.m. (EST)

The above-referenced meetings will be held at: PJM Conference and Training Center, PJM Interconnection, 2750 Monroe Boulevard, Audubon, PA 19403.

The above-referenced meetings are open to stakeholders.

Further information may be found at *www.pjm.com.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

Docket Nos. ER15–33, *et. al., The Dayton Power and Light Company*
Docket No. ER14–972, *PJM Interconnection, L.L.C.*
Docket No. ER14–1485, *PJM Interconnection, L.L.C.*
Docket Nos. ER13–1957, *et al., ISO New England, Inc., et. al.*
Docket Nos. ER13–1944, *et al., PJM Interconnection, L.L.C.*
Docket No. ER15–1344, *PJM Interconnection, L.L.C.*
Docket No. ER15–1387, *PJM Interconnection, L.L.C. and Potomac Electric Power Company*
Docket No. ER15–2648, *PJM Interconnection, L.L.C.*
Docket No. ER15–2562, *PJM Interconnection, L.L.C.*
Docket No. ER15–2563, *PJM Interconnection, L.L.C.*
Docket No. EL15–18, *Consolidated Edison Company of New York, Inc.* v. *PJM Interconnection, L.L.C.*
Docket No. EL15–41, *Essential Power Rock Springs, LLC, et. al.* v. *PJM Interconnection, L.L.C.*
Docket No. ER13–1927, *et al., PJM Interconnection, L.L.C., et al.*
Docket No. ER15–2114, *PJM Interconnection, L.L.C. and Transource West Virginia, LLC*
Docket No. EL15–79, *TransSource, LLC* v. *PJM Interconnection, L.L.C.*

Docket No. EL15–95, *Delaware Public Service Commission, et. al.,* v. *PJM Interconnection, L.L.C., et. al.*
Docket No. EL15–67, *Linden VFT, LLC* v. *PJM Interconnection, L.L.C.*
Docket No. EL05–121, *PJM Interconnection, L.L.C.*

For more information, contact the following:

Jonathan Fernandez, Office of Energy Market Regulation, Federal Energy Regulatory Commission, (202) 502–6604, *Jonathan.Fernandez@ferc.gov*.
Alina Halay, Office of Energy Market Regulation, Federal Energy Regulatory Commission, (202) 502–6474, *Alina.Halay@ferc.gov*.

Dated: October 28, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–28087 Filed 11–3–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0022; FRL–9935–97]

Pesticide Product Registration; Receipt of Applications for New Uses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on these applications.

DATES: Comments must be received on or before December 4, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0022 and the File Symbol or EPA Registration Number of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received applications to register new uses for pesticide products containing currently registered active ingredients. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on these applications. Notice of receipt of these applications does not imply a decision by the Agency on these applications.

1. *EPA Registration Numbers:* 100–811; 100–828; 100–953; and 100–1317. *Docket ID number:* EPA–HQ–OPP–2015–0646. *Applicant:* Syngenta Crop Protection, LLC, P.O. Box 18300, Greensboro, NC 27419–8300. *Active ingredient:* Cyprodinil. *Product type:* Fungicide. *Proposed Uses:* Tuberous and Corm Vegetable Subgroup 1C. *Contact:* RD.

2. *File Symbol/EPA Registration Number:* 59639–ERR; 59639–185. *Docket ID number:* EPA–HQ–OPP–2015–0676. *Applicant:* Valent USA Corporation, 1600 Riviera Avenue, Suite 200, Walnut Creek, CA 94596. *Active ingredient:* Ethaboxam. *Product type:* Fungicide. *Proposed use:* First food and foliar uses on Cucurbit Vegetables (Crop Group 9); Ginseng; Pepper/Eggplant Crop (Subgroup 8–10B); Tuberous and Corm Vegetable Crop Subgroup 1C. *Contact:* RD.

3. *EPA Registration Numbers:* 62719–541; 62719–545. *Docket ID number:* EPA–HQ–OPP–2013–0730. *Applicant:* Dow AgroSciences, LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Active ingredient:* Spinetoram. *Product type:* Insecticide. *Proposed use:* Quinoa. *Contact:* RD.

4. *EPA Registration Number:* 62719–621. *Docket ID number:* EPA–HQ–OPP–2013–0727. *Applicant:* Dow AgroSciences, LLC, 9330 Zionsville Road, Indianapolis, IN 46268. *Active ingredient:* Spinosad. *Product type:* Insecticide. *Proposed use:* Quinoa. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 23, 2015.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2015–28104 Filed 11–3–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2015–0021; FRL–9935–96]

Pesticide Product Registration; Receipt of Applications for New Active Ingredients

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received an application to register a pesticide product containing active ingredients not included in any currently registered pesticide products. Pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA is hereby providing notice of receipt and opportunity to comment on this application.

DATES: Comments must be received on or before December 4, 2015.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2015–0021 and the File Symbol of interest as shown in the body of this document, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.* Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at *http://www.epa.gov/dockets.*

FOR FURTHER INFORMATION CONTACT: Susan Lewis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; main telephone number: (703) 305–7090; email address: *RDFRNotices@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. Registration Applications

EPA has received an application to register a pesticide product containing active ingredients not included in any currently registered pesticide products. Pursuant to the provisions of FIFRA section 3(c)(4) (7 U.S.C. 136a(c)(4)), EPA is hereby providing notice of receipt and opportunity to comment on this application. Notice of receipt of this application does not imply a decision by the Agency on these applications.

File Symbol: 91601–R. *Docket ID number:* EPA–HQ–OPP–2015–0687. *Applicant:* SenesTech, Inc., 3140 North Caden Court, Suite #1, Flagstaff, AZ 86004. *Product name:* ContraPest. *Active ingredients:* Rodent contraceptive and 4-Vinylcyclohexene diepoxide (VCD) at 0.10900% and rodent contraceptive Triptolide at 0.00116%. *Proposed classification/Use:* Indoor rodent indoor non-residential. *Contact:* RD.

Authority: 7 U.S.C. 136 *et seq.*

Dated: October 23, 2015.

Daniel J. Rosenblatt,

Acting Director, Registration Division, Office of Pesticide Programs

[FR Doc. 2015–28103 Filed 11–3–15; 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).

DATE AND TIME: The regular meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 12, 2015, from 9:00 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*

- October 8, 2015

B. *New Business*

- Summary: Final Rule—Margin and Capital Requirements for Covered Swap Entities; Interim Final Rule—Implementing Title III of the Terrorism Risk Insurance Program Reauthorization Act of 2015

Closed Session *

- Office of Secondary Market

Oversight Quarterly Report

Dated: November 2, 2015.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

*** Session Closed-Exempt pursuant to 5 U.S.C. Section 552b(c)(8)and (9).**

[FR Doc. 2015–28241 Filed 11–2–15; 4:15 pm]

BILLING CODE 6705–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 30, 2015.

A. Federal Reserve Bank of Richmond (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528:

1. *Southern BancShares (N.C.), Inc., Mount Olive, North Carolina;* to acquire voting shares of Heritage Bankshares Inc., and thereby indirectly acquire Heritage Bank, both in Norfolk, Virginia.

Board of Governors of the Federal Reserve System, October 30, 2015.

Margaret McCloskey Shanks,

Deputy Secretary of the Board.

[FR Doc. 2015–28082 Filed 11–3–15; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC–2015–0008; NIOSH–282]

International Labour Office (ILO) Reference Radiographs; Reopening of Comment Period

AGENCY: National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice and reopening of comment period.

SUMMARY: On April 6, 2015, the Director of the National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), published a notice in the **Federal Register** [80 FR 18427] announcing a collaboration with the Labour Inspection, Labour Administration and Occupational Safety and Health Branch of the International Labour Office (ILO) in developing a set of digital reference radiographs for the ILO International Classification of Radiographs of Pneumoconiosis (ILO Classification). Today we are announcing the re-opening of the public comment period for an additional 60 days.

DATES: Comments will be accepted through 11:59 p.m. January 4, 2016.

ADDRESSES: You may submit comments, identified by CDC–2015–0008 and docket number NIOSH–282, by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov* Follow the instructions for submitting comments.
- *Mail:* National Institute for Occupational Safety and Health, NIOSH Docket Office, 1090 Tusculum Avenue MS C–34, Cincinnati, Ohio 45226–1998.

FOR FURTHER INFORMATION CONTACT: Michael Attfield, NIOSH/Respiratory Health Division (RHD), 1095 Willowdale Road, Morgantown, WV 26505–2888, telephone (304) 285–5737 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The current ILO Classification depends on 22 standard reference radiographs that are used to formally identify and characterize pneumoconiosis and related pulmonary abnormalities arising from occupational exposure. The original standards were based on film radiography, but the advent of digital radiography has led to the need for reference standards based on digitally-acquired images. NIOSH is assisting the ILO in the process of identifying such digital images.

For this purpose, NIOSH requested trained users of the ILO Classification to submit comments regarding any of the current ILO standard reference images that are felt to be deficient and for which improvements could be made. Note that NIOSH is not soliciting comments on the structure and format of the current ILO Classification; these are to remain unchanged at the present time. For this reason, comments received on the ILO Classification as a whole will be considered irrelevant to the purpose of this docket. This request for comments has been reopened at the request of the ILO.

Dated: October 29, 2015.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2015–28047 Filed 11–3–15; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Federal Review of the Connecticut Office of Protection and Advocacy for Persons With Disabilities

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: Representatives of the Administration on Intellectual and Developmental Disabilities (AIDD), Administration for Community Living (ACL), will be conducting a federal review on December 1–4, 2015 of the Connecticut Office of Protection and Advocacy for Persons with Disabilities (OPA).

AIDD is soliciting comments from interested parties on your experiences with the work, program, and strategies employed by OPA in meeting the needs of individuals with developmental disabilities and their families in Connecticut.

You are encouraged to share your experiences by way of any of the following methods:

Email: Clare.Barnett@acl.hhs.gov.

Telephone: 202–357–3426.

Mail Comments To: Clare Barnett, Program Specialist, Administration on Intellectual and Developmental Disabilities, Administration for Community Living, One Massachusetts Avenue NW., Room 4204, Washington, DC 20201.

Comments should be received by December 4, 2015 in order to be included in the final report.

FOR FURTHER INFORMATION CONTACT: Clare Barnett, Administration for Community Living, Administration on Intellectual and Developmental Disabilities, Office of Program Support, One Massachusetts Avenue NW., Room 4204, Washington, DC 20201, 202–357–3426.

Dated: October 29, 2015.

Kathy Greenlee,

Administrator & Assistant Secretary for Aging.

[FR Doc. 2015–28058 Filed 11–3–15; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0232]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Interstate Shellfish Dealers Certificate

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by December 4, 2015.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov*. All comments should be identified with the OMB control number 0910–0021 and title ''Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Interstate Shellfish Dealers Certificate.'' Also include the FDA 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: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Interstate Shellfish Dealer's Certificate

OMB Control Number 0910–0021—Extension

Under 42 U.S.C. 243, we are required to cooperate with and aid State and local authorities in the enforcement of their health regulations and are authorized to assist States in the prevention and suppression of communicable diseases. Under this authority, we participate with State regulatory agencies, some foreign nations, and the molluscan shellfish industry in the National Shellfish Sanitation Program (NSSP).

NSSP is a voluntary, cooperative program to promote the safety of molluscan shellfish by providing for the classification and patrol of shellfish growing waters and for the inspection and certification of shellfish processors. Each participating State and foreign nation monitors its molluscan shellfish processors and issues certificates for those that meet the State or foreign shellfish control authority's criteria. Each participating State and nation provides a certificate of its certified shellfish processors to FDA on Form FDA 3038, ''Interstate Shellfish Dealer's Certificate.'' We use this information to publish the ''Interstate Certified Shellfish Shippers List,'' a monthly comprehensive listing of all molluscan shellfish processors certified under the cooperative program. If we did not collect the information necessary to compile this list, participating States would not be able to identify and keep out shellfish processed by uncertified processors in other States and foreign nations. Consequently, NSSP would not be able to control the distribution of uncertified and possibly unsafe shellfish in interstate commerce, and its effectiveness would be nullified.

In the **Federal Register** of August 20, 2015 (80 FR 50640), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Avg. burden per response	Total hours
Submission of Interstate Shellfish Dealer's Certificate	3038	40	57	2,280	0.10	228

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

We estimate that 40 respondents will submit 2,280 Interstate Shellfish Dealer's Certificates annually, for a total burden of 228 hours (2,280 submissions × 0.10 hours = 228 hours). This estimate is based on our experience with this information collection and the number of certificates received in the past 3 years, which has remained constant.

Dated: October 30, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–28109 Filed 11–3–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program; List of Petitions Received

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Health Resources and Services Administration (HRSA) is publishing this notice of petitions received under the National Vaccine Injury Compensation Program (the Program), as required by Section 2112(b)(2) of the Public Health Service (PHS) Act, as amended. While the Secretary of Health and Human Services is named as the respondent in all proceedings brought by the filing of petitions for compensation under the Program, the United States Court of Federal Claims is charged by statute with responsibility for considering and acting upon the petitions.

FOR FURTHER INFORMATION CONTACT: For information about requirements for filing petitions, and the Program in general, contact the Clerk, United States Court of Federal Claims, 717 Madison Place NW., Washington, DC 20005, (202) 357–6400. For information on HRSA's role in the Program, contact the Director, National Vaccine Injury Compensation Program, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857; (301) 443–6593, or visit our Web site at: *http://www.hrsa.gov/vaccinecompensation/index.html.*

SUPPLEMENTARY INFORMATION: The Program provides a system of no-fault compensation for certain individuals who have been injured by specified childhood vaccines. Subtitle 2 of Title XXI of the PHS Act, 42 U.S.C. 300aa–10 *et seq.,* provides that those seeking compensation are to file a petition with the U.S. Court of Federal Claims and to serve a copy of the petition on the Secretary of Health and Human Services, who is named as the respondent in each proceeding. The Secretary has delegated this responsibility under the Program to HRSA. The Court is directed by statute to appoint special masters who take evidence, conduct hearings as appropriate, and make initial decisions as to eligibility for, and amount of, compensation.

A petition may be filed with respect to injuries, disabilities, illnesses, conditions, and deaths resulting from vaccines described in the Vaccine Injury Table (the Table) set forth at 42 CFR 100.3. This Table lists for each covered childhood vaccine the conditions that may lead to compensation and, for each condition, the time period for occurrence of the first symptom or manifestation of onset or of significant aggravation after vaccine administration. Compensation may also be awarded for conditions not listed in the Table and for conditions that are manifested outside the time periods specified in the Table, but only if the petitioner shows that the condition was caused by one of the listed vaccines.

Section 2112(b)(2) of the PHS Act, 42 U.S.C. 300aa–12(b)(2), requires that ''[w]ithin 30 days after the Secretary receives service of any petition filed under section 2111 the Secretary shall publish notice of such petition in the **Federal Register**.'' Set forth below is a list of petitions received by HRSA on September 1, 2015, through September 30, 2015. This list provides the name of petitioner, city and state of vaccination (if unknown then city and state of person or attorney filing claim), and case number. In cases where the Court has redacted the name of a petitioner and/or the case number, the list reflects such redaction.

Section 2112(b)(2) also provides that the special master ''shall afford all interested persons an opportunity to submit relevant, written information'' relating to the following:

1. The existence of evidence ''that there is not a preponderance of the evidence that the illness, disability, injury, condition, or death described in the petition is due to factors unrelated to the administration of the vaccine described in the petition,'' and

2. Any allegation in a petition that the petitioner either:

a. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition not set forth in the Vaccine Injury Table but which was caused by'' one of the vaccines referred to in the Table, or

b. ''[S]ustained, or had significantly aggravated, any illness, disability, injury, or condition set forth in the Vaccine Injury Table the first symptom or manifestation of the onset or significant aggravation of which did not occur within the time period set forth in the Table but which was caused by a vaccine'' referred to in the Table.

In accordance with Section 2112(b)(2), all interested persons may submit written information relevant to the issues described above in the case of the petitions listed below. Any person choosing to do so should file an original and three (3) copies of the information with the Clerk of the U.S. Court of Federal Claims at the address listed above (under the heading **FOR FURTHER INFORMATION CONTACT**), with a copy to HRSA addressed to Director, Division of Injury Compensation Programs, Healthcare Systems Bureau, 5600 Fishers Lane, Room 11C–26, Rockville, MD 20857. The Court's caption (*Petitioner's Name* v. *Secretary of Health and Human Services*) and the docket number assigned to the petition should be used as the caption for the written submission. Chapter 35 of title 44, United States Code, related to paperwork reduction, does not apply to information required for purposes of carrying out the Program.

Dated: October 28, 2015.

James Macrae,

Acting Administrator.

List of Petitions Filed

1. Joette Maltby, Delta Junction, Alaska, Court of Federal Claims No: 15–0952V
2. Denise Zuni on behalf of D.C., Isleta, New Mexico, Court of Federal Claims No: 15–0954V
3. Cathryn Mong, Vienna, Virginia, Court of Federal Claims No: 15–0955V
4. Gene Michaelson, Minneapolis, Minnesota, Court of Federal Claims No: 15–0956V
5. Jeffrey C. Ginn, Cedar Rapids, Iowa, Court of Federal Claims No: 15–0957V
6. Nancy Thomas, Worcester, Massachusetts, Court of Federal Claims No: 15–0958V
7. Robert Petterson, East Orange, New Jersey, Court of Federal Claims No: 15–0960V
8. Laura Goldstein, Maple Grove, Minnesota, Court of Federal Claims No: 15–0963V
9. Kathy Aikin, Palmdale, California, Court of Federal Claims No: 15–0964V
10. Amy H. Moritz, New York, New York, Court of Federal Claims No: 15–0965V
11. Jaza Dashty on behalf of Sara Dashty, Murrieta, California, Court of Federal Claims No: 15–0966V
12. Mark Robinson, Norfolk, Virginia, Court of Federal Claims No: 15–0967V
13. Peggy G. Otellio, Mount Olive, North Carolina, Court of Federal Claims No: 15–0968V
14. Frank Stendal, Beaverton, Oregon, Court of Federal Claims No: 15–0969V
15. Duka Baumgartner, Baraboo, Wisconsin, Court of Federal Claims No: 15–0970V
16. Kevin White, Glen Falls, New York, Court of Federal Claims No: 15–0971V
17. Paul Mondello, Lewiston, Maine, Court of Federal Claims No: 15–0972V
18. Jacqueline Duff, Phoenix, Arizona, Court of Federal Claims No: 15–0974V
19. David Egan, San Antonio, Texas, Court of Federal Claims No: 15–0976V
20. Elisabeth Mendes, Boston, Massachusetts, Court of Federal Claims No: 15–0978V

21. Felicia Wilson, Beverly Hills, California, Court of Federal Claims No: 15–0979V
22. James Rodney Peoples, Thomaston, Georgia, Court of Federal Claims No: 15–0980V
23. Steven L. Deal, Greensboro, North Carolina, Court of Federal Claims No: 15–0981V
24. John A. Zuidema, Jr., Grand Haven, Michigan, Court of Federal Claims No: 15–0983V
25. Lisa Kreisle, Tell City, Indiana, Court of Federal Claims No: 15–0984V
26. Brittani Smith, West Plains, Missouri, Court of Federal Claims No: 15–0990V
27. Susan Bachant, Phoenix, Arizona, Court of Federal Claims No: 15–0991V
28. Sara Miller, Glenwood, Iowa, Court of Federal Claims No: 15–0992V
29. Lou Ann Hare, Mason City, Iowa, Court of Federal Claims No: 15–0993V
30. Rachel Velasquez, San Manuel, Arizona, Court of Federal Claims No: 15–0994V
31. Eugene Williams, Florence, Alabama, Court of Federal Claims No: 15–0997V
32. Lauren Barrett, White Plains, New York, Court of Federal Claims No: 15–0998V
33. Dinnia Stehle, Fort Worth, Texas, Court of Federal Claims No: 15–1001V
34. Donizetti Goncalves, Sleepy Hollow, New York, Court of Federal Claims No: 15–1002V
35. Marina Arshakyan, Queens, New York, Court of Federal Claims No: 15–1004V
36. Carol Pember, Newport News, Virginia, Court of Federal Claims No: 15–1005V
37. Linda Mangano, Brookfield, Illinois, Court of Federal Claims No: 15–1006V
38. Patricia J. Chaffin, Richmond, Virginia, Court of Federal Claims No: 15–1007V
39. Elizabeth B. Hough, Walnut Creek, California, Court of Federal Claims No: 15–1008V
40. Pedro DeJesus, Chicago, Illinois, Court of Federal Claims No: 15–1009V
41. Amrit Dhanoa, Richardson, Texas, Court of Federal Claims No: 15–1011V
42. Judith Hoechst, Littleton, Colorado, Court of Federal Claims No: 15–1012V
43. Lynsie Kamppi, Pickerington, Ohio, Court of Federal Claims No: 15–1013V
44. Charles Tice, Phoenix, Arizona, Court of Federal Claims No: 15–1014V
45. Maryellen Kottenstette and Nicholas Kottenstette on behalf of C. K., New York, New York, Court of Federal Claims No: 15–1016V
46. Christina Peri, Mineola, New York, Court of Federal Claims No: 15–1018V
47. Ruth Whatley, Fort Wayne, Indiana, Court of Federal Claims No: 15–1019V
48. Christina L. Murray, Portland, Oregon, Court of Federal Claims No: 15–1021V
49. Guadalupe Perez on behalf of B. P., Los Angeles, California, Court of Federal Claims No: 15–1023V
50. Cornelious Prysock, Columbus, Ohio, Court of Federal Claims No: 15–1024V
51. Michael Boyle, Boston, Massachusetts, Court of Federal Claims No: 15–1027V
52. Diane Peschio, Derby, New York, Court of Federal Claims No: 15–1028V
53. Joice Finn, Casa Grande, Arizona, Court of Federal Claims No: 15–1029V
54. Tanya Lynn Carter on behalf of Z. J. C., Deceased, Baraboo, Wisconsin, Court of Federal Claims No: 15–1030V
55. Sarah Shultz, Farmington, Connecticut, Court of Federal Claims No: 15–1031V
56. Susan Grigola, Chicago, Illinois, Court of Federal Claims No: 15–1032V
57. Angeline Oldfield, Herkimer, New York, Court of Federal Claims No: 15–1035V
58. Merdena Montgomery, Hazard, Kentucky, Court of Federal Claims No: 15–1037V
59. Valerie Meyers, Danvers, Massachusetts, Court of Federal Claims No: 15–1039V
60. Terrance Jacob Hale, Portland, Oregon, Court of Federal Claims No: 15–1040V
61. Sally Lessner, Phoenix, Arizona, Court of Federal Claims No: 15–1042V
62. Zachary Powers and Crystal Downing-Powers on behalf of M. D. P., Deceased, Needles, California, Court of Federal Claims No: 15–1043V
63. Richard Kaufman, New York, New York, Court of Federal Claims No: 15–1045V
64. Daina Cocciardi, Fishkill, New York, Court of Federal Claims No: 15–1046V
65. Deidre Henkel and Alex Henkel on behalf of V. H., Cedar City, Utah, Court of Federal Claims No: 15–1048V
66. Darren Osborne, Jacksonville, Florida, Court of Federal Claims No: 15–1051V
67. Sheila Seger, Midlothian, Virginia, Court of Federal Claims No: 15–1053V
68. Gerald A. Klein, Eden Valley, Minnesota, Court of Federal Claims No: 15–1054V
69. Lori Lee-Strobl, Colchester, Connecticut, Court of Federal Claims No: 15–1055V
70. Lee Roy Dixon, Springfield, Illinois, Court of Federal Claims No: 15–1056V
71. Dwight Zahringer on behalf of B. Z., Clinton Township, Michigan, Court of Federal Claims No: 15–1057V
72. Tenaya Banko, Eureka, California, Court of Federal Claims No: 15–1061V
73. Christine Harrison, Santa Fe, New Mexico, Court of Federal Claims No: 15–1064V
74. Kathy Castaneda on behalf of N. A. C., Plymouth, North Carolina, Court of Federal Claims No: 15–1066V
75. Gary French on behalf of Milton French, Riverside, Rhode Island, Court of Federal Claims No: 15–1067V
76. Judith Hasenstein, Summit, Wisconsin, Court of Federal Claims No: 15–1068V
77. Crystal Turner on behalf of C. R., Phoenix, Arizona, Court of Federal Claims No: 15–1073V
78. Melanie Mobley, Dallas, Texas, Court of Federal Claims No: 15–1074V
79. James H. Daly, Racine, Wisconsin, Court of Federal Claims No: 15–1076V
80. David J. Larson, Eden Prairie, Minnesota, Court of Federal Claims No: 15–1077V
81. Karen C. Lewis, Gainesville, Florida, Court of Federal Claims No: 15–1078V
82. Diane K. Jenkins, Greensboro, North Carolina, Court of Federal Claims No: 15–1079V
83. Alisha N. Pankiw, Indianapolis, Indiana, Court of Federal Claims No: 15–1082V
84. Rebecca Swanick on behalf of J. S., Beverly, Massachusetts, Court of Federal Claims No: 15–1083V
85. Steven Zebofsky, Lake Worth, Florida, Court of Federal Claims No: 15–1084V
86. Carol Ennis, Raymond, New Hampshire, Court of Federal Claims No: 15–1085V
87. Elizabeth Muehlbacher, Dallas, Texas, Court of Federal Claims No: 15–1086V

88. Michelle Schmidt, Des Plaines, Illinois, Court of Federal Claims No: 15–1089V
89. Loren Neddeau, Pawcatuck, Connecticut, Court of Federal Claims No: 15–1092V
90. Anthony Nelson, Philadelphia, Pennsylvania, Court of Federal Claims No: 15–1093V
91. Bethany Zellmer-Cesnik, Philadelphia, Pennsylvania, Court of Federal Claims No: 15–1094V
92. Donna Scamby Powers, Chalfont, Pennsylvania, Court of Federal Claims No: 15–1096V
93. Curtis F. Blankenship, Greensboro, North Carolina, Court of Federal Claims No: 15–1097V
94. Carletta Bober, Dallas, Texas, Court of Federal Claims No: 15–1098V
95. Dalton Truax, III, New Orleans, Louisiana, Court of Federal Claims No: 15–1099V

[FR Doc. 2015–28101 Filed 11–3–15; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0005]

Agency Information Collection Activities: Application-Permit-Special License Unlading-Lading-Overtime Services

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

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Application-Permit-Special License Unlading-Lading-Overtime Services (CBP Form 3171). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before January 4, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Application-Permit-Special License Unlading-Lading-Overtime Services.

OMB Number: 1651–0005.

Form Number: CBP Form 3171.

Abstract: The Application-Permit-Special License Unlading-Lading-Overtime Services (CBP Form 3171) is used by commercial carriers and importers as a request for permission to unlade imported merchandise, baggage, or passengers. It is also used to request overtime services from CBP officers in connection with lading or unlading of merchandise, or the entry or clearance of a vessel, including the boarding of a vessel for preliminary supplies, ship's stores, sea stores, or equipment not to be reladen. CBP Form 3171 is provided for 19 CFR 4.10, 4.30, 4.37, 4.39, 4.91, 10.60, 24.16, 122.29, 122.38, 123.8, 146.32 and 146.34. This form is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=3171.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours or to CBP Form 3171.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Respondents: 1,500.

Estimated Number of Annual Responses per Respondent: 266.

Estimated Number of Total Annual Responses: 399,000.

Estimated Time per Response: 8 minutes.

Estimated Total Annual Burden Hours: 51,870.

Dated: October 29, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–28061 Filed 11–3–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0080]

Agency Information Collection Activities: Deferral of Duty on Large Yachts Imported for Sale

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

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Deferral of Duty on Large Yachts Imported for Sale. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before January 4, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Deferral of Duty on Large Yachts Imported for Sale.

OMB Number: 1651–0080.

Abstract: This collection of information is required to ensure compliance with 19 U.S.C. 1484b which provides that an otherwise dutiable yacht that exceeds 79 feet in length, is used primarily for recreation or pleasure, and had been previously sold by a manufacturer or dealer to a retail customer, may be imported without the payment of duty if the yacht is imported with the intention to offer for sale at a boat show in the United States. The statute provides for the deferral of payment of duty until the yacht is sold but specifies that the duty deferral period may not exceed 6 months. This collection of information is provided for by 19 CFR 4.94a which requires the submission of information to CBP such as the name and address of the owner of the yacht, the dates of cruising in the waters of the United States, information about the yacht, and the ports of arrival and departure.

Action: CBP proposes to extend the expiration date of this information collection with no change to the estimated burden hours or to the information collected.

Type of Review: Extension (with no change).

Affected Public: Businesses and Individuals.

Estimated Number of Respondents: 50.

Estimated Number of Total Annual Responses: 50.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 50.

Dated: October 29, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–28059 Filed 11–3–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0011]

Agency Information Collection Activities: Declaration for Free Entry of Returned American Products

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

ACTION: 60-Day Notice and request for comments; extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Declaration for Free Entry of Returned American Products (CBP Form 3311). CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before January 4, 2016 to be assured of consideration.

ADDRESSES: Written comments may be mailed to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Declaration of Free Entry of Returned American Products.

OMB Number: 1651–0011.

Form Number: CBP Form 3311.

Abstract: CBP Form 3311, *Declaration for Free Entry of Returned American Products,* is used by importers and their agents when duty-free entry is claimed for a shipment of returned American products under the Harmonized Tariff Schedules of the United States. This form serves as a declaration that the goods are American made and that they have not been advanced in value or improved in condition while abroad; were not previously entered under a Temporary Importation under Bond provision; and that drawback was never claimed and/or paid. CBP Form 3311 is authorized by 19 CFR 10.1, 10.66, 10.67, 12.41, 123.4, and 143.23 and is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=3311&=Apply.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected on Form 3311.

Type of Review: Extension (with no change).

Affected Public: Businesses.

Estimated Number of Respondents: 12,000.

Estimated Number of Responses per Respondent: 35.

Estimated Number of Total Annual Responses: 420,000.

Estimated Time per Response: 6 minutes.

Estimated Total Annual Burden Hours: 42,000.

Dated: October 29, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–28060 Filed 11–3–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0109]

Agency Information Collection Activities: Guam-CNMI Visa Waiver Information

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

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Guam-CNMI Visa Waiver Information (CBP Form I–736). This is a proposed extension of an information collection that was previously approved. CBP is proposing that this information collection be extended with no change to the burden hours or to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before December 4, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (80 FR 47942) on August 10, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: Guam-CNMI Visa Waiver Information.

OMB Number: 1651–0109.

Form Number: CBP Form I–736.

Abstract: Public Law 110–229 provides for certain aliens to be exempt from the nonimmigrant visa requirement if seeking entry into Guam or the Commonwealth of the Northern Mariana Islands (CNMI) as a visitor for a maximum stay of 45 days, provided that no potential threat exists to the welfare, safety, or security of the United States or its territories, and other criteria are met. Upon arrival at a Guam or CNMI Port-of-Entry, each applicant for admission presents a completed I–736 to CBP. CBP Form I–736 is provided for by 8 CFR 212.1(q) and is accessible at: *http://www.cbp.gov/newsroom/publications/forms?title=736&=Apply.*

Action: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the information collected.

Type of Review: Extension (without change).

Affected Public: Individuals.

Estimated Number of Respondents: 1,560,000.

Estimated Time per Respondent: 5 minutes.

Estimated Total Annual Burden Hours: 129,480.

Dated: October 29, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–28114 Filed 11–3–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0076]

Agency Information Collection Activities: Customs and Border Protection Recordkeeping Requirements

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

ACTION: 30-Day notice and request for comments; Extension of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Customs and Border Protection (CBP) Recordkeeping Requirements. This is a proposed extension of recordkeeping requirements that were previously approved. CBP is proposing these requirements be extended with no change to the burden hours or to the recordkeeping required. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before December 4, 2015 to be assured of consideration.

ADDRESSES: Interested persons are invited to submit written comments on this proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the OMB Desk Officer for Customs and Border Protection, Department of

Homeland Security, and sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–5806.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, at 202–325–0265.

SUPPLEMENTARY INFORMATION: This proposed information collection was previously published in the **Federal Register** (80 FR 46995) on August 6, 2015, allowing for a 60-day comment period. This notice allows for an additional 30 days for public comments. This process is conducted in accordance with 5 CFR 1320.10. CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Pub. L. 104–13; 44 U.S.C. 3507). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden, including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs to respondents or recordkeepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following information collection:

Title: CBP Recordkeeping Requirements.

OMB Number: 1651–0076.

Abstract: The North American Free Trade Agreement Implementation Act, Title VI, known as the Customs Modernization Act (Mod Act) amended title 19 U.S.C. 1508, 1509 and 1510 by revising Customs and Border Protection (CBP) laws related to recordkeeping, examination of books and witnesses, regulatory audit procedures and judicial enforcement. Specifically, the Mod Act expanded the list of parties subject to CBP recordkeeping requirements; distinguished between records which pertain to the entry of merchandise and financial records needed to substantiate the correctness of information contained in entry documentation; and identified a list of records which must be maintained and produced upon request by CBP. The information and records are used by CBP to verify the accuracy of the claims made on the entry documents regarding the tariff status of imported merchandise, admissibility, classification/nomenclature, value and rate of duty applicable to the entered goods. The CBP recordkeeping requirements are provided for by 19 CFR 163 and instructions are available at: *http://www.cbp.gov/document/publications/recordkeeping.*

Current Actions: CBP proposes to extend the expiration date of this information collection with no change to the burden hours or to the recordkeeping requirements. In order to more accurately reflect these requirements, CBP proposes to change the name of this information collection from Customs Modernization Act Recordkeeping Requirements to CBP Recordkeeping Requirements.

Type of Review: Extension (without change).

Affected Public: Businesses.

Estimated Number of Recordkeepers: 5,459.

Estimated Annual Time per Recordkeeper: 1,040 hours.

Estimated Annual Burden Hours: 5,677,360.

Dated: October 29, 2015.

Tracey Denning,

Agency Clearance Officer, U.S. Customs and Border Protection.

[FR Doc. 2015–28062 Filed 11–3–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS–2012–0043]

Agency Information Collection Activities: Submission for Review; Information Collection Extension Request for the Support Anti-Terrorism by Fostering Effective Technologies (SAFETY) Act Program

AGENCY: Science and Technology Directorate (S&T), Department of Homeland Security (DHS).

ACTION: 60-Day notice and request for comment.

SUMMARY: The DHS S&T is soliciting public comment on the following forms: (1) Registration as a Seller of an Anti-Terrorism Technology (DHS Form 10010); (2) Request for a Pre-Application Consultation (DHS Form 10009); (3) Notice of License of Qualified Anti-Terrorism Technology (DHS Form 10003); (4) Notice of Modification of Qualified Anti-Terrorism Technology (DHS Form 10002); (5) Application for Transfer of SAFETY Act Designation and Certification (DHS Form 10001); (6) Application for Renewal Of SAFETY Act Protections of a Qualified Anti-Terrorism Technology (DHS Form 10057); (7) Application for SAFETY Act Developmental Testing and Evaluation Designation (DHS Form 10006); (8) Application for SAFETY Act Designation (DHS Form 10008); (9) Application for SAFETY Act Certification (DHS Form 10007); (10) SAFETY Act Block Designation Application (DHS Form 10005); and (11) SAFETY Act Block Certification Application (DHS Form 10004).

DATES: Comments are encouraged and will be accepted until January 4, 2016.

ADDRESSES: You may submit comments, identified by docket number DHS–2012–0043, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Please follow the instructions for submitting comments.
- *Email: olena.shockley@hq.dhs.gov.* Please include docket number DHS–2012–0043 in the subject line of the message.
- *Mail:* Science and Technology Directorate, ATTN: SAFETY Act, 245 Murray Lane SW., Mail Stop 0202, Washington, DC 20528.

FOR FURTHER INFORMATION CONTACT: *olena.shockley@hq.dhs.gov* (202) 254–5729 (Not a toll free number).

SUPPLEMENTARY INFORMATION: The DHS S&T provides a secure Web site, accessible through *www.SAFETYAct.gov,* through which the public can learn about the SAFETY Act Program, submit applications for SAFETY Act protections, submit questions to the Office of SAFETY Act Implementation (OSAI), and provide feedback. The data collection forms have standardized the collection of information that is both necessary and essential for the DHS OSAI.

The SAFETY Act Program provides critical incentives for the development and deployment of effective anti-terrorism technologies by creating systems of risk and litigation management. This program creates certain liability limitations for claims resulted from an act of terrorism and provides legal liability protections for providers of qualified anti-terrorism technologies. The DHS S&T currently has approval to collect information for the implementation of the SAFETY Act

Program until March 31, 2016. With this notice, the DHS S&T seeks approval to renew this information collection for continued use after this date. The SAFETY Act Program requires the collection of this information in order to evaluate anti-terrorism technologies, based on the economic and technical criteria contained in the Regulations Implementing the Support Anti-Terrorism by Fostering Effective Technologies Act (the Final Rule), for protection in accordance with the Act, and therefore encourage the development and deployment of innovative anti-terrorism products and services. The Support Anti-Terrorism by Fostering Effective Technologies (SAFETY) Act (6 U.S.C. 441) was enacted as part of the Homeland Security Act of 2002, Public Law 107–296 establishing this requirement. This notice and request for comments is required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35).

The DHS S&T currently has approval to collect information utilizing the Registration of a Seller as an Anti-Terrorism Technology (DHS Form 10010), Request for a Pre-Application Consultation (DHS Form 10009), Notice of License of Qualified Anti-Terrorism Technology (DHS Form 10003), Notice of Modification of Qualified Anti-Terrorism Technology (DHS Form 10002), Application for Transfer of SAFETY Act Designation and Certification (DHS Form 10001), Application for Renewal Of SAFETY Act Protections of a Qualified Anti-Terrorism Technology (DHS Form 10057), Application for SAFETY Act Developmental Testing and Evaluation Designation (DHS Form 10006), Application for SAFETY Act Designation (DHS Form 10008), Application for SAFETY Act Certification (DHS Form 10007), SAFETY Act Block Designation Application (DHS Form 10005), SAFETY Act Block Certification Application (DHS Form 10004) until 31 March 2016 with OMB approval number 1640–0001.

The Department is committed to improving its information collection and urges all interested parties to suggest how these materials can further reduce burden while seeking necessary information under the Act.

The DHS S&T is particularly interested in comments that:

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

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

(3) Suggest ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Suggest ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Overview of Information Collection

(1) *Type of Information Collection:* Existing information collection.

(2) *Title of the Form/Collection:* SAFETY Act Program.

(3) *Agency Form Number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* DHS Science & Technology Directorate, DHS Forms 10001, 10002, 10003, 10004, 10005, 10006, 10007, 10008, 10009, 10010, and 10057.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Business entities, Associations, and State, Local and Tribal Government entities. Applications are reviewed for benefits, technology/program evaluations, and regulatory compliance.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

a. *Estimate of the total number of respondents:* 950.

b. *An estimate of the time for an average respondent to respond:* 18.2 burden hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 17,300 burden hours.

Dated: October 8, 2015.

Rick Stevens,

Chief Information Officer for Science and Technology.

[FR Doc. 2015–28096 Filed 11–3–15; 8:45 am]

BILLING CODE 9110–9F–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–55]

30-Day Notice of Proposed Information Collection: Builder's Certification of Plans, Specifications and Site

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date: December 4, 2015.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 24, 2015 at 80 FR 51296.

A. Overview of Information Collection

Title of Information Collection: Builder's Certification of Plans, Specifications, and Site.

OMB Approval Number: 2502–0496.

Type of Request: Revision of a currently approved collection.

Form Number: HUD 92541.

Description of the need for the information and proposed use: Builders use the form to certify that the property does not have adverse conditions and is not located in a special flood hazard area. The certification is necessary so that HUD does not insure a mortgage on property that poses a risk to the health and safety of the occupant.

Respondents: Business or other for-profit.

Estimated Number of Respondents: 38,035.

Estimated Number of Responses: 60,000.

Frequency of Response: On Occasions.

Average Hours per Response: .1.

Total Estimated Burdens: 4,500 hours.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: 12 U.S.C. 1701z–1 Research and Demonstrations

Dated: *October 28, 2015.*

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR–5831–N–55]

[FR Doc. 2015–28120 Filed 11–3–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5831–N–54]

30-Day Notice of Proposed Information Collection: FHA Insured Title I Property Improvement and Manufactured Home Loan Programs

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD has submitted the proposed information collection requirement described below to the Office of Management and Budget (OMB) for review, in accordance with the Paperwork Reduction Act. The purpose of this notice is to allow for an additional 30 days of public comment.

DATES: *Comments Due Date:* December 4, 2015.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806. Email: *OIRA_Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Colette Pollard at *Colette.Pollard@hud.gov* or telephone 202–402–3400. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on August 25, 2015 at 80 FR 51588.

A. Overview of Information Collection

Title of Information Collection: Title I Property Improvement and Manufactured Home Loan Programs.

OMB Approval Number: 2502–0328.

Type of Request: Extension of a currently approved collection.

Form Number: HUD–637, 646, 27030, 55013, 55014, 56001, 56001–MH, 56002, 56002–MH, & SF 3881.

Description of the need for the information and proposed use: Title I loans are made by private sector lenders and insured by HUD against loss from defaults. HUD uses this information to evaluate individual lenders on their overall program performance. The information collected is used to determine insurance eligibility and claim eligibility.

Respondents

- Lenders approved to make insured Title 1 loans
- Dealers/Contractors
- Manufacturers of manufactured homes
- Applicants for property improvement loans
- Applicants for manufactured home loans

Estimation of the total numbers of hours needed to prepare the information collection:

Estimated Number of Respondents: 10,733.

Estimated Number of Responses: 59,790.

Frequency of Response: 1.

Average Hours per Response: 17.03.

Total Estimated Burdens: 43,049.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: 12 U.S.C. 1701z–1 Research and Demonstrations.

Dated: October 28, 2015.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2015–28116 Filed 11–3–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5835–N–22]

60-Day Notice of Proposed Information Collection: Form HUD–92266 Application for Transfer of Physical Assets (TPA)

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested

parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date: January 4, 2016.*

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Harry Messneer at *harry.messner@hud.gov* or telephone 202–402–2626. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title: Application for Transfer of Physical Assets (TPA).

OMB Approval Number: 2502–0275.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92266.

Description of the need for the information and proposed use: When the sale and conveyance by deed to an insured mortgage necessitates a substitution of mortgagors, HUD approval of the substitution is required.

Respondents: Multifamily property owners with loans insured or held by HUD.

Estimated Number of Respondents: 14,734.

Estimated Number of Responses: 295.

Frequency of Response: Once per transfer of physical assets.

Average Hours per Response: 83.

Total Estimated Burdens: 24,485.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

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

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: October 28, 2015.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2015–28126 Filed 11–3–15; 8:45 am]

BILLING CODE 4210–67–P

INTER-AMERICAN FOUNDATION

Sunshine Act Meetings

TIME AND DATE: November 9, 2015, 9:00 a.m.–1:00 p.m.

PLACE: Offices of Baker & McKenzie LLP, 815 Connecticut Avenue NW., White House Conference Room, Washington, DC 20006.

STATUS: Meeting of the Board of Directors with the Advisory Council, Open to the Public.

MATTERS TO BE CONSIDERED:

- Approval of the Minutes of the August 10, 2015, Meeting of the Board of Directors
- Management Report
- The view from Brazil and Mexico
- Remarks from Roberta Jacobson, Assistant Secretary of State for Western Hemisphere Affairs
- Adjournment
- Next Meetings

CONTACT PERSON FOR MORE INFORMATION: Paul Zimmerman, General Counsel, (202) 683–7118.

Paul Zimmerman,

General Counsel.

[FR Doc. 2015–28237 Filed 11–2–15; 4:15 pm]

BILLING CODE 7025–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2015–N177; FXES11120800000–156–FF08ECAR00]

Low-Effect Habitat Conservation Plan for Seven Covered Species, Los Angeles Department of Water and Power Land, Inyo and Mono Counties, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; extending of public comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), advise the public that we are extending the public review and comment period for the draft low effect habitat conservation plan (draft HCP) for the Los Angeles Department of Water and Power's operations, maintenance, and management activities on its land in Inyo and Mono Counties, California, and draft Environmental Action Statement/Low Effect Screening Form.

DATES: To ensure consideration of your comments in our final determination regarding whether to issue an incidental take permit, we must receive your written comments by December 4, 2015.

ADDRESSES: You may obtain copies of the draft HCP and Environmental Action Statement/Low Effect Screening Form online at *http://www.fws.gov/carlsbad/HCPs/HCP_Docs.html.* You may request copies of the documents by email, fax, or U.S. mail (see below). These documents are also available for public inspection by appointment during normal business hours at the office below. Please send your requests or written comments by any one of the following methods, and specify ''LADWP HCP'' in your request or comment.

Submitting Request for Documents/Comments: You may submit comments or requests for more information by any of the following methods:

Email: fw8cfwocomments@fws.gov. Include ''LADWP HCP'' in the subject line of your message. If you choose to submit comments via email, please ensure that the file size does not exceed 10 megabytes. Emails that exceed the

maximum file size may not be properly transmitted to the Service.

Telephone: Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–2070.

Fax: Kennon A. Corey, Palm Springs Fish and Wildlife Office, 760–322–4648, Attn.: LADWP HCP.

U.S. Mail: Kennon A. Corey, Palm Springs Fish and Wildlife Office, Attn.: LADWP HCP, U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262.

In-Person Viewing or Pickup of Documents, or Delivery of Comments: Call 760–322–2070 to make an appointment during regular business hours at the above address.

Public Availability of Comments

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.

FOR FURTHER INFORMATION CONTACT: Kennon A. Corey, Assistant Field Supervisor, Palm Springs Fish and Wildlife Office; telephone 760–322–2070. If you use a telecommunications device for the deaf (TDD), please call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

In the October 7, 2015, **Federal Register** (80 FR 60669), we announced the availability of the draft HCP and draft Environmental Action Statement/Low Effect Screening Form. We solicited comments from the public on these draft documents until November 6, 2015.

Since we announced the availability of the draft documents, we have received requests from the public to allow more time for public comment. Public involvement is an important part of the process in considering a draft HCP and application for an incidental take permit. Therefore, we are extending the comment period for an additional 30 days. All comments received by the date specified in **DATES** will be considered in making a final determination regarding whether to issue an incidental take permit.

Authority

We provide this notice under section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Scott A. Sobiech,

Acting Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2015–28050 Filed 11–3–15; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLMTC 00900.L16100000.DP0000 MO4500087689]

Notice of Public Meeting, Eastern Montana Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Eastern Montana Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Eastern Montana Resource Advisory Council meeting will be held on December 3, 2015 in Billings, Montana. When determined, the meeting place will be announced in a news release. The meeting will start at 8:00 a.m. and adjourn at approximately 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Mark Jacobsen, Public Affairs Specialist, BLM Eastern Montana/Dakotas District, 111 Garryowen Road, Miles City, Montana, 59301; (406) 233–2831; *mjacobse@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–677–8339 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: The 15-member council advises the Secretary of the Interior through the BLM on a variety of planning and management issues associated with public land management in eastern Montana. At this meeting, topics will include: an Eastern Montana/Dakotas District report, Billing Field Office and Miles City Field Office manager reports, a RAC Chair meeting report, individual RAC member reports and other issues the council may raise. All meetings are open to the public and the public may present written comments to the council. Each formal RAC meeting will have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations should contact the BLM as provided above.

Authority: 43 CFR 1784.4–2.

Diane M. Friez,

Eastern Montana/Dakotas District Manager.

[FR Doc. 2015–28049 Filed 11–3–15; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–19593; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before October 10, 2015, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by November 19, 2015.

ADDRESSES: Comments may be sent via U.S. Postal Service to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447.

SUPPLEMENTARY INFORMATION: The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before October 10, 2015. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your

personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

AMERICAN SAMOA

Manu'a District

Tui Manu'a Graves Monument, NW. of jct. of Ta'u Village & Ta'u Island Rds., Ta'u, 15000812

GEORGIA

Muscogee County

Claflin School, 1532 5th Ave., Columbus, 15000813

MICHIGAN

Oceana County

Hart Downtown Historic District, Along S. State St., roughly bounded by Main, Dryden, Water & Lincoln Sts., Hart, 15000814

MISSOURI

St. Louis Independent city

Engine House No. 32, 2000 Washington Ave. & 503 N. 20th St., St. Louis (Independent City), 15000816

MONTANA

Carter County

First National Bank of Ekalaka and Rickard Hardware Store Building, 103 & 105 N. Main St., Ekalaka, 15000815

NEW JERSEY

Hudson County

Saint Ann's Roman Catholic Church and Rectory, 704 Jefferson St., Hoboken, 15000817

NEW YORK

Cayuga County

Dwight, Charles Chauncy, House, 149 North St., Auburn, 15000818

Erie County

The Great Atlantic and Pacific Tea Company Warehouse, 545 Swan St., Buffalo, 15000819

University Presbyterian Church, 3330 Main St., Buffalo, 15000820

Herkimer County

Rice—Dodge—Burgess Farm, 588 NY 51, Cedarville, 15000821

Monroe County

House at 288 Wimbledon Road, 288 Wimbledon Rd., Irondequoit, 15000822

Oneida County

Globe Woolen Company Mills, 805, 809, 811–827 Court & 933 Stark Sts., Utica, 15000823

Schenectady County

Mann, Horace, School, 602 Craig St., Schenectady, 15000824

NORTH DAKOTA

Cass County

Beebe, M.E., Historic District, NE. corner of 3rd Ave., N. & N. 8th St., Fargo, 15000825

OKLAHOMA

Comanche County

Balloon Hanger at Henry Post Army Airfield, 5037 Tucker Rd., Fort Sill, 15000826

PENNSYLVANIA

Chester County

Continental Powder Works at French Creek, General area of Rapps Dam Rd. near Rapps Covered Bridge, East Parkland Township, 15000827

Elk County

Loleta Recreation Area, Along PA 2002 near jct. with Millstone Rd., Millstone Township, 15000828

RHODE ISLAND

Providence County

Elm Tree Plat Historic District, Charlotte & Elinora Sts., Fenner, Harvey & Willett Aves., East Providence, 15000829

Rose Land Park Plat Historic District, Florence St., Roseland Ct., Dartmouth, Princeton & Willett Aves., East Providence, 15000830

Washington County

Ram Point, 77 Watch Hill Rd., Westerly, 15000831

TENNESSEE

Cocke County

English Mountain Fire Lookout Tower, (Tennessee Division of Forestry Fire Lookout Towers MPS) Carson Springs Rd., Chestnut Hill, 15000832

Johnson County

Kettlefoot Fire Lookout Tower, (Tennessee Division of Forestry Fire Lookout Towers MPS) Fire Tower Rd., Mountain City, 15000833

Madison County

Chevy Chase House and First Presbyterian Church Complex, 1573 N. Highland Ave., Jackson, 15000834

TEXAS

Bosque County

Colwick Homestead, (Norwegian Settlement of Bosque County TR) Address Restricted, CLifton, 15000835

Cameron County

McNair House, 39 Sunset Dr., Brownsville, 15000836

Jefferson County

First National Bank of Port Arthur, 501 Proctor St., Port Arthur, 15000837

Lamar State College of Technology Administration Building, 1026 Mirabeau St., Beaumont, 15000838

Sabine County

Lobanillo Swales, (El Camino Real de los Tejas National Historic Trail MPS) Address Restricted, Geneva, 15000839

Tarrant County

Laurence, W.F., Florist Building, 407 W. Magnolia Ave., Fort Worth, 15000840

WEST VIRGINIA

Kanawha County

Summers House, 805 Loudon Heights Rd., Charleston, 15000841

Lincoln County

Lincoln National Bank, 219 Main St., Hamlin, 15000842

A request for removal has been received for the following resources:

TENNESSEE

Davidson County

Fort Nashborough, Riverfront Park on 1st Ave., Nashville, 11000454

Obion County

Central Elementary School, (Union City, Tennessee MPS) 512 East College St., Union City, 01000141

Williamson County

Buford, Spencer, House, (Williamson County MRA) US 31 1/2 mi. S of Critz Ln., Thompsons Station, 88000346

Authority: 60.13 of 36 CFR part 60.

Dated: October 15, 2015.

Roger Reed,

Acting Chief, National Register of Historic Places/National Historic Landmarks Program.

[FR Doc. 2015–28048 Filed 11–3–15; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–465 and 731–TA–1161 (Review)]

Certain Steel Grating From China

Determinations

On the basis of the record[1] developed in these subject five-year reviews, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930, that revocation of the countervailing duty order and antidumping duty order would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Background

The Commission, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), instituted these reviews on June 1, 2015 (80 FR 31071) and determined on September 4, 2015 that it would conduct expedited reviews (80 FR 57387, September 23, 2015).

The Commission made these determinations pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on October 29, 2015. The views of the Commission are contained in USITC Publication 4578 (October 2015), entitled *Certain Steel Grating from China: Investigation Nos. 701–TA–465 and 731–TA–1161 (Review).*

By order of the Commission.

Dated: October 29, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–28018 Filed 11–3–15; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 337–TA–928 and 337–TA–937] (Consolidated)

Certain Windshield Wipers and Components Thereof Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge has issued a final initial determination and recommended determination on remedy and bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief, specifically a limited exclusion order against certain windshield wipers and components thereof, imported by respondents Trico Products Corporation of Rochester Hills, Michigan; Trico Products of Brownsville, Texas; and Trico Componentes SA de CV of Matamoros, Tamaulipas, Mexico. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 CFR 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205-3115. The public version of the complaint can be accessed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*, and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on EDIS at *http://edis.usitc.gov*. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

> unless, after considering the effect of such exclusion upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, and United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. 1337(d)(1). A similar provision applies to cease and desist orders. 19 U.S.C. 1337(f)(1).

The Commission is interested in further development of the record on the public interest in this investigation. Accordingly, members of the public are invited to file submissions of no more than five pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's recommended determination on remedy and bonding issued in this investigation on October 22, 2015. Comments should address whether issuance of a limited exclusion order and cease and desist order in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the recommended orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the recommended orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the recommended exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the limited exclusion order and cease and desist order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on November 19, 2015. Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (Inv. No. 337-TA-908) in a prominent place on the cover page, the first page, or both. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205-2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.50).

By order of the Commission.

Dated: October 29, 2015.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2015–28032 Filed 11–3–15; 8:45 am]

BILLING CODE 7020–02–P

POSTAL REGULATORY COMMISSION

[Docket Nos. PI2016–1; Order No. 2791]

Public Inquiry on Service Performance Measurement Data

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is establishing a public inquiry to receive comments regarding the Postal Service's service performance measurement data. This notice informs the public of this proceeding, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 14, 2015. *Reply Comments are due:* January 11, 2016.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

I. Introduction
II. Background
III. Comments Requested
IV. Public Representative
V. Ordering Paragraphs

I. Introduction

The Commission establishes Docket No. PI2016–1 to invite public comments on potential issues related to the quality and completeness of service performance data measured by the Postal Service.

II. Background

On September 30, 2015, Government Accountability Office (GAO) published a report titled *Actions Needed to Make Delivery Performance Information More Complete, Useful, and Transparent.* U.S. Gov. Accountability Office, GAO–15–756, U.S. Postal Service: Actions Needed to Make Delivery Performance Information More Complete, Useful, and Transparent (2015) (Report). The Report was publicly released on October 5, 2015.

In the Report, GAO recommended that the Commission hold a public proceeding involving the Postal Service, the mailing industry, and other interested parties to address how the Postal Service may improve the completeness of its service performance data. *Id.* at 31. The instant docket responds to that recommendation.

GAO separately recommended that the Commission provide service performance data and analyses in a more readily available format. *See id.* at 26, 31. In response, the Commission recently updated its Web site to allow instantaneous access to service performance related reports and dockets under a tab titled *Reports/Data Service Reports.* This Web site update will make it easier for prospective commenters to access background information related to the instant docket.

III. Comments Requested

The Commission invites public comments on potential issues related to the quality and completeness of service performance data provided by the Postal Service. Specifically, the Commission is interested in the following:

1. Describe any potential deficiencies with respect to the accuracy, reliability, and representativeness of the current service performance measurement data. If data are limited in a specific area, discuss how the Postal Service could improve that data.

2. The Report states the Postal Service's ''measurement of on-time delivery performance has expanded greatly over the past 9 years, but remains incomplete because only about 55 percent of market-dominant mail volume is currently included in measurement.'' *Id.* at 11 (footnote omitted). The Commission, however, has not concluded that the percentage of mail in measurement should be the primary determinant of accurate, reliable, or representative service performance data, instead focusing on sampling fractions, confidence intervals, and margins of error at the district level. *Id.* at 52–53. The Report asserts that for mail measured using a census-type approach, it is necessary to assess non-sampling error, which ''would require determining whether the mail not included in measurement systematically differed from the mail included in the measurement, particularly regarding characteristics associated with on-time delivery.'' *Id.* at 35.

a. Accounting for product and service standard, discuss any systematic differences between mail in measurement and mail not in measurement that are likely to impact service performance.

b. Discuss whether and how non-sampling error might have a material impact on service performance results and actions the Postal Service could take to minimize non-sampling error.

3. The Report suggests that ''[t]he main causes for incomplete measurement of bulk mail can be broadly grouped into two different reasons: (1) Mailers not applying a unique Intelligent Mail barcode [IMb] to each mail piece to enable tracking (trackable barcodes) or (2) lack of needed information.'' *Id.* at 14–15 (footnote omitted).

a. Discuss specific actions the Postal Service should take to increase participation in the full-service IMb program.

b. Discuss specific actions the Postal Service needs to take to decrease the amount of mail excluded from measurement.

Comments are due no later than December 14, 2015. Reply comments are due no later than January 11, 2016.

IV. Public Representative

Section 505 of title 39 requires designation of an officer of the Commission (Public Representative) in all public proceedings to represent the interests of the general public. The Commission hereby designates Richard A. Oliver as Public Representative in this proceeding.

V. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. PI2016–1 to invite public comments on potential issues related to the quality and completeness of service performance data measured by the Postal Service.

2. Comments are due no later than December 14, 2015.

3. Reply comments are due no later than January 11, 2016.

4. Pursuant to 39 U.S.C. 505, Richard A. Oliver is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

5. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2015–28054 Filed 11–3–15; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76311; File No. 4–618]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Order Approving and Declaring Effective a Proposed Plan for the Allocation of Regulatory Responsibilities Between BATS Exchange, Inc., BATS Y-Exchange, Inc., BOX Options Exchange LLC, Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc., EDGX Exchange, Inc., Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC, ISE Gemini, LLC, Miami International Securities Exchange, LLC, The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., NASDAQ OMX PHLX, Inc., National Stock Exchange, Inc., New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. Relating to Regulation NMS Rules

October 29, 2015.

On September 2, 2015, BATS Exchange, Inc. (''BATS''), BATS Y-Exchange, Inc. (''BATS Y''), BOX Options Exchange LLC (''BOX''), Chicago Board Options Exchange, Incorporated (''CBOE''), C2 Options Exchange, Incorporated (''C2''), Chicago Stock Exchange, Inc. (''CHX''), EDGA Exchange, Inc. (''EDGA''), EDGX Exchange, Inc. (''EDGX''), Financial Industry Regulatory Authority, Inc. (''FINRA''), International Securities Exchange, LLC (''ISE''), ISE Gemini, LLC (''ISE Gemini''), Miami International Securities Exchange, LLC (''MIAX''), The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc. (''BX''), NASDAQ OMX PHLX, Inc. (''Phlx''), National Stock Exchange, Inc. (''NSX''), New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC (''NYSE MKT''), and NYSE Arca, Inc. (''NYSE Arca'') (each, a ''Participating Organization,'' and, together, the ''Participating Organizations'' or the ''Parties''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') an amended plan for the allocation of regulatory responsibilities with respect to certain Regulation NMS Rules listed in Exhibit A to the Plan (''17d–2 Plan'' or the ''Plan''). The Commission received no comments on the Plan. This order approves and declares effective the Plan.

I. Introduction

Section 19(g)(1) of the Securities Exchange Act of 1934 (''Act''),[1] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d) or Section 19(g)(2) of the Act.[2] Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''Common Members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[3] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[4] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[5] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[6] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[7] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for appropriate notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors; to foster cooperation and coordination among the SROs; to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system; and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. Proposed Plan

On September 2, 2015, the parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add Regulation NMS Rules 606, 607, and 611(c) and (d). In addition, because Regulation NMS Rule 606 applies to ''NMS Securites,'' and thus includes responsibility for options, the Amended Plan adds additional Participating Organizations that are options markets.

The proposed 17d–2 Plan is intended to reduce regulatory duplication for firms that are members of more than one Participating Organization.[8] The proposed amendments to the Plan provide for the allocation of regulatory responsibility according to whether the covered rule pertains to NMS stocks or NMS securities. For covered rules that pertain to NMS stocks (*i.e.,* Rules 607, 611, and 612), FINRA would serve as the ''Designated Regulation NMS Examining Authority'' (''DREA'') for common members that are members of FINRA, and therein would assume certain examination and enforcement responsibilities for those members with respect to specified Regulation NMS rules. For common members that are not

[1] 15 U.S.C. 78s(g)(1).

[2] 15 U.S.C. 78q(d) and 15 U.S.C. 78s(g)(2), respectively.

[3] 15 U.S.C. 78q(d)(1).

[4] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[5] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[6] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[7] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[8] The proposed 17d–2 Plan refers to these members as ''Common Members.''

members of FINRA, the amended Plan provides that the member's DEA would serve as the DREA, provided that the DEA exchange operates a national securities exchange or facility that trades NMS stocks and the common member is a member of such exchange or facility. Section 1(c) of the amended Plan contains a list of proposed principles that would be applicable to the allocation of common members in cases not specifically addressed in the Plan. An exchange that does not trade NMS stocks would have no regulatory authority for covered Regulation NMS rules pertaining to NMS stocks. For covered rules that pertain to NMS securities, and thus include options (*i.e.,* Rule 606), the proposed amended Plan provides that the DREA will be the same as the DREA for the rules pertaining to NMS stocks. For common members that are not members of an exchange that trades NMS stocks, the common member would be allocated according to the principles set forth in Section 1(c) of the Plan.

The text of the Plan delineates the proposed regulatory responsibilities with respect to the Parties. Included in the proposed Plan is an exhibit (the ''Covered Regulation NMS Rules'') that lists the federal securities laws, rules, and regulations, for which the applicable DREA would bear examination and enforcement responsibility under the proposed amended Plan for Common Members of the Participating Organization and their associated persons.

Specifically, under the 17d–2 Plan, the applicable DREA would assume examination and enforcement responsibility relating to compliance by Common Members with the Covered Regulation NMS Rules. Covered Regulation NMS Rules would not include the application of any rule of a Participating Organization, or any rule or regulation under the Act, to the extent that it pertains to violations of insider trading activities, because such matters are covered by a separate multiparty agreement under Rule 17d–2.[9] Under the Plan, Participating Organizations would retain full responsibility for surveillance and enforcement with respect to trading activities or practices involving their own marketplace.[10]

III. Discussion

The Commission finds that the proposed Plan is consistent with the factors set forth in Section 17(d) of the Act[11] and Rule 17d–2(c) thereunder[12] in that the proposed Plan is necessary or appropriate in the public interest and for the protection of investors, fosters cooperation and coordination among SROs, and removes impediments to and fosters the development of the national market system. In particular, the Commission believes that the proposed Plan should reduce unnecessary regulatory duplication by allocating to the applicable DREA certain examination and enforcement responsibilities for Common Members that would otherwise be performed by multiple Parties. Accordingly, the proposed Plan promotes efficiency by reducing costs to Common Members. Furthermore, because the Parties will coordinate their regulatory functions in accordance with the proposed Plan, the Plan should promote investor protection.

The Commission is hereby declaring effective a plan that allocates regulatory responsibility for certain provisions of the federal securities laws, rules, and regulations as set forth in Exhibit A to the Plan. The Commission notes that any amendment to the Plan must be approved by the relevant Parties as set forth in Paragraph 22 of the Plan and must be filed with and approved by the Commission before it may become effective.[13]

IV. Conclusion

This Order gives effect to the Plan filed with the Commission in File No. 4–618. The Parties shall notify all members affected by the Plan of their rights and obligations under the Plan.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan in File No. 4–618 is hereby approved and declared effective.

It is further ordered that the Parties who are not the DREA as to a particular Common Member are relieved of those regulatory responsibilities allocated to the Common Member's DREA under the Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–28068 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Securities Exchange Act Release No. 58350 (August 13, 2008), 73 FR 48247 (August 18, 2008) (File No. 4–566) (notice of filing of proposed plan). *See also* Securities Exchange Act Release No. 58536 (September 12, 2008) (File No. 4–566) (order approving and declaring effective the plan).

[10] *See* paragraph 1 of the proposed 17d–2 Plan.

[11] 15 U.S.C. 78q(d).

[12] 17 CFR 240.17d–2(c).

[13] *See* Paragraph 22 of the Plan. The Commission notes, however, that changes to Exhibit B to the Plan (the allocation of Common Members to DREAs) are not required to be filed with, and approved by, the Commission before they become effective.

[14] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76295; File No. SR–Phlx–2015–83]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Risk Monitor Mechanism

October 29, 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 October 15, 2015, 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 Rule 1093 entitled ''Phlx XL Risk Monitor Mechanism'' by reserving this rule and relocating the rule governing the Risk Monitor Mechanism into Phlx Rule 1095, entitled ''Automated Removal of Quotes'' which contains similar market maker[3] risk monitor tools. The Exchange is also modifying

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''Market Maker'' includes Registered Options Traders (''ROTs'') (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (''SQTs'') (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (''RSQTs'') (*see* Rule 1014(b)(ii)(B)). An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and submit option quotations electronically in options to which such SQT is assigned. An RSQT is defined in Exchange Rule 1014(b)(ii)(B) as an ROT that is a member or member organization with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. An RSQT may only submit such quotations electronically from off the floor of the Exchange. A Market Maker also includes a specialist, an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

the language currently contained in Rule 1093.

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 filing is to relocate and amend the current rule text of the Risk Monitor Mechanism Rule in 1093.[4] The Exchange is proposing to relocate the rule text into Rule 1095, which currently describes two other risk mechanisms offered to Market Makers today.[5] Quoting across many series in an option creates the possibility of ''rapid fire'' executions that can create large, unintended principal positions that expose Market Makers, who are required to continuously quote in assigned options, to potentially significant market risk. The Risk Monitor Mechanism (hereinafter ''Percentage-Based Threshold'') permits Market Makers to monitor risk arising from multiple executions across multiple options series of a single underlying security.

The Exchange will require Market Makers to utilize either the Percentage-Based Threshold or the Volume-Based Threshold.[6] The Multi-Trigger Threshold will be optional.[7] Today, Market Makers are required to utilize the Percentage-Based Threshold.

Current Rule Text in Rule 1093

Phlx Rule 1093 specifically describes the counting program that is maintained by the trading system (hereinafter ''System'') for each Phlx XL participant (hereinafter ''Market Maker''), in a particular option. Specifically, the counting program counts the number of contracts traded in an option by each Market Maker within a specified time period, not to exceed 15 seconds, established by each Market Maker, known in this rule as the ''specified time period.''

The specified time period commences for an option when a transaction occurs in any series in such option. The Exchange counts Specialized Quote Feed (''SQF'')[8] quotes only in determining the number of contracts traded and removed by the System. When a Market Maker trades the Specified Engagement Size during the specified time period, the Percentage-Based Threshold is triggered[9] and the System automatically removes such Market Maker's quotations from the Exchange's orders in all series of the particular option. The Percentage-Based Threshold is engaged when the counting program determines that the Issue Percentage equals or exceeds a percentage established by the Market Maker, not less than 100%.

The Specified Engagement Size is automatically offset by a number of contracts that are executed on the opposite side of the market in the same option issue during the specified time period known as the ''Net Offset Specified Engagement Size.'' Long call positions are only offset by short call positions, and long put positions are only offset by short put positions. The Percentage-Based Threshold is engaged once the Net Offset Specified Engagement Size represents a net number of contracts executed among all series in an option issue, during the specified time period, where the issue percentage is equal to or greater than the Specified Percentage.[10]

The System automatically resets the counting program and commences a new specified time period when: (i) A previous counting period has expired and a transaction occurs in any series in such option; or (ii) the Market Maker refreshes his/her quotation, in a series for which an order has been executed (thus commencing the specified time period) prior to the expiration of the specified time period.

Proposed Rule

The Exchange's amendments to the current rule text are described below in greater detail. The Exchange proposes to amend the current rule to first define a specialist, Streaming Quote Trader or Remote Streaming Quote Trader as a Market Maker and replace the term ''Phlx XL Participant'' with the term ''Market Maker.''[11] The proposed term ''Market Maker'' will be utilized throughout proposed Rule 1095(i).

Counting Program

Proposed Rule 1095(i) provides, as in the current rule, the Percentage-Based Threshold determines: (i) The percentage that the number of contracts executed in that series represents relative to the Market Maker's disseminated[12] size of each side in that series (''Series Percentage''); and (ii) the sum of the Series Percentage in the option issue (''Issue Percentage''). An offset occurs during the Percentage-Based Specified Time Period.[13] The Exchange proposes to amend the rule text in proposed Rule 1095(i) to state that the Percentage-Based Specified Time Period operates on a rolling basis among all series in an option in that there may be multiple Percentage-Based Specified Time Periods occurring simultaneously and such Percentage-Based Specified Time periods may overlap. The Exchange proposes to amend the rule text of proposed Rule 1095(i) to state that the Percentage-

[4] The proposed amendments will conform the rule text to the manner in which the Exchange's Phlx XL system (''System'') operates today.

[5] The two risk protections, Volume-Based Threshold and the Multi-Trigger Threshold, are Market Maker protections, similar to the Risk Monitor Mechanism to assist Market Makers to control their trading risks.

[6] The Volume-Based Threshold is offered only to Market Makers.

[7] The Multi-Trigger Threshold is offered only to Market Makers.

[8] SQF permits the receipt of quotes. SQF Auction Responses and market sweeps are also not included.

[9] A trigger is defined as the event which causes the System to automatically remove all quotes in all options series in an underlying issue.

[10] Any marketable orders or quotes that are executable against a Market Maker's disseminated quotation that are received prior to the time the Percentage-Based Threshold is engaged are automatically executed at the disseminated price up to the Market Maker's disseminated size, regardless of whether such an execution results in executions in excess of the Market Maker's Specified Engagement Size. In the event that the specialist's quote is removed by the Percentage-Based Threshold and there are no other Market Makers quoting in the particular option, the System will automatically provide two-sided quotes that comply with the Exchange's Rules concerning quote spread parameters on behalf of the specialist until such time as the specialist revises the quotation. All quotations generated by the Exchange on behalf of a specialist shall be considered ''firm quotations'' and shall be the obligation of the specialist.

[11] The Exchange automatically removes a Market Maker's quotes in all series of an underlying security submitted through designated Phlx protocols, as specified by the Exchange, during a specified time period established by the Market Maker not to exceed 15 seconds, this time period is not being amended.

[12] The disseminated size is the original size quoted by the Participant.

[13] A specified time period is established by the Market Maker and may not to exceed 15 seconds. *See* proposed Rule 1095(i).

Based Specified Time Period commences for an option every time an execution occurs in any series in such option and continues until the System removes quotes as described in current Rule 1095(iv), which is being amended to include the Percentage-Based Specified Time Period, or the Percentage-Based Specified Time Period expires.

Rounding

The Exchange proposes to add amended rule text to proposed Rule 1095(i) to state that if the Issue Percentage, rounded to the nearest integer, equals or exceeds a percentage established by a Market Maker, not less than 100% (''Specified Percentage''), the System automatically remove a Market Maker's quotes in all series of the underlying security submitted through designated Phlx protocols, as specified by the Exchange, during the Percentage-Based Specified Time Period.[14] The current text of Rule 1093 states that the Percentage-Based Threshold is engaged when the counting program determines that the Issue Percentage equals or exceeds a percentage established by the Market Maker, not less than 100%. The Exchange's proposal adds amended rule text to proposed Rule 1095(i) to state, that if the Issue Percentage, *rounded to the nearest integer,* equals or exceeds a percentage established by the Market Maker, not less than 100% (''Specified Percentage''), the System automatically removes a Market Maker's quotes in all series of an underlying security submitted through designated Phlx protocols, as specified by the Exchange, during the Percentage-Based Specified Time Period.

Today, the System tracks and calculates the net impact of positions in the same option issue during the Percentage-Based Specified Time Period. The System tracks transactions, *i.e.,* the sum of buy-side put percentages, the sum of sell-side put percentages, the sum of buy-side call percentages, and the sum of sell-side call percentages, and then calculates the absolute value of the difference between the buy-side puts and the sell-side puts plus the absolute value of the difference between the buy-side calls and the sell-side calls. With this proposal, when these values are rounded, if that number is greater than the Specified Percentage, the Percentage-Based Threshold would be triggered.

Reset

The Exchange proposes to amend the manner in which the System resets. The System will automatically removes [sic] quotes in all option series of an underlying security when the Percentage-Based Threshold is reached and then the Percentage-Based Specified Time Period is reset. The System will send a Purge Notification Message[15] to the Market Maker for all affected options when the threshold has been reached. Pursuant to this proposal, when the System removes quotes as a result of the Percentage-Based Threshold, the Market Maker will be required to send a re-entry indicator to re-enter the System.[16] If a Market Maker requests the System to remove quotes in all options series in an underlying issue, the System will automatically reset the Percentage–Based Specified Time Period(s) and new Percentage-Based Specified Time Period(s) will commence for the Percentage-Based Threshold. With this proposal, when the System removes quotes as a result of the Percentage-Based Threshold, the Market Maker will be required to send a re-entry indicator to re-enter the System. The proposed rule text adds specificity to the manner in which the Market Maker re-enters the market after a trigger.

Firm Quote

The Exchange represents that its proposal operates consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act[17] in general, and furthers the objectives of Section 6(b)(5) of the Act[18] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest, by enhancing the risk protections available to Exchange members. Each of the proposed amendments does not raise a novel regulatory issue, rather these proposed amendments provide for operational transparency.

The proposed rule text continues to offer Market Makers a risk protection tool, in addition to other available risk tools,[19] to decrease risk and increase stability. The Exchange offers this risk tool to Market Makers, in order to encourage them to provide as much liquidity as possible and encourage market making generally, the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system and protect investors and the public interest. Further, it is important to note that any interest that is executable against a Market Maker's quotes that are received[20] by the Exchange prior to the trigger of the Percentage-Based Threshold, which is processed by the System, automatically executes at the price up to the Market Maker's size. Further, the Purge Notification Message is accepted by the System in the order of receipt in the queue and is processed in that order so that interest that is already accepted into the System is processed prior to the message.

Counting Program

The Exchange's amendment to the operation of the counting program to describe that it operates on rolling basis, with a time window after each transaction, not singular and sequential time segments is consistent with the Act because the purpose of the risk tool is to provide Market Makers with the ability to monitor its transactions. The proposed counting program provides a tracking method for Market Makers related to the specified time period. The System captures information to determine whether a removal of quotes is necessary. The proposed function of this counting program will enable the Exchange to provide the Market Maker with information relative to that Market Maker's interest currently at risk in the market.

Rounding

The Exchange's amendment which states that if the Issue Percentage, rounded to the nearest integer, equals or exceeds the Specified Percentage, the System automatically removes a Market Maker's quotes in all series of an underlying security is consistent with the Act because investors will be protected by providing Market Makers with a risk tool which allows Market Makers to properly set their risk

[14] The System's count of the number of contracts executed is based on trading interest resting on the Exchange book. The Volume-Based Specified Time Period, in current Rule 1095(ii), designated by the Market Maker must be the same time period as designated for purposes of the Percentage-Based Threshold. The Exchange references protocols more specifically in this rule. The Exchange counts SQF quotes only in determining the number of contracts traded and removed by the System. *See* note 8.

[15] A message entitled ''Purge Notification Message'' is systemically sent to the Market Maker upon the removal of quotes due to the Percentage-Based Threshold. *See* proposed Rule 1095(iii).

[16] The re-entry indicator must be marked as such to cause the System to reset.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] *See* note 5.

[20] The time of receipt for an order or quote is the time such message is processed by the Exchange book.

protections at a level that they are able to meet their obligations and also manage their risk. This specificity provides more detail so that Market Makers may properly set their risk controls. Understanding the manner in which the System will round is important in determining when the System will trigger a risk control. Also, today, Phlx discusses rounding in its Rulebook.[21] Rounding to the nearest integer is not novel.

Reset

The Exchange's proposal to amend the rule text related to resets provides guidance to Market Makers as to the manner in which they may re-enter the System after a removal of quotes. This amendment is consistent with the Act because the Exchange desires to provide Market Makers with access to the market at all times. Market Makers perform an important function in the marketplace and the Exchange desires to provide its market participants with access to the market. If the Market Maker is removed from the market due to a trigger of the Percentage-Based risk tool, the Exchange will permit re-entry to the market provided the Market Maker sends a re-entry indicator to re-enter the System. This is important because it informs the Exchange that the Market Maker is ready to re-enter the market. Also, the Exchange currently has risk mechanisms in place which provides guidance as to the manner in which a Market Maker may re-enter the System after a removal of quotes.[22]

Quoting Obligations—Market Makers

The Exchange further represents that the System operates consistently with the firm quote obligations of a broker-dealer pursuant to Rule 602 of Regulation NMS. Specifically, with respect to Market Makers, their obligation to provide continuous two-sided quotes on a daily basis is not diminished by the removal of such quotes by the Percentage-Based Threshold. Market Makers are required to provide continuous two-sided quotes on a daily basis.[23] Market Makers that utilize the Percentage-Based Threshold will not be relieved of the obligation to provide continuous two-sided quotes on a daily basis, nor will it prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet the continuous quoting obligation each trading day.

Finally, the Exchange believes that its proposal to provide Market Makers the optionality to either select the Percentage-Based Threshold or Volume-Based Threshold as one of their risk tools will also protect investors and is consistent with the Act. Today, Market Makers are required to utilize the Percentage-Based Threshold. With this proposal, Market Makers will have the ability to select their mandatory risk as between the Percentage-Based Threshold or Volume-Based Threshold.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Percentage-Based Threshold is meant to protect Market Makers from inadvertent exposure to excessive risk. Accordingly, this proposal will have no impact on competition. Specifically, the proposal does not impose a burden on intra-market or inter-market competition, rather, it provides Market Makers with the opportunity to avail themselves of similar risk tools which are currently available on other exchanges.[24] Market Makers quote across many series in an option creates the possibility of ''rapid fire'' executions that can create large, unintended principal positions that expose Market Makers. The Percentage-Based Threshold permits Market Makers to monitor risk arising from multiple executions across multiple options series of a single underlying security.

The Exchange is proposing this rule change to continue to permit Market Makers to reduce their risk in the event the Market Maker is suffering from a system issue or due to the occurrence of unusual or unexpected market activity. Reducing such risk will enable Market Makers to enter quotations without any fear of inadvertent exposure to excessive risk, which in turn will benefit investors through increased liquidity for the execution of their orders. Such increased liquidity benefits investors because they receive better prices and because it lowers volatility in the options market. Reducing risk by utilizing the proposed risk protections enables Market Makers, specifically, to enter quotations with larger size, which in turn will benefit investors through increased liquidity for the execution of their orders. Such increased liquidity benefits investors because they receive better prices and because it lowers volatility in the options market.

Counting Program

The Exchange's amendment to the operation of the counting program to describe that it operates on rolling basis, with a time window after each transaction, not singular and sequential time segments does not create an undue burden on competition, rather, it provides the Market Maker with clarity as to the manner in which the System counts quotes and thereby provides Market Makers with an increased ability to monitor transactions.

Rounding

The Exchange's amendment to add that if the Issue Percentage, rounded to the nearest integer, equals or exceeds the Specified Percentage, the System automatically removes a Market Maker's quotes in all series of an underlying security does not create an undue burden on competition because this amendment also provides the Market Maker with clarity as to the manner in which the System will remove quotes and thereby provides Market Makers with an increased ability to monitor transactions and set risk limits.

Reset

The amendment to the rule text concerning resetting does not create an undue burden on competition. The Exchange proposes to amend the manner in which a Market Maker may re-enter the System after a removal of quotes. This amendment provides information to Market Makers as to the procedure to re-enter the System after a trigger. This information is intended to provide Market Makers with access to the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[25] and

[21] *See* Phlx Rule at 1014 regarding Market Maker allocations.

[22] *See* Phlx Rule 1095(vi).

[23] *See* Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

[24] *See* Section 8 of the 19b–4.

[25] 15 U.S.C. 78s(b)(3)(a)(iii).

subparagraph (f)(6) of Rule 19b–4 thereunder.[26]

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: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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-2015–83 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–Phlx–2015–83. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–Phlx–2015–83 and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28020 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[26] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76297; File No. SR–NASDAQ–2015–121]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Terminology in Nasdaq Rules 4120, 5615 and 5745 and IM–5615–4

October 29, 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 October 21, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in in Items I, II, and III below, which Items have been prepared by Nasdaq. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Nasdaq Rule 5745 to replace the term ''ETMF Shares'' with ''NextShares'' and to make appropriate conforming changes in terminology. Consistent with the proposed change in terminology in Nasdaq Rule 5745, the Exchange also proposes to make conforming changes in terminology to Nasdaq Rule 4120, Nasdaq Rule 5615, and IM–5615–4.

The text of the proposed rule change is available at *http://nasdaq.cchwallstreet.com/,* at Nasdaq's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Nasdaq Rule 5745 to replace references to ''ETMF Shares'' with ''NextShares,'' and to make conforming changes in terminology.[3] As the marketplace for exchange-traded managed funds has developed since the adoption of Nasdaq Rule 5745, market participants have been utilizing the term NextShares instead of ETMF Shares. The Exchange seeks to align the terminology of its rules with marketplace practices to help avoid potential confusion in terminology for investors and market participants with respect to this new product.

Specifically, the Exchange would replace references in Nasdaq Rule 5745 to ''ETMF Shares'' with ''NextShares'' and to ''ETMF'' with ''NextShares Fund.'' The Exchange would make corresponding changes in terminology to other affected Nasdaq rules. The Exchange believes that these proposed changes are non-controversial and technical in nature, and are consistent with the Act.

2. Statutory Basis

Nasdaq Exchange believes the proposed rule change is consistent with the Act and the rules and regulations thereunder, including the requirements

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Nasdaq Rule 5745 in Securities Exchange Act Release No. 34–73562 (Nov. 7, 2014), 79 FR 68309 (Nov. 14, 2014) (SR–NASDAQ–2014–020).

of Section 6(b) of the Act.[4] In particular, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[5] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and to perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest. The Exchange believes that the change in terminology will protect investors and the public interest by eliminating potential confusion that may exist because of unnecessary differences in terminology between Nasdaq rules and the marketplace.

As noted, the Exchange believes that the changes proposed are non-controversial and technical in nature.

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. The Exchange believes that the proposed rule change will help align rule terminology with the terminology utilized in the marketplace for these new products and be used uniformly.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The proposed rule change is filed for immediate effectiveness pursuant to Section 19(b)(3)(A)[6] of the Act and Rule 19b–4(f)(6) thereunder.[7] The Exchange asserts that the proposed rule change does not (i) significantly affect the protection of investors or the public interest, (ii) impose any significant burden on competition, and (iii) become operative for 30 days after its filing date, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. Rule 19b–4(f)(6)(iii), however, permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) 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–NASDAQ–2015–121 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–121. 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–NASDAQ–2015–121, and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28021 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(5).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(f)(6).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76300; File No. SR–C2–2015–030]

Self-Regulatory Organizations; C2 Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Amending Rule 6.45 Relating to Disaster Recovery

October 29, 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 October 28, 2015, C2 Options Exchange, Incorporated (''Exchange'' or ''C2'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.45 relating to disaster recovery. The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

C2 proposes to amend Rule 6.45 relating to disaster recovery. Specifically, C2 proposes to update Rule 6.45 to further describe C2's back-up systems, the circumstances under which they may be used and the testing that C2 may conduct to ensure the availability, functionality and performance of such systems. Additionally, C2 proposes certain updates to Rule 6.45 in response to new disaster recovery regulations and business resumption standards recently adopted by the Securities and Exchange Commission (''SEC'' or ''Commission'') as promulgated in Regulation Systems Compliance and Integrity (''Regulation SCI'') under the Securities Exchange Act of 1934 (the ''Act'').[3]

Background

C2 adopted Rule 6.45 in 2012 for the limited purpose of providing alternative means of operation in the event C2's trading system became inoperable or otherwise unavailable for use due to a disaster or other unusual circumstance. In particular, Rule 6.45, as originally adopted, was intended to allow C2 to operate a Disaster Recovery Facility (''DRF'') to continue to trade exclusively-listed option classes until C2's main trading system was again available.[4] At that time, C2 intended to utilize hardware located in the Chicago Board Options Exchange, Incorporated (''CBOE'') building in Chicago, IL for the purposes of operating the DRF. C2's main trade engine is located on the east coast.

In addition to adding greater detail to C2's disaster recovery rules in Rule 6.45, C2 proposes to make updates to Rule 6.45 to harmonize its disaster recovery rules with the newly implemented disaster recovery-related regulatory imperatives of Regulation SCI. Regulation SCI supersedes and replaces the SEC's voluntary Automation Review Policy (''ARP''), established by the Commission's two policy statements each titled ''Automated Systems of Self-Regulatory Organizations,'' issued in 1989 and 1991, expanding existing practices and making them mandatory.[5] As part of Regulation SCI, C2 is required to maintain back-up and recovery capabilities with sufficient resiliency and geographical diversity and that are reasonably designed to achieve next business-day resumption of trading and two-hour resumption of critical systems following a wide-scale disruption.[6] C2 must also participate in at least annual testing of its business continuity and disaster recovery plans and, to that end, develop and adopt standards to designate which of its TPHs must participate in testing in order to reasonably ensure the maintenance of a fair and orderly market if C2's disaster recovery plan must be activated.[7]

Proposed Rule Changes

C2 now proposes to make changes to Rule 6.45 to allow for trading in all C2-traded option classes on a back-up data center in the event the main trading system is unavailable. The proposed rule will no longer be limited to exclusively-listed options traded on C2. Furthermore, prior to the compliance date of Regulation SCI, C2 will have separate hardware designated for the C2 back-up data center (as opposed to using CBOE hardware).

C2 proposes to make changes to Rule 6.45 to provide additional details regarding C2's back-up trading systems and business continuity and disaster recovery plans activation and testing. As discussed above, C2 also seeks to update its disaster recovery rules to ensure consistency with Regulation SCI.

Current Rule 6.45 is divided into four sections, (a) through (d). Rule 6.45(a) authorizes C2 to maintain a DRF to preserve C2's ability to trade exclusively-listed options in the event C2's primary data center becomes inoperable or otherwise unavailable for use. Current Rule 6.45(b) describes the notice that must be given prior to commencing trading on back-up data center systems. Current Rule 6.45(c) describes the rules that would be in effect if C2 were to switch its trading operations to the DRF. Current Rule 6.45(d) prescribes that Trading Permit Holders (''TPH'') are required to take appropriate actions as instructed by C2 to accommodate C2's ability to trade options via the DRF.

C2 proposes to make rule changes to Rule 6.45 with detail added to each section of the current rule. Under proposed Rule 6.45(a) (General) C2 would adopt a general statement regarding the purpose of its disaster recovery rules, providing that C2 maintains business continuity and disaster recovery plans that may be effected in the interests of the continued operation of fair and orderly markets in the event of a systems failure, disaster, or other unusual circumstances that might threaten the ability to conduct business on C2.

Proposed Rule 6.45(b) (Back-up Data Center) would incorporate parts of the current Rule 6.45(a) in that it includes a statement that C2 maintains a back-up data center (replacing what was formerly referenced as a ''Disaster Recovery Facility'' or ''DRF'') in order to preserve C2's ability to conduct business in the event C2's primary data center becomes inoperable or otherwise unavailable for use. Proposed Rule 6.45(b) no longer limits the C2 disaster recovery facility to preserving C2's ability to trade exclusively-listed options. Currently C2 does not trade exclusively-listed options. The proposed Rule would now cover all option classes available for trading on C2. The proposed Rule notes that disaster recovery plans may be effected to ensure the continued operation of a fair and orderly market. C2 is removing the reference to the trading of exclusively-listed options in favor of ''conduct business''. This proposed rule change reflects the fact that C2 may be engaged in business activities other than just the trading of options, including, but not limited to, the dissemination of market data and certain regulatory functions.

Proposed Rule 6.45(b) would add the scenario of a significant systems failure to the list of causes that may trigger an operational switch to C2's back-up data center. The proposed addition of significant systems failures to the list of scenarios that may trigger an operational switch to C2's back-up data center is intended to more accurately reflect the realities of electronic trading environments and contemporary threats

[3] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7–01–13).

[4] *See* Securities Exchange Act Release No. 67357 (July 5 2012), 77 FR 40928 (July 11, 2012) (SR–C2–2012–011).

[5] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR at 72252 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7–01–13).

[6] 17 CFR 242.1001(a)(2)(v).

[7] *Id.* at § 242.1004.

posed to the operation of fair and orderly markets. In addition to the reformulation of the description of C2's back-up data center, proposed Rule 6.45(b) would also contain subsections similar to the notice, applicable rules, and Trading Permit Holder (''TPH'') preparations provisions currently contained in Rules 6.45(b) through (d).

Proposed Rule 6.45(b)(i) (Back-up Data Center Functionality), would make clear the functional and performance standards that the back-up data center must be reasonably designed to achieve. Specifically, proposed Rule 6.45(b)(i) would provide that C2 maintains a back-up data center that C2 has determined is reasonably designed to achieve prompt resumption of systems consistent with Regulation SCI. Proposed Rule 6.45(b)(i) would also provide that nothing in the provisions of proposed Rule 6.45(b) shall be interpreted to require C2 to develop or maintain a back-up data center designed to fully replicate the capacity, latency, and other features of the primary data center. This statement attempts to make clear that in order to preserve C2's ability to conduct business in the event C2's primary data center becomes inoperable or otherwise unavailable for use, C2 must maintain a back-up data center that is reasonably designed achieve resumption of systems consistent with Regulation SCI during a significant systems failure, disaster or other unusual circumstances, rather than replicate C2's primary data center systems. C2 believes that the standards set forth in proposed Rule 6.45(b)(i) are reasonable to help ensure the maintenance of fair and orderly markets in the event of a significant systems failure, disaster or other unusual circumstances and are consistent with provisions in the release language of Regulation SCI.[8]

Proposed Rule 6.45(b)(ii) (Notice), would be similar to current Rule 6.45(b) and provide that prior to commencing trading on the back-up data center, C2 shall announce publicly the classes that will be available for trading. Proposed Rule 6.45(b)(iii) (Applicable Rules) would provide that in the event the primary data center becomes inoperable, trading will continue using the back-up data center and all trading rules will remain in effect. Consistent with current Rule 6.45(c), the proposed rule would also contain the provisions that all non-trading rules of C2 shall continue to apply.

Proposed Rule 6.45(b)(iv) (Trading Permit Holder Participation) regarding testing of C2's back-up data center would contain provisions similar to current Rule 6.45(d) (Trading Permit Holder Preparations), but add subparagraphs to more clearly articulate C2's authority to conduct testing of its back-up data center systems. Thus, similar to current Rule 6.45(d), proposed Rule 6.45(b)(iv) would provide that TPHs are required to take appropriate actions as instructed by C2 to accommodate C2's ability to trade options via the back-up data center. C2 also proposes changing the rule text in proposed Rule 6.45(b)(iv) to provide that TPHs are required to take appropriate actions as instructed by C2 to accommodate C2's ability to conduct business via the back-up data center, rather than solely to accommodate C2's ability to trade options. Under the proposed rule change, the title of current Rule 6.45(d) (Trading Permit Holder Preparations) would also be changed in proposed Rule 6.45(b)(iv) (Trading Permit Holder Participation) to better describe the purpose of the rule provisions.

Subsections (A) through (C) under proposed Rule 6.45(b)(iv) are designed to harmonize C2's back-up data center testing rules with certain provisions of Regulation SCI. Under proposed Rule 6.45(b)(iv)(A) (Designated BCP/DR Participants), C2 shall designate those Trading Permit Holders that the C2 reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the C2's business continuity and disaster recovery plans (''Designated BCP/DR Participants''). Designated BCP/DR Participants will include: (1) All C2 Market-Makers and; (2) all C2 Trading Permit Holders connected to the C2 primary data center and transacting non-Participant customer business, unless a C2 Trading Permit Holder, other than a C2 Market-Maker, can demonstrate ready access to the back-up data center through another C2 Trading Permit Holder that is a designated participant. C2 has reasonably determined that a C2 TPH, other than a C2 Market-Maker, who can demonstrate ready-access to the back-up data center through another C2 Trading Permit Holder, that is a designated participant, is not necessary for the maintenance of fair and orderly markets in the event of the activation of the C2's business continuity and disaster recovery plans. Criteria for designating BCP/DR participants will be announced prior via Regulatory Circular. Any changes to the standards by which a market participant might be determined to be a Designated BCP/DR Participant would be applied prospectively with reasonable advance notice as announced via Regulatory Circular. C2 would first announce the criteria by which market participants would be determined to be Designated BCP/DR Participants by November 1, 2015.

C2 has attempted to model the provisions of proposed Rule 6.45(b)(iv)(A) based on provisions of Regulation SCI, which require C2 to establish standards for the designation of those members or participants that C2 reasonably determines are, taken as a whole, the minimum number of members or participants necessary for the maintenance of fair and orderly markets in the event of the activation of its business continuity and disaster recovery plans.[9] Also consistent with Regulation SCI, proposed Rule 6.45(b)(iv)(B) (Fair and Orderly Market Conditions) would make clear that nothing in proposed Rule 6.45(b) would require C2 to assume that average levels of liquidity, depth, or other characteristics of a usual trading session must be present in order to achieve a fair and orderly market in the event of the activation of C2's business continuity and disaster recovery plans.[10]

Proposed Rule 6.45(b)(iv)(C) (Business Continuity and Disaster Recovery Plans Testing), would provide that C2 shall require Designated BCP/DR Participants and may require other market participants to participate in scheduled business continuity and disaster recovery plans tests in the manner and frequency prescribed by C2. Proposed Rule 6.45(b)(iv)(C) would set forth C2's authority to conduct testing of its business continuity and disaster recovery plans and obtain assistance from Designated BCP/DR Participants and other market participants in conducting such tests. C2 notes that the provisions of proposed Rule 6.45(b)(iv)(C) are consistent with C2's current rules[11] as well as provisions of Regulation SCI pertaining to business continuity and disaster recovery plan testing.[12] Proposed Rule 6.45(b)(iv)(C)(1) (Documentation and Reports), would provide that C2 may require Designated BCP/DR Participants

[8] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR at 72353 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7–01–13).

[9] *See* 17 CFR 242.1004(a)–(b).

[10] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR at 72353 (December 5, 2014) (Regulation Systems Compliance and Integrity) (File No. S7–01–13).

[11] *See* Rules 6.34 (Participant Electronic Connectivity); 6.45(d) (Trading Permit Holder Preparations).

[12] *See* 17 CFR 242.1004(a)–(b).

and/or other market participants to provide documentation and reports regarding tests conducted pursuant to Rule 6.45, including related data and information, as may be requested by C2, and in the manner and frequency prescribed by C2. Proposed Rule 6.45(b)(iv)(C)(2) (Notice), would provide that C2 will provide reasonable prior notice of scheduled business continuity and disaster recovery plans tests to Trading Permit Holders, which notice shall describe the general nature of the test(s) and identify the Trading Permit Holders required to participate and shall be announced via Regulatory Circular.

2. Statutory Basis

C2 believes the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to C2 and, in particular, the requirements of Section 6(b) of the Act [13] and Regulation SCI.[14] Specifically, C2 believes the proposed rule change is consistent with the Section 6(b)(5) [15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, C2 believes the proposed rule change is consistent with the Section 6(b)(5) [16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change is designed to promote C2's ability to ensure the continued operation of a fair and orderly market in the event of a systems failure, disaster, or other unusual circumstances that might threaten the ability to conduct business on C2. C2 recognizes that switching operations to the back-up data center may occur in times of uncertainty or great volatility in the markets. It is at these times that the investors may have the greatest need for viable, trustworthy marketplaces. The proposed rule changes seek to ensure that such a marketplace will exist when most needed. Accordingly, C2 believes that the proposed rule protects investors in the most fundamental sense by helping to ensure that a fair and orderly market will exist at a time when such a market may be most needed.

C2 also believes that the proposed rule change promotes just and equitable principles of trade by adding detail and clarity to the Rules. The proposed rule change seeks to provide additional clarity to C2's disaster recovery rules, putting all market participants on notice as to how C2 will function in case of significant systems disruption or other disaster situation. C2 is continuously updating the Rules to provide additional detail, clarity, and transparency regarding its operations and trading systems and regulatory authority. C2 believes that the adoption of detailed, clear, and transparent rules reduces burdens on competition and promotes just and equitable principles of trade. C2 also believes that adding greater detail to the Rules regarding C2's ability to ensure the continuous operation of the market and preserve the ability to conduct business on C2 will increase confidence in the markets and encourage wider participation in the markets and greater investment. Finally, C2 notes that proposed Rule 6.45 is designed to harmonize C2's disaster recovery rules with Regulation SCI under the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

C2 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. Rather, the proposed rule change will help ensure that competitive markets remain operative in the event of a systems failure or other disaster event. C2 notes that the proposed rule change is designed to clarify C2's authority to require market participants to participate in, and provide necessary liquidity to ensure fair and orderly markets. C2 further notes that the proposed rule change is designed to ensure competitive markets in that it is designed around the mandates of Regulation SCI, which each of the national securities exchanges is required to satisfy.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and Rule 19b–4(f)(6) thereunder.[18]

A proposed rule change filed under Rule 19b–4(f)(6) [19] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) [20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. According to the Exchange, the proposed rule change does not present any novel or substantive issues. The proposed rule change is substantially the same as CBOE Rule 6.18,[21] except for provisions relating to the loss of a trading floor and the specific factors for designating BCP/DR Participants. The Commission notes that C2 does not have a trading floor and further, that the factors proposed by C2 are those that C2 reasonably determined are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of the Exchange's business continuity and disaster recovery plans. These factors are designed to harmonize C2's rule with Regulation SCI. Accordingly, the

[13] 15 U.S.C. 78f(b).

[14] *See* 17 CFR 242.1001(a) and 1004.

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

[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 the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Commission deems this requirement to have been met.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] CBOE Rule 6.18 was recently amended in CBOE–2015–088, which was filed on October 8, 2015, and effective upon filing. *See* Securities Exchange Act Release No. 76203 (October 20, 2015), 80 FR 65258 (October 26, 2015). In CBOE–2015–088, CBOE amended CBOE Rule 6.18 to further describe CBOE's back-up systems, the circumstances under which they may be used, and the testing that CBOE may conduct to ensure the availability, functionality and performance of such systems, as well incorporate provisions for Regulation SCI.

Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to incorporate changes required under Regulation SCI, such as establishing standards for designating BCP/DR Participants, prior to the November 3, 2015 compliance date. Therefore, the Commission designates the proposed rule change to be operative upon filing.[22]

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–C2–2015–030 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–C2–2015–030. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–C2–2015–030, and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28023 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[22] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76301; File No. SR–BX–2015–032]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing of Amendment No. 2 and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Adopt a New Price Improvement Auction, BX PRISM

October 29, 2015.

I. Introduction

On August 19, 2015, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to establish an options price improvement mechanism (''PRISM''). On September 2, 2015, BX filed Amendment No. 1 to the proposal. The proposed rule change, as modified by Amendment No. 1, was published for comment in the **Federal Register** on September 10, 2015.[3] The Commission received no substantive comments regarding the proposal.[4] On October 22, 2015, BX granted an extension of time for Commission action until October 30, 2015. On October 23, 2015, BX filed Amendment No. 2 to the proposal.[5] The Commission is publishing this notice to solicit comment on Amendment No. 2 from interested persons and is approving the proposed rule change, as modified by Amendment Nos. 1 and 2, on an accelerated basis, with certain provisions subject to a pilot period scheduled to expire on July 18, 2016.

II. Description of the Proposal

BX proposes to establish a price-improvement mechanism, ''PRISM,'' on the Exchange's options platform, in which a BX Participant (an ''Initiating Participant'') may electronically submit for execution a two-sided paired order, where one side is an order it represents as agent on behalf of a Public Customer,[6] Professional customer, broker-dealer, or any other entity (''PRISM Order'') and the other side is principal interest or any other order it represents as agent (an ''Initiating Order'') provided that the member first exposes the PRISM Order in the PRISM Auction (''Auction'') pursuant to the proposed Rule.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 75827 (September 3, 2015), 80 FR 54601 (''Notice'').

[4] *See infra* note 5 (noting that when BX submitted Amendment No. 2, it also submitted the document as a comment letter to the file to promote the public dissemination of its Amendment).

[5] In Amendment No. 2, BX makes certain technical and clarifying changes to the proposal, which BX believes does not result in any material differences over its original filing as modified by Amendment No. 1. Specifically, BX proposes to: (i) Remove the term ''displayed''; (ii) describe ''rejected'' orders more accurately as ''immediately cancelled'' in certain circumstances; (iii) provide more specificity as to the amounts of allocations for which an Initiating Participant is entitled to be allocated; (iv) remove an incorrect reference to ''orders'' and define interest more specifically; (v) add more specificity related to Customer-to-Customer orders; (vi) correct a citation error; and (vii) correct typographical errors. Amendment 2 amends and replaces the original filing, as modified by Amendment 1, in its entirety. To promote transparency of its proposed amendment, when BX filed Amendment No. 2 with the Commission, it also submitted Amendment No. 2 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR–BX–2015–032. The Exchange also posted a copy of its Amendment No. 2 on its Web site when it filed the amendment with the Commission.

[6] For purposes of this Rule, a Public Customer order does not include a Professional order, and therefore a Professional would not be entitled to Public Customer priority as described herein. A Public Customer means a person that is not a broker or dealer in securities. *See* BX Chapter I, Section 1(a)(50). A Public Customer order does not include a Professional order for purposes of BX Chapter VI, Section 10(a)(C)(1)(a), which governs allocation priority. A ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). A Participant or a Public Customer may, without limitation, be a Professional. All Professional orders shall be appropriately marked by Participants. *See* BX Chapter I, Section 1(a)(49).

A. Auction Eligibility Requirements

All options traded on the Exchange are eligible for PRISM.[7] To initiate a PRISM Auction, an Initiating Participant first must ''stop'' the PRISM Order at a price that is equal to or better than the NBBO. In addition, the proposed rules governing the eligible stop price recognize a distinction between PRISM Orders for Public Customers and PRISM Orders for non-Public Customers. Specifically, a PRISM Order that is a Public Customer Order must be stopped at an improved price over any resting a limit orders on the book on the same side as the PRISM Order. A PRISM Order that is for a non-Customer (account of a broker-dealer or any other person or entity that is not a Public Customer) is always required to improve the same side BX BBO as the PRISM Order, even if there is no resting limit order on the book. PRISM Orders that do not comply with the aforementioned auction eligibility requirements will be immediately cancelled. In addition, PRISM Orders submitted at or before the opening of trading are not eligible to initiate an Auction and will be rejected. PRISM Orders submitted during the final two seconds of the trading session are not eligible to initiate an Auction and will be immediately cancelled. Finally, an Initiating Order may not be a solicited order for the account of any BX Options Market Maker assigned in the affected series.[8]

B. Auction Process

To initiate the Auction, the Initiating Participant must mark the PRISM Order for Auction processing, and specify either: (a) A single price at which it seeks to execute the PRISM Order (a ''stop price''); (b) that it is willing to automatically match as principal or as agent on behalf of an Initiating Order the price and size of all PRISM Auction Notifications (''PAN'') responses, and trading interest (''auto-match'') in which case the PRISM Order will be stopped at the NBBO on the Initiating Order side;[9] or (c) that it is willing to either: (i) Stop the entire order at a single stop price and auto-match PAN responses and trading interest at a price or prices that improve the stop price up to a maximum specified price (a ''No Worse Than'' or ''NWT'' price); (ii) stop the entire order at a single stop price and auto-match all PAN responses and trading interest at or better than the stop price; or (iii) stop the entire order at the NBBO on the Initiating Order side, and auto-match PAN responses and trading interest at a price or prices that improve the stop price up to the NWT price. In all cases, if the BX BBO on the same side of the market as the PRISM Order represents a limit order on the book, the stop price must be at least one minimum trading increment (specified in Chapter VI, Section 5) better than the booked limit order's limit price.

Only one Auction would be conducted at a time in any given series. Once the Initiating Participant has submitted a PRISM Order for exposure in the Auction, such PRISM Order may not be modified or cancelled, nor may any Auction be cancelled once it has commenced. Under any of the circumstances described above, the stop price or NWT price may be improved to the benefit of the PRISM Order during the Auction, but may not be cancelled.

Under the proposal, except for rounding purposes, the Initiating Participant would not receive an allocation percentage of more than 50% with one competing quote, order or PAN response, or 40% with multiple competing quotes, orders or PAN responses at the final price point, when competing quotes, orders or PAN responses have contracts available for execution.[10] However, when starting an Auction, the Initiating Participant may submit the Initiating Order with a designation of ''surrender'' to other PRISM Participants (''Surrender''), which will result in the Initiating Participant forfeiting priority and trade allocation privileges. If Surrender is specified, the Initiating Participant would trade only if there were not enough interest available to fully execute the PRISM Order at prices which are equal to or improve upon the stop price.[11] Surrender information would not be available to other market participants and may not be modified after the order is submitted to the Auction.

When the Exchange receives a PRISM Order for Auction, a PAN detailing the side, size and options series of the PRISM Order would be sent over the Exchange's Specialized Quote Feed and BX Depth Feed. PRISM Auctions would be for a specified duration of no less than one hundred milliseconds and no more than one second, as determined by the Exchange and announced on the Nasdaq Trader Web site.[12] Any person or entity may submit a response to the PAN, provided such response is properly marked specifying price, size, and side of the market. PAN responses would not be visible to Auction participants, including the initiator, and would not be disseminated to OPRA. The minimum price increment for PAN responses and for an Initiating Participant's stop price and/or NWT price would be the minimum price improvement increment established pursuant to proposed Rule Chapter VI, Section 9(i)(A).[13]

A PAN response size at any given price point may not exceed the size of the PRISM Order. Any such oversized response would be immediately cancelled. A PAN response must be equal to or better than the NBBO at the time of receipt of the PAN response or it would be immediately cancelled. PAN responses may be modified or cancelled during the Auction. PAN responses on the same side of the market as the PRISM Order are considered invalid and will be immediately cancelled. Finally, multiple PAN responses from the same Participant may be submitted during the Auction. However, multiple orders at a particular price point submitted by a Participant in response to a PAN may not exceed, in the aggregate, the size of the PRISM Order.[14]

C. Conclusion of an Auction

The PRISM Auction would conclude at the earlier of: (i) The end of the Auction period; (ii) any time the BX

[7] *See* proposed BX Chapter VI, Section 9(i).

[8] *See* proposed BX Chapter VI, Section 9(i)(C) through (F).

[9] This is accomplished by marking the Initiating Order with a market (MKT) price.

[10] *See* proposed BX Chapter VI, Section 9(ii)(A)(1).

[11] Surrender will not be permitted if both the Initiating Order and PRISM Order are Public Customer Orders. *See* proposed BX Chapter VI, Section 9(ii)(A)(1).

[12] In May 2014, NASDAQ OMX PHLX LLC's (''Phlx'') staff distributed a survey to all Phlx market maker firms inquiring as to the timeframe within which these market participants respond to an auction with a duration time ranging from less than fifty (50) milliseconds to more than one (1) second. According to BX, the market marker firms on Phlx represent membership similar to BX Market Makers, and 90 percent of the BX Market Maker firms participated in the survey. Of the thirty five (35) Phlx market maker firms that were surveyed, twenty (20) of these market makers responded to the survey and of those respondents 100% indicated that that their firm could respond to auctions with a duration time of at least 50 milliseconds. Based on the results of the survey, the Exchange believes that allowing for an auction period of no less than one hundred (100) milliseconds and no more than one (1) second would provide a meaningful opportunity for BX Participants to respond to the PRISM Auction while at the same time facilitating the prompt execution of orders. Based on experience with the Phlx's PIXL mechanism on BX's affiliated exchange, BX believes that 100 milliseconds will continue to provide all market participants with sufficient time to respond, compete, and provide price improvement for orders and will provide investors and other market participants with more timely executions, thereby reducing their market risk.

[13] *See* proposed BX Chapter VI, Section 9(ii)(A)(2) through (6).

[14] *See* proposed BX Chapter VI, Section 9(ii)(A)(7) through (10).

BBO crosses the PRISM Order stop price on the same side of the market as the PRISM Order; [15] or (iii) any time there is a trading halt [16] on the Exchange in the affected series.[17]

If the PRISM Auction concludes earlier than the end of the prescribed Auction period, the entire PRISM Order will be executed at: (i) In the case of the BX BBO crossing the PRISM Order stop price, the best response price(s) or, if the stop price is the best price in the Auction, at the stop price, unless the best response price is equal to or better than the price of a limit order resting on the Order Book on the same side of the market as the PRISM Order, in which case the PRISM Order will be executed against that response, but at a price that is at the minimum trading increment better than the price of such limit order at the time of the conclusion of the Auction; or (ii) in the case of a trading halt on the Exchange in the affected series, the stop price, in which case the PRISM Order will be executed solely against the Initiating Order.[18]

Any unexecuted PAN responses will be cancelled.[19] An unrelated market or marketable limit order (against the BX BBO) on the opposite side of the market from the PRISM Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction.[20] If contracts remain from such unrelated order at the time the auction ends, they will be considered for participation in the order allocation process.

1. Order Allocation—Size Pro-Rata

At the conclusion of the Auction, for option classes governed under BX's Size Pro-Rata execution algorithm, the PRISM Order will be allocated at the best price(s), pursuant to the priority set forth in Chapter VI, 9(ii)(E)(1) through (5).[21] First, Public Customer orders would have time priority at each price level. Next, the Initiating Participant would receive an allocation after Public Customer orders.[22]

If the Initiating Participant selected the *single stop price option,* PRISM executions will occur first at prices that improve the stop price, and then at the stop price with up to 40% of the remaining contracts after Public Customer interest is satisfied being allocated to the Initiating Participant at the stop price. However, if only one other quote, order or PAN response matches the stop price, then the Initiating Participant may be allocated up to 50% of the contracts executed at such price.

If the Initiating Participant selected the *auto-match option,* the Initiating Participant would be allocated a number of contracts equal to the aggregate size of all other quotes, orders, and PAN responses at each price point until a price point is reached where the balance of the order can be fully executed, except that the Initiating Participant would be entitled to receive up to 40% (if there are multiple competing quotes, orders or PAN responses) or 50% (if there is only one competing quote, order or PAN response) of the contracts remaining at the final price point (including situations where the stop price is the final price) after Public Customer interest has been satisfied but before remaining interest receives an allocation.

If the Initiating Participant selected the *''stop and NWT'' option,* contracts would be allocated as follows: (i) First to quotes, orders, and PAN responses at prices better than the NWT price (if any), beginning with the best price, pursuant to proposed Chapter VI, Section 9(ii)(E)(3) through (5), at each price point; and (ii) next, to quotes, orders, and PAN responses at prices at the Initiating Participant's NWT price and better than the Initiating Participant's stop price, beginning with the NWT price. The Initiating Participant would be allocated a number of contracts equal to the aggregate size of all other quotes, orders, and PAN responses at each price point, except that the Initiating Participant would be entitled to receive up to 40% (if there are multiple competing quotes, orders or PAN responses) or 50% (if there is only one competing quote, order or PAN response) of the contracts remaining at the final price point (including situations where the final price is the stop price), after Public Customer interest has been satisfied but before remaining interest receives an allocation. In the case of an Initiating Order with a NWT price at the market, the Initiating Participant would be allocated a number of contracts equal to the aggregate size of all other quotes, orders, and PAN responses at all price points, except that the Initiating Participant would be entitled to receive up to 40% or 50% of the contracts remaining at the final price point (including situations where the final price is the stop price), after Public Customer interest has been satisfied but before remaining interest receives an allocation.[23]

After Public Customers and the Initiating Participant receive their allocations, BX Options Market Makers that were at a price equal to the NBBO on the opposite side of the market from the PRISM Order at the time of initiation of the PRISM Auction (''Priority Market Makers'') would have priority up to their quote size in the NBBO which was present when the PRISM Auction was initiated (''Initial NBBO'') at each price level at or better than such Initial NBBO.[24] Priority Market Maker quotes and PAN responses will be allocated pursuant to the Size Pro-Rata algorithm set forth in BX Chapter VI, Section 10(1)(B).[25] Priority Market Maker status is valid only for the duration of the particular PRISM auction.

Next, Non-Priority Market Makers, as well as Priority Market Maker PRISM Auction interest which exceeded the Priority Market Maker's size in the Initial NBBO, would have priority at each price level at or better than the Initial NBBO after Public Customers, the Initiating Participant and Priority Market Makers have received allocations. Non-Priority Market Maker and such excess Priority Market Maker interest will be allocated pursuant to the Size Pro-Rata algorithm set forth in BX Chapter VI, Section 10(1)(B).[26]

Finally, all other interest will receive an allocation after the interest discussed above has been satisfied. Such interest will be allocated pursuant to the Size

[15] This provision regarding the BX BBO crossing the PRISM Order stop price on the same side of the market as the PRISM Order, as a conclusion to a PRISM Auction, would be subject to a pilot period scheduled to expire July 18, 2016.

[16] This provision regarding the trading halt, as a conclusion to a PRISM Auction, would be subject to a pilot period scheduled to expire July 18, 2016.

[17] *See* proposed BX Chapter VI, Section 9(ii)(B).

[18] See proposed BX Chapter VI, Rule 9(ii)(C).

[19] *See id.*

[20] *See* proposed BX Chapter VI, Section 9(ii)(D). This provision would be subject to a pilot period scheduled to expire on July 18, 2016. The Commission notes that this provision is based on a similar provision in Phlx's Price Improvement XL (''PIXL'') auction. *See* Phlx Rule 1080(n).

[21] *See* Notice, *supra* note 3, at 54607–54610, for examples illustrating trade allocations under the Size Pro-Rata execution algorithm.

[22] The Initiating Participant shall receive additional allocation only if contracts remain after any allocation pursuant to proposed BX Chapter VI, Section 9(ii)(E)(3) through (5).

[23] *See* proposed BX Chapter VI, Section 9(ii)(E)(2)(a) through (c).

[24] Miami International Securities Exchange, LLC (''MIAX'') allocates executions resulting from Priority Public Customer interest and priority Market Maker quotes ahead of other interest. MIAX's system may designate Market Maker quotes as either priority quotes or non-priority quotes in accordance with the provisions in MIAX Rule 517(b). BX is prioritizing Priority Market Maker allocations in the proposed BX PRISM Auction in a similar manner, ahead of other non-Public Customer interest.

[25] *See* proposed BX Chapter VI, Section 9(ii)(E)(3).

[26] *See* proposed BX Chapter VI, Section 9(ii)(E)(4).

Pro-Rata algorithm set forth in BX Chapter VI, Section 10(1)(B).[27]

2. Order Allocation—Price/Time

At the conclusion of the Auction, for option classes governed under BX's Price/Time execution algorithm, the PRISM Order will be allocated at the best price(s), pursuant to the priority set forth in proposed Chapter VI, Section 9(ii)(F)(1) through (4).[28] First, Public Customer orders would have time priority at each price level. Next, the Initiating Participant would receive an allocation after Public Customer orders.[29]

If the Initiating Participant selected the *single stop price option,* PRISM executions will occur first at prices that improve the stop price, and then at the stop price with up to 40% of the remaining contracts after Public Customer interest is satisfied being allocated to the Initiating Participant at the stop price. However, if only one other quote, order or PAN response matches the stop price, the Initiating Participant may be allocated up to 50% of the contracts executed at such price.

If the Initiating Participant selected the *auto-match option,* the Initiating Participant would be allocated a number of contracts equal to the aggregate size of all other quotes, orders, and PAN responses at each price point until a price point is reached where the balance of the order can be fully executed, except that the Initiating Participant would be entitled to receive up to 40% (if there are multiple competing quotes, orders or PAN responses) or 50% (if there is only one competing quote, order or PAN response) of the contracts remaining at the final price point (including situations where the stop price is the final price), after Public Customer interest has been satisfied but before remaining interest receives an allocation.

If the Initiating Participant selected the *"stop and NWT" option,* contracts would be allocated as follows: (i) First to quotes, orders, and PAN responses at prices better than the NWT price (if any), beginning with the best price, pursuant to proposed Chapter VI, Section 9(ii)(F)(3) and (4), at each price point; and (ii) next, to quotes, orders, and PAN responses at prices at the Initiating Participant's NWT price and better than the Initiating Participant's stop price, beginning with the NWT price. The Initiating Participant would be allocated a number of contracts equal to the aggregate size of all other quotes, orders, and PAN responses at each price point, except that the Initiating Participant would be entitled to receive up to 40% (if there are multiple competing quotes, orders or PAN responses) or 50% (if there is only one competing quote, order or PAN response) of the contracts remaining at the final price point (including situations where the final price is the stop price), after Public Customer interest has been satisfied but before remaining interest receives an allocation. In the case of an Initiating Order with a NWT price at the market, the Initiating Participant would be allocated a number of contracts equal to the aggregate size of all other quotes, orders, and PAN responses at all price points, except that the Initiating Participant would be entitled to receive up to 40% multiple competing quotes, orders or PAN responses) or 50% (one competing quote, order or PAN response) of the contracts remaining at the final price point (including situations where the final price is the stop price), after Public Customer interest has been satisfied but before remaining interest receives an allocation.

After Public Customers and the Initiating Participant receive their allocations, Priority Market Makers that were at a price equal to the NBBO on the opposite side of the market from the PRISM Order at the time of initiation of PRISM Auction would have priority up to their quote size in the Initial NBBO at each price level better than the Initial NBBO. Priority Market Maker interest at prices better than the Initial NBBO will be allocated pursuant to the Size Pro-Rata algorithm set forth in BX Chapter VI, Section 10(1)(B). Priority Market Maker interest at a price equal to or inferior to the Initial NBBO will not have priority over other participants and will be allocated pursuant to the Price/Time algorithm set forth in BX Chapter VI, Section 10(1)(A).[30]

Finally, all other interest will receive an allocation, after the interest discussed above has been satisfied. Such interest will be allocated pursuant to the Price/Time algorithm set forth in BX Chapter VI, Section 10(1)(A).[31]

D. Crossing Agency Orders

The Exchange also proposes, in lieu of the PRISM Auction procedures set forth in proposed Chapter VI, Section 9(i)–(ii), to allow an Initiating Participant to enter a PRISM Order for the account of a Public Customer paired with an order for the account of another Public Customer, and such paired orders will be automatically executed without a PRISM Auction, provided there is not currently an Auction in progress in the same series, in which case the paired orders would be cancelled.[32] In its proposal, the Exchange notes that it would be a violation of BX Chapter VII, Section 12 for a Participant to circumvent Chapter VII, Section 12 by providing an opportunity for (i) a Public Customer affiliated with the Participant, or (ii) a Public Customer with whom the Participant has an arrangement that allows the Participant to realize similar economic benefits from the transaction as the Participant would achieve by executing agency orders as principal, to regularly execute against agency orders handled by the firm immediately upon their entry as PRISM Public Customer-to-Public Customer immediate crosses.[33]

E. Pilot Program Information to the Commission

Subject to a pilot program expiring July 18, 2016,[34] there will be no minimum size requirement for orders to be eligible for the Auction. The Exchange also has proposed two additional components of its rules on a pilot basis, expiring on July 18, 2016: (i) The early conclusion of the PRISM Auction; and (ii) an unrelated market or marketable limit order (against the BX BBO) on the opposite side of the market from the PRISM Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction.[35] During this pilot period, the Exchange represents that it periodically will submit certain data, as requested by the Commission staff, to provide supporting evidence that, among other things, there is meaningful competition in PRISM Auctions for all size orders, there are opportunities for significant price improvement for orders executed through PRISM, and that there is an active and liquid market functioning on the Exchange outside of the Auction

[27] *See* proposed BX Chapter VI, Section 9(ii)(E)(5).

[28] *See* Notice, *supra* note 3, at 54607–54610, for examples illustrating trade allocations under the Price/Time execution algorithm.

[29] The Initiating Participant shall receive additional allocation only if contracts remain after any allocation pursuant to proposed BX Chapter VI, Section 9(ii)(F)(3) and (4).

[30] *See* proposed BX Chapter VI, Section 9(ii)(F)(3).

[31] *See* proposed BX Chapter VI, Section 9(ii)(F)(4).

[32] *See* discussion *infra* Section VI, Amendment No. 2. As noted in proposed BX Chapter VI, Section 9(ii), only one Auction may be conducted at a time in any given series.

[33] *See* Notice, *supra* note 3, at 54606. *See also* proposed BX Chapter VI, Section 9(vi)(a).

[34] *See* proposed BX Chapter VI, Section 9(viii).

[35] *See* proposed BX Chapter VI, Section 9(ii)(B)(2) through (4) (governing the early conclusion of a PRISM auction) and proposed BX Chapter VI, Section 9(ii)(D) (governing the treatment of unrelated orders on the opposite side of the market from the PRISM Order).

mechanism.[36] The Exchange further noted that it would seek to request confidential treatment for any raw data that it submits to the Commission.[37]

The Exchange represented that it will provide the following additional information on a monthly basis:

(i) The number of contracts (of orders of 50 contracts or greater) entered into the PRISM;

(ii) The number of contracts (of orders of fewer than 50 contracts) entered into the PRISM;

(iii) The number of orders of 50 contracts or greater entered into the PRISM; and

(iv) The number of orders of fewer than 50 contracts entered into the PRISM.

III. Amendment No. 2

In Amendment No. 2, the Exchange proposes to revise its proposal to make certain clarifications and representations relating to the use of Price Improving and Post-Only Orders and to make other clarifying revisions to the rule text.

The Exchange proposes to amend its rule text to delete the term ''displayed'' which modifies ''BX BBO'' in proposed Chapter VI, Section 9(i)(B) and the term ''or better than'' in proposed Chapter VI, Section 9(ii)(E)(3) because these references represent the impact of repricing resulting from Price Improving and Post-Only Orders. The Exchange represents that it will file a rule change separately with the Commission to remove Price Improving and Post-Only Order types from its Rules.[38] The Exchange also represents that it will not commence offering BX PRISM until such time as it has an effective and operative rule in place from the Commission to remove Price Improving and Post-Only Orders and removes the ability to submit Price Improving and Post-Only Orders into the Auction.[39] In the event the Exchange determines in the future to allow the entry of any type of non-displayed order types, the Exchange represents that it will file a proposed rule change pursuant to Section 19(b)(2) under the Exchange Act with the Commission to seek approval for such rule change.[40] As there will be no longer be any repricing order types on BX due to BX's elimination of Price Improving and Post Only Orders, the Exchange proposes to delete these terms from the rule text. The Exchange also proposes to delete the term ''displayed'' in other parts of the rule where it modifies the term ''NBBO,'' ''quote size,'' or ''size'' because the Exchange believes the modifier ''displayed'' is redundant and unnecessary and wishes to avoid any inference that the NBBO or quote size may be non-displayed, which it represents is not the case.[41]

The Exchange also proposes to replace certain uses of the term ''rejected'' in the rule text with the term ''immediately cancelled.'' In Amendment No. 2, BX notes that non-eligible and non-compliant orders that are submitted into PRISM will be immediately cancelled when those orders are reviewed for compliance with Exchange Rules. These orders will not technically be rejected as there will be time, however miniscule, between the submission of the order and the cancellation of the order. The Exchange believes this non-substantive change adds more clarity to the rule text. The Exchange also proposes to amend the rule text to provide more specificity concerning the allocation guarantee to which an Initiating Participant is entitled. While the current rule text clearly states that the Initiating Participant may receive up to 40% if there is multiple competing interest or 50% of there is one competing quote, order, or response, the amendments add this detail to other places in the rule where the 40% and 50% guarantees are referenced to consistently make clear the conditions under which they apply. The Exchange believes this non-substantive change adds more clarity to the rule text.

Further, the Exchange proposes to amend the rule text at proposed Chapter VI, Section 9(ii)(E)(3) to delete the term ''orders.'' This amendment will correct the reference to the types of interest that would be attributed to a Priority Market Maker. While quotes and PAN responses will be allocated according to Priority Marker Maker status, orders will be accepted but will not receive Priority Market Maker status. Therefore, BX proposes to delete the term ''orders'' to make clear which interest shall be included for calculation within the allocation.

In addition, the Exchange proposes to replace the terms ''orders'' or ''participants'' in certain places within the rule text that reference the Initiating Participant's guarantee with the terms ''quote(s), order(s) or PAN response(s),'' which more fully and explicitly represent the types of interest that is considered when PRISM allocates 40% or 50% of the PRISM Order to the Initiating Participant. The Exchange believes these amendments are non-substantive changes that add more clarity to the rule text.

The Exchange also proposes to amend the rule text at proposed Chapter VI, Section 9(vi) to clarify that a Participant cannot submit a Public Customer-to-Public customer paired order when there is a PRISM Auction in progress in the same series. Any attempt to do so will result in the Exchange canceling the Public Customer-to-Public customer paired order. In its original notice, the Exchange noted that only one Auction may be conducted at a time in any given series,[42] and this additional text just makes clear that the general prohibition also applies when a Participant seeks to submit a Public Customer-to-Public customer paired order. The remaining proposed changes in Amendment No. 2 correct a cross-reference and some typographical errors.

IV. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, with Section 6(b) of the Act.[43] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[44] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect customers, issuers, brokers and dealers. The Commission believes that the Exchange's proposal to establish the PRISM Auction may increase competition among those

[36] *See* Notice, *supra* note 3, at 54606–07.

[37] *See id. See also* proposed BX Chapter VI, Section 6(vii).

[38] *See* Amendment No. 2, *supra* note 5, at 3.

[39] *See id.*

[40] *See id.* at 3–4.

[41] *See id.* at 5. The Exchange states that the term ''displayed'' prior to NBBO is simply redundant as the NBBO is always displayed and therefore unnecessary. The term ''displayed'' before the terms ''quote size'' and ''size'' is not necessary as such references may create an inference that the quote size may be non-displayed in certain circumstances, which is not the case. Additionally, the term ''displayed'' is not utilized in the Phlx PIXL rule text (Phlx Rule 1080(n)), which auction is similar to PRISM.

[42] *See* Notice, *supra* note 3, at 54602.

[43] 15 U.S.C. 78f(b). In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[44] 15 U.S.C. 78f(b)(5).

options exchanges that offer similar price improvement mechanisms. The Commission further believes that allowing BX members to enter orders into the PRISM Auction could provide additional opportunities for such orders to receive price improvement over the NBBO. The Commission also believes that the BX's proposal to give priority to a Priority Market Maker who is quoting at the NBBO before an Auction is initiated may provide an incentive for BX Market Makers to publicly display their best quotes with size on the Exchange, which would benefit all options market participants.

BX's proposed PRISM Auction is based in large part on Phlx's PIXL, and also is similar to existing functionality at other options exchanges, except that, as discussed further below, it adds a new type of allocation for Priority Market Makers.[45] All options traded on BX are eligible for the PRISM Auction, and PRISM Orders are given the opportunity for price improvement over the NBBO by being exposed to members during the PRISM Auction. In addition, BX's proposal protects resting interest on its limit order book as the Initiating Participant's stop price[46] must be at least one minimum trading increment better than any booked order's limit price on the same side of the market as the PRISM Order, when the PRISM Order is for a Public Customer. A PRISM Order for any entity other than a Public Customer must be stopped at a price better than the same side of the BX BBO even if there is no resting limit order on the book.

BX will not accept PRISM Orders during certain times, including during the final two seconds of the regular trading session, as well as at or before the opening of trading. BX also would cancel any PRISM Order that does not meet the Auction eligibility requirements specified in the proposed rule. Further, once a PRISM Auction has commenced, it cannot be cancelled.

When the BX receives an eligible PRISM Order for submission to the PRISM Auction, it will broadly announce the Auction by sending a PAN over the BX Depth feed and the Exchange's Specialized Quote Feed detailing the option, side, and size.[47] This message is designed to help attract competitive responses to a PRISM Auction. The PRISM rules also permit any person or entity to submit responses to the PAN on behalf of all types of interest.[48] The Commission believes that these requirements provide the opportunity for a PRISM Order to be exposed in an auction designed to attract competitive responses and facilitate price improvement, and thus may result in ultimately better prices for the PRISM Order to the extent the PAN is successful in attracting competitive responses.

All PRISM Auctions will last for a period for a predefined time of no less than 100 milliseconds and no more than 1 second as determined by the Exchange and announced on the Nasdaq Trader Web site. As the Exchange discussed in its proposal, in May 2014, Phlx surveyed its Market Maker members as to the timeframe within which these firms could respond to an auction with a duration time ranging from less than 50 milliseconds to more than 1 second.[49] Of the 20 Market Maker firms[50] that responded to the question, 100% indicated that their firm could respond to auctions with a duration time of at least 50 milliseconds.[51] Based on BX's statements, the Commission believes that proposed duration of the PRISM Auction could facilitate the prompt execution of orders in the PRISM auction, while providing market participants with an opportunity to compete for exposed bids and offers. The Commission notes that other exchanges' price improvement mechanisms provide for auction response periods within the range of the response duration proposed by BX.[52]

At the conclusion of a PRISM Auction, Public Customer orders have first priority to trade against the PRISM Order. After Public Customer orders receive their allocation, the Initiating Participant next may be allocated a limited percentage of the PRISM Order, not to exceed 40% of the contracts at the applicable final price point if competing quotes, orders or PAN responses have contracts available for execution (however, if only one other competing quote, order or PAN response matches the Initiating Participant's submission at the best price, then the Initiating Participant may be allocated up to 50% of the PRISM Order). After the Initiating Participant's primary allocation, quotes and PAN responses from Priority Market Makers have next priority. Thereafter, Non-Priority Market Makers, as well as Priority Market Maker interest which exceeded their displayed size in the Initial NBBO, would have the next priority at each price level at or better than the Initial NBBO. Finally, all other interest would receive an allocation if contracts remained. The Commission believes that the BX PRISM's proposed matching algorithm is sufficiently clear regarding how orders are to be allocated in the PRISM Auction and is designed in a manner that should facilitate a competitive auction process.

As noted above, the proposed BX rules grant a BX Market Maker ''priority'' status for the duration of an Auction when the Market Maker is quoting at the NBBO at the time the PRISM Auction was initiated, up to the size of its quote. The Commission believes that this provision is designed to encourage BX Market Makers to quote aggressively with additional size outside of the PRISM Auction and, therefore, may enhance competition and liquidity on the BX market. The Commission notes that another exchange, the Miami International Securities Exchange, offers a similar ''priority quote'' feature in its general matching system,[53] and also provides for enhanced priority for ''priority quotes'' in its PRIME price improvement auction in a substantially similar manner as to what BX proposes for PRISM.[54]

The Exchange has represented its commitment to submit certain data on PRISM Auctions at the request of Commission staff. The Commission expects such data to be used, by both the Exchange and the Commission staff, to assess the performance of PRISM Auction, including, among other things, to study whether there is meaningful competition for all size orders with the

[45] *See, e.g.,* Phlx Rule 1080(n) (Phlx's PIXL), Chicago Board Options Exchange (''CBOE'') Rule 6.74A (CBOE's Automated Improvement Mechanism (''AIM'') auction), and MIAX Rule 515A (MIAX's Price Improvement Mechanism (''PRIME'') auction).

[46] The Initiating Participant may forfeit priority and trade allocation privileges by designating the Initiating Order as Surrender, in which case the Initiating Participant would trade only if there were not enough interest available to fully execute the PRISM Order at prices which are equal to or improve upon the stop price. The Commission notes that this feature may encourage use of the PRISM Auction to provide certain orders with an opportunity for price improvement that such orders may not otherwise receive.

[47] According to the Exchange, SQF is available to Market Makers at no cost. The Depth Feed is available to all other market participants that pay to subscribe to the service to receive broadcast information regarding auctions.

[48] *Cf.* CBOE Rule 6.74A(b)(1)(D)–(E) (only CBOE Market Makers with an appointment in the relevant option class, and CBOE Members acting as agent for orders resting at the top of the CBOE book opposite the Agency Order, may submit responses to the AIM RFR).

[49] *See* Notice, *supra* note 3, at 54602.

[50] The Exchange represents that 90% of the BX market maker firms participated in the survey (*i.e.,* 90% of BX market maker firms were also market makers on Phlx who participated in the Phlx survey). *See* Notice, *supra* note 3, at 5460203, n. 19.

[51] *See* Notice, *supra* note 3, at 54602–03, n. 19–20 and accompanying text.

[52] *See* International Securities Exchange Rule 723(c)(5) (auction period of 500 milliseconds), CBOE Rule 6.74A(b)(1)(C) (auction period of 1 second), Boston Options Exchange Rule 7150(f)(1) (auction period of 100 milliseconds).

[53] *See* MIAX Rule 517(b)(1)(i).

[54] *See* MIAX Rule 515A(a)(2)(iii)(C).

PRISM, the degree of price improvement for all orders executed through the PRISM, and whether there is an active and liquid market functioning on the Exchange outside of the PRISM. The data provided will enable the Commission, as well as the Exchange itself, to evaluate the PRISM Auction to determine its performance and possible impact on BX and options market structure in general and the degree to which it is beneficial to customers and to the options market as a whole.

V. Section 11(a) of the Act

Section 11(a)(1) of the Act [55] prohibits a member of a national securities exchange from effecting transactions on that exchange for its own account, the account of an associated person, or an account over which it or its associated person exercises investment discretion (collectively, ''covered accounts'') unless an exception applies. Rule 11a2–2(T) under the Act,[56] known as the ''effect versus execute'' rule, provides exchange members with an exemption from the Section 11(a)(1) prohibition. Rule 11a2–2(T) permits an exchange member, subject to certain conditions, to effect transactions for covered accounts by arranging for an unaffiliated member to execute transactions on the exchange. To comply with Rule 11a2–2(T)'s conditions, a member: (i) Must transmit the order from off the exchange floor; (ii) may not participate in the execution of the transaction once it has been transmitted to the member performing the execution; [57] (iii) may not be affiliated with the executing member; and (iv) with respect to an account over which the member or an associated person has investment discretion, neither the member nor its associated person may retain any compensation in connection with effecting the transaction except as provided in the Rule. For the reasons set forth below, the Commission believes that Exchange members entering orders into the PRISM Auction would satisfy the requirements of Rule 11a2–2(T).

The Rule's first condition is that orders for covered accounts be transmitted from off the exchange floor. In the context of automated trading systems, the Commission has found that the off-floor transmission requirement is met if a covered account order is transmitted from a remote location directly to an exchange's floor by electronic means.[58] BX has represented that the BX trading system and the proposed PRISM Auction receive all orders electronically through remote terminals or computer-to-computer interfaces.[59] The Exchange also represents that orders for covered accounts from Participants will be transmitted from a remote location directly to the proposed PRISM mechanism by electronic means. Because no Exchange members may submit orders into the PRISM Auction from on the floor of the Exchange, the Commission believes that the PRISM Auction satisfies the off-floor transmission requirement.

Second, the Rule requires that the member and any associated person not participate in the execution of its order after the order has been transmitted. The Exchange represents that at no time following the submission of an order is a Participant able to acquire control or influence over the result or timing of the order's execution.[60] According to the Exchange, the execution of an order is determined by what other orders are present in the PRISM and the priority of those orders.[61] Accordingly, the Commission believes that a member does not participate in the execution of an order submitted to the PRISM mechanism.

Third, Rule 11a2–2(T) requires that the order be executed by an exchange member who is unaffiliated with the member initiating the order. The Commission has stated that this requirement is satisfied when automated exchange facilities, such as the PRISM mechanism, are used, as long as the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange.[62] BX represents that the PRISM is designed so that no Member has any special or unique trading advantage in the handling of its orders after transmitting its orders to the mechanism.[63] Based on the Exchange's representation, the Commission believes that the PRISM mechanism satisfies this requirement.

Fourth, in the case of a transaction effected for an account with respect to which the initiating member or an associated person thereof exercises investment discretion, neither the initiating member nor any associated person thereof may retain any compensation in connection with effecting the transaction, unless the person authorized to transact business for the account has expressly provided otherwise by written contract referring to Section 11(a) of the Act and Rule 11a2–2(T) thereunder.[64] BX represents

[55] 15 U.S.C. 78k(a)(1).

[56] 17 CFR 240.11a2–2(T).

[57] This prohibition also applies to associated persons. The member may, however, participate in clearing and settling the transaction.

[58] *See, e.g.,* Securities Exchange Act Release Nos. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031) (approving BATS options trading); 59154 (December 23, 2008), 73 FR 80468 (December 31, 2008) (SR–BSE–2008–48) (approving equity securities listing and trading on BSE); 57478 (March 12, 2008), 73 FR 14521 (March 18, 2008) (SR–NASDAQ–2007–004 and SR–NASDAQ–2007–080) (approving NOM options trading); 53128 (January 13, 2006), 71 FR 3550 (January 23, 2006) (File No. 10–131) (approving The Nasdaq Stock Market LLC); 44983 (October 25, 2001), 66 FR 55225 (November 1, 2001) (SR–PCX–00–25) (approving Archipelago Exchange); 29237 (May 24, 1991), 56 FR 24853 (May 31, 1991) (SR–NYSE–90–52 and SR–NYSE–90–53) (approving NYSE's Off-Hours Trading Facility); and 15533 (January 29, 1979), 44 FR 6084 (January 31, 1979) (''1979 Release'').

[59] *See* Notice, *supra* note 3, at 54612. *See also* Amendment No. 2, *supra* note 5.

[60] *See* Notice, *supra* note 3, at 54612. *See also* Amendment No. 2, *supra* note 5 (also representing, among other things, that: (1) No Participant, including the Initiating Participant, will see a PAN response submitted into PRISM and therefore and will not be able to influence or guide the execution of their PRISM Orders, (2) the Surrender feature will not permit a Participant to have any control over an order, and that the election to Surrender an order is available prior to the submission of the order, will not be broadcast and further, that the Surrender option may not be modified by the market participant during the auction).

[61] *See* Notice, *supra* note 3, at 54612. *See also* Amendment No. 2, *supra* note 5. The Exchange notes that a Member may cancel or modify the order, or modify the instructions for executing the order, but that such instructions would be transmitted from off the floor of the Exchange. The Commission has stated that the non-participation requirement is satisfied under such circumstances so long as such modifications or cancellations are also transmitted from off the floor. *See* Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542 (March 17, 1978) (''1978 Release'') (stating that the ''non-participation requirement does not prevent initiating members from canceling or modifying orders (or the instructions pursuant to which the initiating member wishes orders to be executed) after the orders have been transmitted to the executing member, provided that any such instructions are also transmitted from off the floor'').

[62] In considering the operation of automated execution systems operated by an exchange, the Commission noted that, while there is not an independent executing exchange member, the execution of an order is automatic once it has been transmitted into the system. Because the design of these systems ensures that members do not possess any special or unique trading advantages in handling their orders after transmitting them to the exchange, the Commission has stated that executions obtained through these systems satisfy the independent execution requirement of Rule 11a2–2(T). *See* 1979 Release, *supra* note 58.

[63] *See* Notice, *supra* note 3, at 54612. *See also* Amendment No. 2, *supra* note 5.

[64] In addition, Rule 11a2–2(T)(d) requires a member or associated person authorized by written contract to retain compensation, in connection with effecting transactions for covered accounts over which such member or associated persons thereof exercises investment discretion, to furnish at least annually to the person authorized to transact business for the account a statement setting forth the total amount of compensation retained by the member or any associated person thereof in connection with effecting transactions for the

Continued

that Members relying on Rule 11a2–2(T) for transactions effected through the PRISM must comply with this condition of the Rule and that the Exchange will enforce this requirement pursuant to its obligations under Section 6(b)(1) of the Act to enforce compliance with federal securities laws.[65]

VI. Accelerated Approval of Proposal, as Modified by Amendment No. 2

The Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act, to approve the proposal, as modified by Amendment Nos. 1 and 2, prior to the 30th day after publication of Amendment No. 2 in the **Federal Register**. In Amendment No. 2, BX revised the original proposal, which had been previously amended by Amendment No. 1 before it was published in the **Federal Register**, to make the changes discussed in detail above. Notably, in Amendment No. 2, BX represents that Price Improving and Post-Only Order types will be removed from its Rules before BX implements the PRISM Auction mechanism. BX also made changes to clarify and add detail to the rule text. The Commission believes that Amendment No. 2 does not raise any novel regulatory issues and instead provides additional clarity in the rule text, which is consistent with BX's original proposal, as modified by Amendment No. 1, and supports BX's analysis of how its proposal is consistent with the Act, thus facilitating the Commission's ability to make the findings set forth above to approve the proposal. Accordingly, the Commission finds that good cause exists to approve the proposal, as modified by Amendment No. 2, on an accelerated basis.

VII. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether Amendment No. 2 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–BX–2015–032 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–BX–2015–032. 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 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BX–2015–032 and should be submitted on or before November 25, 2015.

VIII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[66] that the proposed rule change (SR–BX–2015–032), as modified by Amendment Nos. 1 and 2, be and hereby is approved on an accelerated basis, except that BX Chapter VI, Section 9(ii)(B)(2)–(3), Section 9(ii)(D), and Section 9(vii) are approved on a pilot basis until July 18, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[67]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28024 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

account during the period covered by the statement. *See* 17 CFR 240.11a2–2(T)(d). *See also* 1978 Release, *supra* note 61 (stating "[t]he contractual and disclosure requirements are designed to assure that accounts electing to permit transaction-related compensation do so only after deciding that such arrangements are suitable to their interests").

[65] *See* Notice, *supra* note 3, at 54612. *See also* Amendment No. 2, *supra* note 5.

[66] 15 U.S.C. 78s(b)(2).

[67] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76310; File No. 4–551]

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among NYSE MKT LLC, BATS Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, the Chicago Board Options Exchange, Incorporated, the EDGX Exchange, Inc., the International Securities Exchange LLC, ISE Gemini, LLC, Financial Industry Regulatory Authority, Inc., NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., the NASDAQ OMX PHLX, Inc., and Miami International Securities Exchange, LLC Concerning Options-Related Market Surveillance

October 29, 2015.

Notice is hereby given that the Securities and Exchange Commission ("Commission") has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 ("Act"),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility ("Plan") filed on October 27, 2015, pursuant to Rule 17d–2 of the Act,[2] by NYSE MKT LLC ("MKT"), BATS Exchange, Inc., ("BATS"), the BOX Options Exchange LLC ("BOX"), C2 Options Exchange, Incorporated ("C2"), the Chicago Board Options Exchange, Incorporated ("CBOE"), the EDGX Exchange, Inc. ("EDGX") the International Securities Exchange LLC ("ISE"), ISE Gemini, LLC ("Gemini"), Financial Industry Regulatory Authority, Inc. ("FINRA"), NYSE Arca, Inc. ("Arca"), The NASDAQ Stock Market LLC ("Nasdaq"), NASDAQ OMX BX, Inc. ("BX"), NASDAQ OMX PHLX, Inc. ("PHLX"), and Miami International Securities Exchange ("MIAX") (collectively, "Participating Organizations" or "parties").

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On December 11, 2007, the Commission declared effective the Participating Organizations' Plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[11] On April 11, 2008, the Commission approved an amendment to the Plan to include NASDAQ as a participant.[12] On October 9, 2008, the Commission approved an amendment to the Plan to clarify that the term Regulatory Responsibility for options position limits includes the examination responsibilities for the delta hedging exemption.[13] On February 25, 2010, the Commission approved an amendment to the Plan to add BATS and C2 as SRO participants and to reflect the name changes of the American Stock Exchange LLC to the NYSE Amex LLC, and the Boston Stock Exchange, Inc. to the NASDAQ OMX BX, Inc.[14] On May 11, 2012, the Commission approved an amendment to the Plan to add BOX as a participant to the Plan.[15] On December 5, 2012, the Commission approved an amendment to the Plan to add MIAX as a participant to the Plan.[16] On July 23, 2013, the Commission approved an amendment to the Plan to add Topaz Exchange, LLC as a Participant to the Plan.[17]

The Plan is designed to reduce regulatory duplication for common members by allocating regulatory responsibility for certain options-related market surveillance matters among the Participating Organizations. Generally, under the Plan, a Participating Organization will serve as the Designated Options Surveillance Regulator (''DOSR'') for each common member assigned to it and will assume regulatory responsibility with respect to that common member's compliance with applicable common rules for certain accounts. When an SRO has been named as a common member's DOSR, all other SROs to which the common member belongs will be relieved of regulatory responsibility for that common member, pursuant to the terms of the Plan, with respect to the applicable common rules specified in Exhibit A to the Plan.

III. Proposed Amendment to the Plan

On October 27, 2015, the parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add EDGX as a Participant to the Plan and to change the name of Topaz Exchange, LLC to ISE Gemini, LLC. The text of the proposed amended 17d–2 plan is as follows (additions are *italicized;* deletions are [bracketed]):

* * * * *

AGREEMENT BY AND AMONG NYSE MKT LLC, BATS EXCHANGE, INC., *EDGX EXCHANGE INC.,* BOX OPTIONS EXCHANGE LLC, NASDAQ OMX BX, INC., C2 OPTIONS EXCHANGE, INCORPORATED, THE CHICAGO BOARD OPTIONS EXCHANGE, INCORPORATED, THE INTERNATIONAL SECURITIES EXCHANGE LLC, *ISE GEMINI, LLC,* FINANCIAL INDUSTRY REGULATORY AUTHORITY, INC., NYSE ARCA, INC., THE NASDAQ STOCK MARKET LLC, NASDAQ OMX PHLX, INC., *AND* MIAMI INTERNATIONAL SECURITIES

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 56941 (December 11, 2007), 72 FR 71723 (December 18, 2007) (File No. 4–551).

[12] *See* Securities Exchange Act Release No. 57649 (April 11, 2008), 73 FR 20976 (April 17, 2008) (File No. 4–551).

[13] *See* Securities Exchange Act Release No. 58765 (October 9, 2008), 73 FR 62344 (October 20, 2008) (File No. 4–551).

[14] *See* Securities Exchange Act Release No. 61588 (February 25, 2010), 75 FR 9970 (March 4, 2010) (File No. 4–551).

[15] *See* Securities Exchange Act Release No. 66975 (May 11, 2012), 77 FR 29712 (May 18, 2010) (File No. 4–551).

[16] *See* Securities Exchange Act Release No. 68362 (December 5, 2012), 77 FR 73719 (December 11, 2012) (File No. 4–551).

[17] *See* Securities Exchange Act Release No. 70052 (July 26, 2013), 78 FR 46665 (August 1, 2013) (File No. 4–551).

EXCHANGE, LLC [AND TOPAZ EXCHANGE, LLC] PURSUANT TO RULE 17d–2 UNDER THE SECURITIES EXCHANGE ACT OF 1934

This agreement (this ''Agreement''), by and among NYSE MKT LLC (''MKT''), BATS Exchange, Inc., (''BATS''), *the EDGX Exchange, Inc (''EDGX'')*, the C2 Options Exchange, Incorporated (''C2''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the International Securities Exchange LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), NYSE Arca, Inc. (''Arca''), The NASDAQ Stock Market LLC (''Nasdaq''), BOX Options Exchange LLC (''BOX''), NASDAQ OMX BX, Inc. (''BX''), NASDAQ OMX PHLX, Inc. (''PHLX''), Miami International Securities Exchange, LLC (''MIAX'') and [Topaz Exchange] *ISE Gemini,* LLC (''[Topaz] *Gemini''*) is made this 10th day of October 2007, and as amended the 31st day of March 2008, the 1st day of October 2008, the 3rd day of February 2010, the 25th day of April 2012, and the 19th day of November 2012, and the 30th day of May 2013, *and the 16th day of October 2015* pursuant to Section 17(d) of the Securities Exchange Act of 1934, as amended (the ''Exchange Act''), and Rule 17d–2 thereunder (''Rule 17d–2''), which allows for a joint plan among self-regulatory organizations (''SROs'') to allocate regulatory obligations with respect to brokers or dealers that are members of two or more of the parties to this Agreement (''Common Members''). MKT, BATS, C2, CBOE, *EDGX, ISE Gemini,* ISE, FINRA, Arca, Nasdaq, BOX, BX, PHLX, *and* MIAX [and Topaz] are collectively referred to herein as the ''Participants'' and individually, each a ''Participant.'' This Agreement shall be administered by a committee known as the Options Surveillance Group (the ''OSG'' or ''Group''), as described in Section V hereof. Unless defined in this Agreement or the context otherwise requires, the terms used herein shall have the meanings assigned thereto by the Exchange Act and the rules and regulations thereunder.

Whereas, the Participants desire to eliminate regulatory duplication with respect to SRO market surveillance of Common Member [1] activities with regard to certain common rules relating to listed options (''Options''); and

Whereas, for this purpose, the Participants desire to execute and file this Agreement with the Securities and Exchange Commission (the ''SEC'' or ''Commission'') pursuant to Rule 17d–2.

Now, therefore, in consideration of the mutual covenants contained in this Agreement, the Participants agree as follows:

I. Except as otherwise provided in this Agreement, each Participant shall assume Regulatory Responsibility (as defined below) for the Common Members that are allocated or assigned to such Participant in accordance with the terms of this Agreement and shall be relieved of its Regulatory Responsibility as to the remaining Common Members. For purposes of this Agreement, a Participant shall be considered to be the Designated Options Surveillance Regulator (''DOSR'') for each Common Member that is allocated to it in accordance with Section VII.

II. As used in this Agreement, the term ''Regulatory Responsibility'' shall mean surveillance, investigation and enforcement responsibilities relating to compliance by the Common Members with such Options rules of the Participants as the Participants shall determine are substantially similar and shall approve from time to time, insofar as such rules relate to market surveillance (collectively, the ''Common Rules''). For the purposes of this Agreement the list of Common Rules is attached as Exhibit A hereto, which may only be amended upon unanimous written agreement by the Participants. The DOSR assigned to each Common Member shall assume Regulatory Responsibility with regard to that Common Member's compliance with the applicable Common Rules for certain accounts.[2] A DOSR may perform its Regulatory Responsibility or enter an agreement to transfer or assign such responsibilities to a national securities exchange registered with the SEC under Section 6(a) of the Exchange Act or a national securities association registered with the SEC under Section 15A of the Exchange Act. A DOSR may not transfer or assign its Regulatory Responsibility to an association registered for the limited purpose of regulating the activities of members who are registered as brokers or dealers in security futures products.

The term ''Regulatory Responsibility'' does not include, and each Participant shall retain full responsibility with respect to:

(a) Surveillance, investigative and enforcement responsibilities other than those included in the definition of Regulatory Responsibility;

(b) any aspects of the rules of a Participant that are not substantially similar to the Common Rules or that are allocated for a separate surveillance purpose under any other agreement made pursuant to Rule 17d–2. Any such aspects of a Common Rule will be noted as excluded on Exhibit A.

With respect to options position limits, the term Regulatory Responsibility shall include examination responsibilities for the delta hedging exemption. Specifically, the Participants intend that FINRA will conduct examinations for delta hedging for all Common Members that are members of FINRA notwithstanding the fact that FINRA's position limit rule is, in some cases, limited to only firms that are not members of an options exchange (*i.e.,* access members). In such cases, FINRA's examinations for delta hedging options position limit violations will be for the identical or substantively similar position limit rule(s) of the other Participant(s). Examinations for delta hedging for Common Members that are non-FINRA members will be conducted by the same Participant conducting position limit surveillance. The allocation of Common Members to DOSRs for surveillance of compliance with options position limits and other agreed to Common Rules is provided in Exhibit B. The allocation of Common Members to DOSRs for examinations of the delta hedging exemption under the options position limits rules is provided in Exhibit C.

III. Each year within 30 days of the anniversary date of the commencement of operation of this Agreement, or more frequently if required by changes in the rules of a Participant, each Participant shall submit to the other Participants, through the Chair of the OSG, an updated list of Common Rules for review. This updated list may add Common Rules to Exhibit A, shall delete from Exhibit A rules of that Participant that are no longer identical or substantially similar to the Common Rules, and shall confirm that the remaining rules of the Participant included on Exhibit A continue to be identically or substantially similar to the Common Rules. Within 30 days from the date that each Participant has received revisions to Exhibit A from the Chair of the OSG, each Participant shall confirm in writing to the Chair of the OSG whether that Participant's rules listed in Exhibit A are Common Rules.

IV. Apparent violation of another Participant's rules discovered by a DOSR, but which rules are not within the scope of the discovering DOSR's

[1] In the case of the BX and BOX, members are those persons who are Options Participants (as defined in the BOX Options Exchange LLC Rules and NASDAQ OMX BX, Inc. Rules).

[2] Certain accounts shall include customer (''C'' as classified by the Options Clearing Corporation (''OCC'')) and firm (''F'' as classified by OCC) accounts, as well as other accounts, such as market maker accounts as the Participants shall, from time to time, identify as appropriate to review.

Regulatory Responsibility, shall be referred to the relevant Participant for such action as is deemed appropriate by that Participant.

Notwithstanding the foregoing, nothing contained herein shall preclude a DOSR in its discretion from requesting that another Participant conduct an investigative or enforcement proceeding (''Proceeding'') on a matter for which the requesting DOSR has Regulatory Responsibility. If such other Participant agrees, the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant and confirmed in writing by the Participants involved. Additionally, nothing in this Agreement shall prevent another Participant on whose market potential violative activity took place from conducting its own Proceeding on a matter. The Participant conducting the Proceeding shall advise the assigned DOSR. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in a Proceeding.

V. The OSG shall be composed of one representative designated by each of the Participants (a ''Representative''). Each Participant shall also designate one or more persons as its alternate representative(s) (an ''Alternate Representative''). In the absence of the Representative, the Alternate Representative shall assume the powers, duties and responsibilities of the Representative. Each Participant may at any time replace its Representative and/or its Alternate Representative to the Group.[3] A majority of the OSG shall constitute a quorum and, unless otherwise required, the affirmative vote of a majority of the Representatives present (in person, by telephone or by written consent) shall be necessary to constitute action by the Group.

The Group will have a Chair, Vice Chair and Secretary. A different Participant will assume each position on a rotating basis for a one-year term. In the event that a Participant replaces a Representative who is acting as Chair, Vice Chair or Secretary, the newly appointed Representative shall assume the position of Chair, Vice Chair, or Secretary (as applicable) vacated by the Participant's former Representative. In the event a Participant cannot fulfill its duties as Chair, the Participant serving as Vice Chair shall substitute for the Chair and complete the subject unfulfilled term. All notices and other communications for the OSG are to be sent in care of the Chair and, as appropriate, to each Representative.

VI. The OSG shall determine the times and locations of Group meetings, provided that the Chair, acting alone, may also call a meeting of the Group in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten business days prior to the meeting date. Representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VII. No less frequently than every two years, in such manner as the Group deems appropriate, the OSG shall allocate Common Members that conduct an Options business among the Participants (''Allocation''), and the Participant to which a Common Member is allocated will serve as the DOSR for that Common Member. Any Allocation shall be based on the following principles, except to the extent all affected Participants consent to one or more different principles:

(a) The OSG may not allocate a Common Member to a Participant unless the Common Member is a member of that Participant.

(b) To the extent practicable, Common Members that conduct an Options business shall be allocated among the Participants of which they are members in such manner as to equalize as nearly as possible the allocation among such Participants, provided that no Common Members shall be allocated to FINRA. For example, if sixteen Common Members that conduct an Options business are members only of three Participants, none of which is FINRA, those Common Members shall be allocated among the three Participants such that no Participant is allocated more than six such members and no Participant is allocated less than five such members. If, in the previous example, one of the three Participants is FINRA, the sixteen Common Members would be allocated evenly between the remaining Participants, so that the two non-FINRA Participants would be allocated eight Common Members each.

(c) To the extent practicable, Allocation shall take into account the amount of Options activity conducted by each Common Member in order to most evenly divide the Common Members with the largest amount of activity among the Participants of which they are members. Allocation will also take into account similar allocations pursuant to other plans or agreements to which the Common Members are party to maintain consistency in oversight of the Common Members.[4]

(d) To the extent practicable, Allocation of Common Members to Participants will be rotated among the applicable Participants such that a Common Member shall not be allocated to a Participant to which that Common Member was allocated within the previous two years. The assignment of DOSRs pursuant to the Allocation is attached as Exhibit B hereto, and will be updated from time to time to reflect Common Member Allocation changes.

(e) The Group may reallocate Common Members from time-to-time, as it deems appropriate.

(f) Whenever a Common Member ceases to be a member of its DOSR, the DOSR shall promptly inform the Group, which shall review the matter and allocate the Common Member to another Participant.

(g) A DOSR may request that a Common Member to which it is assigned be reallocated to another Participant by giving 30 days written notice to the Chair of the OSG. The Group, in its discretion, may approve such request and reallocate the Common Member to another Participant.

(h) All determinations by the Group with respect to Allocation shall be made by the affirmative vote of a majority of the Participants that, at the time of such determination, share the applicable Common Member being allocated; a Participant shall not be entitled to vote on any Allocation relating to a Common Member unless the Common Member is a member of such Participant.

VIII. Each DOSR shall conduct routine surveillance reviews to detect violations of the applicable Common Rules by each Common Member allocated to it with a frequency (daily, weekly, monthly, quarterly, semi-annually or annually as noted on Exhibit A) not less than that determined by the Group. The other Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the applicable DOSR. In addition, each Participant shall provide, to the extent not otherwise already provided, information pertaining to its surveillance program that would be relevant to FINRA or the Participant(s) conducting routine examinations for the delta hedging exemption.

At each meeting of the OSG, each Participant shall be prepared to report on the status of its surveillance program

[3] A Participant must give notice to the Chair of the Group of such a change.

[4] For example, if one Participant was allocated a Common Member by another regulatory group that Participant would be assigned to be the DOSR of that Common Member, unless there is good cause not to make that assignment.

for the previous quarter and any period prior thereto that has not previously been reported to the Group. In the event a DOSR believes it will not be able to complete its Regulatory Responsibility for its allocated Common Members, it will so advise the Group in writing promptly. The Group will undertake to remedy this situation by reallocating the subject Common Members among the remaining Participants. In such instance, the Group may determine to impose a regulatory fee for services provided to the DOSR that was unable to fulfill its Regulatory Responsibility.

IX. Each Participant will, upon request, promptly furnish a copy of the report or applicable portions thereof relating to any investigation made pursuant to the provisions of this Agreement to each other Participant of which the Common Member under investigation is a member.

X. Each Participant will routinely populate a common database, to be accessed by the Group relating to any formal regulatory action taken during the course of a Proceeding with respect to the Common Rules concerning a Common Member.

XI. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, to any Participant to the attention of that Participant's Representative, to the Participant's principal place of business or by email at such address as the Representative shall have filed in writing with the Chair.

XII. The costs incurred by each Participant in discharging its Regulatory Responsibility under this Agreement are not reimbursable. However, any of the Participants may agree that one or more will compensate the other(s) for costs incurred.

XIII. The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Group. Each Participant will notify the Common Members that have been allocated to it that such Participant will serve as DOSR for that Common Member.

XIV. This Agreement shall be effective upon approval of the Commission. This Agreement may only be amended in writing duly approved by each Participant. All amendments to this Agreement, excluding changes to Exhibits A, B and C, must be filed with and approved by the Commission.

XV. Any Participant may manifest its intention to cancel its participation in this Agreement at any time upon providing written notice to (i) the Group six months prior to the date of such cancellation, or such other period as all the Participants may agree, and (ii) the Commission. Upon receipt of the notice the Group shall allocate, in accordance with the provisions of this Agreement, those Common Members for which the canceling Participant was the DOSR. The canceling Participant shall retain its Regulatory Responsibility and other rights, privileges and duties pursuant to this Agreement until the Group has completed the reallocation as described above, and the Commission has approved the cancellation.

XVI. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, or such other period as all the Participants may agree. Such termination will become effective upon Commission approval.

XVII. Participation in the Group shall be strictly limited to the Participants and no other party shall have any right to attend or otherwise participate in the Group except with the unanimous approval of all Participants. Notwithstanding the foregoing, any national securities exchange registered with the SEC under Section 6(a) of the Act or any national securities association registered with the SEC under section 15A of the Act may become a Participant to this Agreement provided that: (i) Such applicant has adopted rules substantially similar to the Common Rules, and received approval thereof from the SEC; (ii) such applicant has provided each Participant with a signed statement whereby the applicant agrees to be bound by the terms of this Agreement to the same effect as though it had originally signed this Agreement and (iii) an amended agreement reflecting the addition of such applicant as a Participant has been filed with and approved by the Commission.

XVIII. This Agreement is wholly separate from the multiparty Agreement made pursuant to Rule 17d–2 by and among the NYSE MKT LLC, *the BATS Exchange, Inc.,* the Boston Stock Exchange, Inc., *the C2 Options Exchange,* the Chicago Board Options Exchange, Inc., the International Securities Exchange, LLC, Financial Industry Regulatory Authority, The NASDAQ Stock Market LLC, Inc., the New York Stock Exchange, LLC, the NYSE Arca, Inc., the Philadelphia Stock Exchange, Inc., Miami International Securities Exchange, LLC and the Topaz Exchange, LLC involving the allocation of regulatory responsibilities with respect to common members for compliance with common rules relating to the conduct by broker-dealers of accounts for listed options or index warrants entered into on [November 19, 2012] *June 21, 2013,* and as may be amended from time to time.

Limitation of Liability

No Participant nor the Group nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Regulatory Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other Participants or its respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by the Participants, individually or as a group, or by the OSG with respect to any Regulatory Responsibility to be performed hereunder.

Relief From Responsibility

Pursuant to Section 17(d)(1)(A) of the Exchange Act and Rule 17d–2, the Participants join in requesting the Commission, upon its approval of this Agreement or any part thereof, to relieve the Participants that are party to this Agreement and are not the DOSR as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOSR.

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all such counterparts shall together constitute one and the same Agreement.

In Witness Whereof, the Participants hereto have executed this Agreement as of the date and year first above written.

* * * * *

Exhibit A

Options Surveillance Group 17d–2 Agreement

COMMON RULES as of [July 1, 2013] *September 1, 2015*

VIOLATION I—EXPIRING EXERCISE DECLARATIONS (EED)—FOR LISTED AND FLEX EQUITY OPTIONS [EXPIRING: THE THIRD SATURDAY FOLLOWING THE THIRD FRIDAY OF A MONTH, QUARTERLY, AND FOR LISTED FLEX OPTIONS.]

SRO	Description of rule	Exchange rule No.	Frequency of review
BATS	Exercise of Options Contracts	Rule 23.1	At Expiration.
BOX	Exercise of Options Contracts	Rule 9000	At Expiration.
C2	Exercise of Options Contracts	Rule 11.1	At Expiration.
CBOE	Exercise of Options Contracts	Rule 11.1	At Expiration.
EDGX	*Exercise of Options Contracts*	*Rule 23.1*	*At Expiration.*
FINRA	Exercise of Options Contracts	Rule 2360(b)(23)	At Expiration.
ISE	Exercise of Options Contracts	Rule 1100	At Expiration.
ISE Gemini [Topaz].	Exercise of Options Contracts	Rule 1100	At Expiration.
MIAX	Exercise of Options Contracts	Rule 700	At Expiration.
Nasdaq	Exercise of Options Contracts	Ch. VIII, Sect.1	At Expiration.
Nasdaq OMX BX.	Exercise of Options Contracts	Ch. VII, Sect.1	At Expiration.
Nasdaq OMX PHLX.	Exercise of Equity Options Contracts	Rule 1042	At Expiration.
NYSE Arca	Exercise of Options Contracts	Rule 6.24	At Expiration.
NYSE MKT	Exercise of Options Contracts	Rule 980	At Expiration.

VIOLATION II—POSITION LIMITS (PL)—FOR LISTED EQUITY OPTIONS [EXPIRING: THE THIRD SATURDAY FOLLOWING THE THIRD FRIDAY OF A MONTH, QUARTERLY]

SRO	Description of rule (For review as they apply to PL)	Exchange rule No.	Frequency of review
BATS	Position Limits	Rule 18.7	Daily.
	Exemptions from Position	Rule 18.8	As Needed.
	Liquidation Positions	Rule 18.11	As Needed.
BOX	Position Limits	Rule 3120	Daily.
	Exemptions from Position Limits	Rule 3130	As Needed.
	Liquidation Positions	Rule 3160	As Needed.
C2	Position Limits	Rule 4.11	Daily.
	Liquidation of Positions	Rule 4.14	As Needed.
CBOE	Position Limits	Rule 4.11	Daily.
	Liquidation of Positions	Rule 4.14	As Needed.
EDGX	*Position Limits*	*Rule 18.7*	*Daily.*
	Exemptions from Position	*Rule 18.8*	*As Needed.*
	Liquidation Positions	*Rule 18.11*	*As Needed.*
FINRA	Position Limits	Rule 2860(b)(3)	Daily.
	Liquidation of Positions and Restrictions on Access	Rule 2860(b)(6)	As Needed.
ISE	Position Limits	Rule 412	Daily.
	Exemptions from Position Limits	Rule 413	As Needed.
	Liquidating Positions	Rule 416	As Needed.
ISE Gemini [Topaz].	Position Limits	Rule 412	Daily.
	Exemptions from Position Limits	Rule 413	As Needed.
	Liquidating Positions	Rule 416	As Needed.
MIAX	Position Limits	Rule 307	Daily.
	Exemptions from Position Limits	Rule 308	As Needed.
	Liquidating Positions	Rule 311	As Needed.
Nasdaq	Position Limits	Ch. III, Sect. 7	Daily.
	Exemptions from Position Limits	Ch. III, Sect. 8	As Needed.
	Liquidating Positions	Ch. III, Sect. 11	As Needed.
Nasdaq OMX BX.	Position Limits	Ch. III, Sect. 7	Daily.
	Exemptions from Position Limits	Ch. III, Sect. 8	As Needed.
	Liquidating Positions	Ch. III, Sect. 11	As Needed.
Nasdaq OMX PHLX.	Position Limits	Rule 1001	Daily.
	Liquidation of Position	Rule 1004	As Needed.
NYSE Arca	Position Limits	Rule 6.8	Daily.
	Liquidation of Position	Rule 6.7	As Needed.
NYSE MKT	Position Limits	Rule 904	Daily.
	Liquidating Positions	Rule 907	As Needed.

VIOLATION III—LARGE OPTIONS POSITION REPORT (LOPR)—FOR LISTED *and FLEX* EQUITY OPTIONS AND ETF OPTIONS

SRO	Description of rule (For review as they apply to LOPR)	Exchange rule No.	Frequency of review
BATS	Reports Related to Position Limits	Rule 18.10	Yearly.
BOX	Reports Related to Position Limits	Rule 3150	Yearly.
C2	Reports Related to Position Limits	Rule 4.13(a)	Yearly.
	Reports Related to Position Limits	Rule 4.13(b)	Yearly.
	Reports Related to Position Limits	Rule 4.13(d)	Yearly.
CBOE	Reports Related to Position Limits	Rule 4.13(a)	Yearly.
	Reports Related to Position Limits	Rule 4.13(b)	Yearly.
	Reports Related to Position Limits	Rule 4.13(d)	Yearly.
EDGX	*Reports Related to Position Limits*	*Rule 18.10*	*Yearly.*
FINRA	Options	Rule 2360(b)(5)	Yearly.
ISE	Reports Related to Position Limits	Rule 415	Yearly.
ISE Gemini [Topaz].	Reports Related to Position Limits	Rule 415	Yearly.
MIAX	Reports Related to Position Limits	Rule 310	Yearly.
Nasdaq	Reports Related to Position Limits	Ch. III, Sect. 10	Yearly.
Nasdaq OMX BX.	Reports Related to Position Limits	Ch. III, Sect. 10	Yearly.
Nasdaq OMX PHLX.	Reporting of Options Positions	Rule 1003	Yearly.
NYSE Arca	Reporting of Options Positions	Rule 6.6	Yearly.
NYSE MKT	Reporting of Options Positions	Rule 906	Yearly.

VIOLATION IV—OPTIONS CLEARING CORPORATION (OCC) ADJUSTMENT PROCESS

SRO	Description of rule (as they apply to OCC adjustments/by-laws Article V, Section 1 .01(a) and .02))	Exchange rule No.	Frequency of review
BATS	Adherence to Law	Rule 18.1	Yearly.
BOX	Adherence to Law	Rule 3010	Yearly.
C2	Adherence to Law	Rule 4.2	Yearly.
CBOE	Adherence to Law	Rule 4.2	Yearly.
EDGX	*Adherence to Law*	*Rule 18.1*	*Yearly.*
FINRA	Violation of By-Laws and Rules of FINRA or The OCC	Rule 2360(b)(21)	Yearly.
ISE	Adherence to Law	Rule 401	Yearly.
ISE Gemini [Topaz].	Adherence to Law	Rule 401	Yearly.
MIAX	Adherence to Law	Rule 300	Yearly.
Nasdaq	Adherence to Law	Ch. III, Sect. 1	Yearly.
Nasdaq OMX BX.	Adherence to Law	Ch. III, Sect. 1	Yearly.
Nasdaq OMX PHLX.	Violation of By-Laws And Rules Of OCC	Rule 1050	Yearly.
NYSE Arca	Adherence to Law and Good Business Practice	Rule 11.1	Yearly.
NYSE MKT	Business Conduct	Rule 16	Yearly.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 4–551 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 4–551. 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 plan that are filed with the Commission, and all written communications relating to the proposed plan 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 plan also will be available for inspection and copying at the principal offices of MKT, BATS, C2, CBOE, EDGX, Gemini, ISE, FINRA, Arca, NASDAQ, BOX, BX, Phlx, and MIAX. 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 4–551 and should be submitted on or before November 25, 2015.

V. Discussion

The Commission continues to believe that the Plan, as proposed to be amended, is an achievement in cooperation among the SRO participants. The Plan, as amended, will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related market surveillance matters that would otherwise be performed by multiple SROs. The Plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the Plan, the Plan promotes, and will continue to promote, investor protection. Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add EDGX as a Participant to the Plan and to change the name of Topaz Exchange, LLC to ISE Gemini, LLC. By declaring it effective today, the amended Plan can become effective and be implemented without undue delay.[17] In addition, the Commission notes that the prior version of this Plan was published for comment, and the Commission did not receive any comments thereon.[18] Finally, the Commission does not believe that the amendment to the Plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. 4–551.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan, as amended by and between MKT, BATS, C2, CBOE, EDGX, Gemini, ISE, FINRA, Arca, NASDAQ, BOX, BX, Phlx, and MIAX, filed with the Commission pursuant to Rule 17d–2 on October 27, 2015 is hereby approved and declared effective.

It is further ordered that those SRO participants that are not the DOSR as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOSR under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–28067 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[17] On August 7, 2015, the Commission approved EDGX's rules governing options trading on the EDGX Options Market. *See* Securities Exchange Act Release No. 75650, 80 FR 48600 (August 13, 2015).

[18] *See supra* note 17 (citing to Securities Exchange Act Release No. 70052).

[19] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76309; File No. S7–966)

Program for Allocation of Regulatory Responsibilities Pursuant to Rule 17d–2; Notice of Filing and Order Approving and Declaring Effective an Amendment to the Plan for the Allocation of Regulatory Responsibilities Among NYSE MKT LLC, BATS Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, the Chicago Board Options Exchange, Incorporated, the EDGX Exchange, Inc., the International Securities Exchange LLC, ISE Gemini, LLC, Financial Industry Regulatory Authority, Inc., the New York Stock Exchange LLC, NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., the NASDAQ OMX PHLX, Inc., and Miami International Securities Exchange, LLC Concerning Options-Related Sales Practice Matters

October 29, 2015.

Notice is hereby given that the Securities and Exchange Commission (''Commission'') has issued an Order, pursuant to Section 17(d) of the Securities Exchange Act of 1934 (''Act''),[1] approving and declaring effective an amendment to the plan for allocating regulatory responsibility (''Plan'') filed on October 9, 2015, pursuant to Rule 17d–2 of the Act,[2] by NYSE MKT LLC (''MKT''), BATS Exchange, Inc., (''BATS''), the BOX Options Exchange LLC (''BOX''), C2 Options Exchange, Incorporated (''C2''), the Chicago Board Options Exchange, Incorporated (''CBOE''), the EDGX Exchange, Inc. (''EDGX'') the International Securities Exchange LLC (''ISE''), ISE Gemini, LLC (''Gemini''), Financial Industry Regulatory Authority, Inc. (''FINRA''), the New York Stock Exchange LLC (''NYSE''), NYSE Arca, Inc. (''Arca''), The NASDAQ Stock Market LLC (''Nasdaq''), NASDAQ OMX BX, Inc. (''BX''), NASDAQ OMX PHLX, Inc. (''PHLX''), and Miami International Securities Exchange (''MIAX'') (collectively, ''Participating Organizations'' or ''parties'').

I. Introduction

Section 19(g)(1) of the Act,[3] among other things, requires every self-regulatory organization (''SRO'') registered as either a national securities exchange or national securities association to examine for, and enforce compliance by, its members and persons associated with its members with the Act, the rules and regulations thereunder, and the SRO's own rules, unless the SRO is relieved of this responsibility pursuant to Section 17(d)[4] or Section 19(g)(2)[5] of the Act. Without this relief, the statutory obligation of each individual SRO could result in a pattern of multiple examinations of broker-dealers that maintain memberships in more than one SRO (''common members''). Such regulatory duplication would add unnecessary expenses for common members and their SROs.

Section 17(d)(1) of the Act[6] was intended, in part, to eliminate unnecessary multiple examinations and regulatory duplication.[7] With respect to a common member, Section 17(d)(1) authorizes the Commission, by rule or order, to relieve an SRO of the responsibility to receive regulatory reports, to examine for and enforce compliance with applicable statutes, rules, and regulations, or to perform other specified regulatory functions.

To implement Section 17(d)(1), the Commission adopted two rules: Rule 17d–1 and Rule 17d–2 under the Act.[8] Rule 17d–1 authorizes the Commission to name a single SRO as the designated examining authority (''DEA'') to examine common members for compliance with the financial responsibility requirements imposed by the Act, or by Commission or SRO rules.[9] When an SRO has been named as a common member's DEA, all other SROs to which the common member belongs are relieved of the responsibility to examine the firm for compliance with the applicable financial responsibility

[1] 15 U.S.C. 78q(d).

[2] 17 CFR 240.17d–2.

[3] 15 U.S.C. 78s(g)(1).

[4] 15 U.S.C. 78q(d).

[5] 15 U.S.C. 78s(g)(2).

[6] 15 U.S.C. 78q(d)(1).

[7] *See* Securities Act Amendments of 1975, Report of the Senate Committee on Banking, Housing, and Urban Affairs to Accompany S. 249, S. Rep. No. 94–75, 94th Cong., 1st Session 32 (1975).

[8] 17 CFR 240.17d–1 and 17 CFR 240.17d–2, respectively.

[9] *See* Securities Exchange Act Release No. 12352 (April 20, 1976), 41 FR 18808 (May 7, 1976).

rules. On its face, Rule 17d–1 deals only with an SRO's obligations to enforce member compliance with financial responsibility requirements. Rule 17d–1 does not relieve an SRO from its obligation to examine a common member for compliance with its own rules and provisions of the federal securities laws governing matters other than financial responsibility, including sales practices and trading activities and practices.

To address regulatory duplication in these and other areas, the Commission adopted Rule 17d–2 under the Act.[10] Rule 17d–2 permits SROs to propose joint plans for the allocation of regulatory responsibilities with respect to their common members. Under paragraph (c) of Rule 17d–2, the Commission may declare such a plan effective if, after providing for notice and comment, it determines that the plan is necessary or appropriate in the public interest and for the protection of investors, to foster cooperation and coordination among the SROs, to remove impediments to, and foster the development of, a national market system and a national clearance and settlement system, and is in conformity with the factors set forth in Section 17(d) of the Act. Commission approval of a plan filed pursuant to Rule 17d–2 relieves an SRO of those regulatory responsibilities allocated by the plan to another SRO.

II. The Plan

On September 8, 1983, the Commission approved the SRO participants' plan for allocating regulatory responsibilities pursuant to Rule 17d–2.[11] On May 23, 2000, the Commission approved an amendment to the plan that added the ISE as a participant.[12] On November 8, 2002, the Commission approved another amendment that replaced the original plan in its entirety and, among other things, allocated regulatory responsibilities among all the participants in a more equitable manner.[13] On February 5, 2004, the parties submitted an amendment to the plan, primarily to include the BSE, which was establishing a new options trading facility to be known as BOX, as an SRO participant.[14] On December 5, 2007, the parties submitted an amendment to the plan to, among other things, provide that the National Association of Securities Dealers (''NASD'') (n/k/a FINRA) and NYSE are Designated Options Examining Authorities under the plan.[15] On June 5, 2008, the parties submitted an amendment to the plan primarily to remove the NYSE as a Designated Options Examining Authority, leaving FINRA as the sole Designated Options Examining Authority for all common members that are members of FINRA.[16] On February 9, 2010, the parties submitted a proposed amendment to the plan to add BATS and C2 as SRO participants and to reflect the name changes of the American Stock Exchange LLC to the NYSE Amex LLC, the Boston Stock Exchange, Inc., to the NASDAQ OMX BX, Inc. and the Philadelphia Stock Exchange, Inc. to the NASDAQ OMX PHLX, Inc. [17] On May 22, 2012, the parties submitted a proposed amendment to add BOX as an SRO participant, and to amend Section XIII of the plan to set forth a revised procedure for adding new participants to the plan.[18] On November 20, 2012, the parties submitted a proposed amendment to add MIAX as an SRO participant, and to change the name of NYSE Amex LLC to NYSE MKT LLC. [19] On June 21, 2013, the parties submitted a proposed amendment to add Topaz Exchange LLC as an SRO participant. [20]

The plan reduces regulatory duplication for a large number of firms currently members of two or more of the SRO participants by allocating regulatory responsibility for certain options-related sales practice matters to one of the SRO participants. Generally, under the plan, the SRO participant responsible for conducting options-related sales practice examinations of a firm, and investigating options-related customer complaints and terminations for cause of associated persons of that firm, is known as the firm's ''Designated Options Examining Authority'' (''DOEA''). Pursuant to the plan, any other SRO of which the firm is a member is relieved of these responsibilities during the period in which the firm is assigned to another SRO acting as that firm's DOEA.

III. Proposed Amendment to the Plan

On October 9, 2015, the Parties submitted a proposed amendment to the Plan. The primary purpose of the amendment is to add EDGX as a Participant to the Plan and to change the name of Topaz Exchange, LLC to ISE Gemini, LLC. The text of the proposed amended 17d–2 plan is as follows (additions are *italicized;* deletions are [bracketed]):

* * * * *

Agreement by and among BATS Exchange, Inc., BOX Options Exchange, LLC, the Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, the New York Stock Exchange LLC, the NYSE MKT LLC, the NYSE Arca, Inc., The NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc., the NASDAQ OMX PHLX LLC, *ISE Gemini, LLC,* and [Topaz Exchange, LLC] *EDGX Exchange, Inc.,* Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.

This agreement (''Agreement''), by and among BATS Exchange, Inc., BOX Options Exchange, LLC, the Chicago Board Options Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC, The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc., the New York Stock Exchange LLC (''NYSE''), the NYSE MKT LLC, the NYSE Arca, Inc., the NASDAQ OMX PHLX LLC, *ISE Gemini, LLC* [Topaz Exchange LLC] and *EDGX Exchange, Inc.* hereinafter collectively referred to as the Participants, is made this [21st]*8th* day of [June, 2013] *October, 2015,* pursuant to the provisions of Rule 17d–2 under the Securities Exchange Act of 1934 (the ''Exchange Act''), which allows for plans among self-regulatory organizations to allocate regulatory responsibility. This Agreement shall be administered by a committee known as the Options Self-Regulatory Council (the ''Council'').

This Agreement amends and restates the agreement entered into among the Participants on [November 19, 2012]*June 21, 2013,* entitled ''Agreement by and among BATS Exchange, Inc., BOX Options Exchange, LLC, the Chicago Board Options

[10] *See* Securities Exchange Act Release No. 12935 (October 28, 1976), 41 FR 49091 (November 8, 1976).

[11] *See* Securities Exchange Act Release No. 20158 (September 8, 1983), 48 FR 41256 (September 14, 1983).

[12] *See* Securities Exchange Act Release No. 42816 (May 23, 2000), 65 FR 34759 (May 31, 2000).

[13] *See* Securities Exchange Act Release No. 46800 (November 8, 2002), 67 FR 69774 (November 19, 2002).

[14] *See* Securities Exchange Act Release No. 49197 (February 5, 2004), 69 FR 7046 (February 12, 2004).

[15] *See* Securities Exchange Act Release No. 55532 (March 26, 2007), 72 FR 15729 (April 2, 2007).

[16] *See* Securities Exchange Act Release No. 57987 (June 18, 2008), 73 FR 36156 (June 25, 2008).

[17] *See* Securities Exchange Act Release No. 61589 (February 25, 2012), 75 FR 9976 (March 4, 2010).

[18] *See* Securities Exchange Act Release No. 66974 (May 11, 2012), 77 FR 29705 (May 18, 2012).

[19] *See* Securities Exchange Act Release No. 68363 (December 5, 2012), 77 FR 73711 (December 11, 2012).

[20] *See* Securities Exchange Act Release No. 70051 (July 26, 2013), 78 FR 46644 (August 1, 2013).

Exchange, Incorporated, C2 Options Exchange, Incorporated, the International Securities Exchange, LLC, Financial Industry Regulatory Authority, Inc., Miami International Securities Exchange, LLC, the New York Stock Exchange LLC, NYSE MKT LLC, the NYSE Arca, Inc., the NASDAQ Stock Market LLC, NASDAQ OMX BX, Inc. [and], the NASDAQ OMX PHLX, Inc *and Topaz Exchange, LLC,* Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934.''

WHEREAS, the Participants are desirous of allocating regulatory responsibilities with respect to broker-dealers, and persons associated therewith, that are members [1] of more than one Participant (the ''Common Members'') and conduct a public business for compliance with Common Rules (as hereinafter defined) relating to the conduct by broker-dealers of accounts for listed options, index warrants, currency index warrants and currency warrants (collectively, ''Covered Securities''); and

Whereas, the Participants are desirous of executing a plan for this purpose pursuant to the provisions of Rule 17d–2 and filing such plan with the Securities and Exchange Commission (''SEC'' or the ''Commission'') for its approval;

Now, therefore, in consideration of the mutual covenants contained hereafter, the Participants agree as follows:

I. As used herein the term Designated Options Examining Authority (''DOEA'') shall mean: (1) FINRA insofar as it shall perform Regulatory Responsibility (as hereinafter defined) for its broker-dealer members that also are members of another Participant or (2) the Designated Examination Authority (''DEA'') pursuant to SEC Rule 17d–1 under the Securities Exchange Act (''Rule 17d–1'') for a broker-dealer that is a member of a more than one Participant (but not a member of FINRA).

II. As used herein, the term ''Regulatory Responsibility'' shall mean the examination and enforcement responsibilities relating to compliance by Common Members with the rules of the applicable Participant that are substantially similar to the rules of the other Participants (the ''Common Rules''), insofar as they apply to the conduct of accounts for Covered Securities. A list of the current Common Rules of each Participant applicable to the conduct of accounts for Covered Securities is attached hereto as Exhibit A. Each year within 30 days of the anniversary date of the commencement of operation of this Agreement, each Participant shall submit in writing to FINRA and each DEA performing as a DOEA for any members of such Participant any revisions to Exhibit A reflecting changes in the rules of the Participant, and confirm that all other rules of the Participant listed in Exhibit A continue to meet the definition of Common Rules as defined in this Agreement. Within 30 days from the date that FINRA and each DEA performing as a DOEA has received revisions and/or confirmation that no change has been made to Exhibit A from all Participants, FINRA and each DEA performing as a DOEA shall confirm in writing to each Participant whether the rules listed in any updated Exhibit A are Common Rules as defined in this Agreement. Notwithstanding anything herein to the contrary, it is explicitly understood that the term ''Regulatory Responsibility'' does not include, and each of the Participants shall (unless allocated pursuant to Rule 17d–2 otherwise than under this Agreement) retain full responsibility for, each of the following:

(a) Surveillance and enforcement with respect to trading activities or practices involving its own marketplace, including without limitation its rules relating to the rights and obligations of specialists and other market makers;

(b) Registration pursuant to its applicable rules of associated persons;

(c) Discharge of its duties and obligations as a DEA; and

(d) Evaluation of advertising, responsibility for which shall remain with the Participant to which a Common Member submits same for approval.

III. Apparent violations of another Participant's rules discovered by a DOEA, but which rules are not within the scope of the discovering DOEA's Regulatory Responsibility, shall be referred to the relevant Participant for such action as the Participant to which such matter has been referred deems appropriate. Notwithstanding the foregoing, nothing contained herein shall preclude a DOEA in its discretion from requesting that another Participant conduct an enforcement proceeding on a matter for which the requesting DOEA has Regulatory Responsibility. If such other Participants agree, the Regulatory Responsibility in such case shall be deemed transferred to the accepting Participant and confirmed in writing by the Participants involved. Each Participant agrees, upon request, to make available promptly all relevant files, records and/or witnesses necessary to assist another Participant in an investigation or enforcement proceeding.

IV. The Council shall be composed of one representative designated by each of the Participants. Each Participant shall also designate one or more persons as its alternate representative(s). In the absence of the representative of a Participant, such alternate representative shall have the same powers, duties and responsibilities as the representative. Each Participant may, at any time, by notice to the then Chair of the Council, replace its representative and/or its alternate representative on such Council. A majority of the Council shall constitute a quorum and, unless specifically otherwise required, the affirmative vote of a majority of the Council members present (in person, by telephone or by written consent) shall be necessary to constitute action by the Council. The representative from FINRA shall serve as Chair of the Council. All notices and other communications for the Council shall be sent to it in care of the Chair or to each of the representatives.

V. The Council shall determine the times and locations of Council meetings, provided that the Chair, acting alone, may also call a meeting of the Council in the event the Chair determines that there is good cause to do so. To the extent reasonably possible, notice of any meeting shall be given at least ten-business days prior thereto. Notwithstanding anything herein to the contrary, representatives shall always be given the option of participating in any meeting telephonically at their own expense rather than in person.

VI. FINRA shall have Regulatory Responsibility for all Common Members that are members of FINRA. For the purpose of fulfilling the Participants' Regulatory Responsibilities for Common Members that are not members of FINRA, the Participant that is the DEA shall serve as the DOEA. All Participants shall promptly notify the DOEAs no later than the next scheduled meeting of any change in membership of Common Members. A DOEA may request that a Common Member that is allocated to it be reallocated to another DOEA by giving thirty days written notice thereof. The DOEAs in their discretion may approve such request and reallocate such Common Member to another DOEA.

VII. Each DOEA shall conduct an examination of each Common Member. The Participants agree that, upon request, relevant information in their respective files relative to a Common Member will be made available to the

[1] In the case of BOX Options Exchange, LLC (''BOX''), NASDAQ OMX BX, Inc. (''BX'') and NASDAQ members are those persons who are options participants (as defined in the BOX, BX and NASDAQ Options Market Rules).

applicable DOEA. At each meeting of the Council, each DOEA shall be prepared to report on the status of its examination program for the previous quarter and any period prior thereto that has not previously been reported to the Council.

VIII. Each DOEA will promptly furnish a copy of the Examination report, relating to Covered Securities, of any examination made pursuant to the provisions of this Agreement to each other Participant of which the Common Member examined is a member.

IX. Each DOEA's Regulatory Responsibility shall for each Common Member allocated to it include investigations into terminations ''for cause'' of associated persons relating to Covered Securities, unless such termination is related solely to another Participant's market. In the latter instance, that Participant to whose market the termination for cause relates shall discharge Regulatory Responsibility with respect to such termination for cause. In connection with a DOEA's examination, investigation and/or enforcement proceeding regarding a Covered Security-related termination for cause, the other Participants of which the Common Member is a member shall furnish, upon request, copies of all pertinent materials related thereto in their possession. As used in this Section, ''for cause'' shall include, without limitation, terminations characterized on Form U5 under the label ''Permitted to Resign,'' ''Discharge'' or ''Other.''

X. Each DOEA shall discharge the Regulatory Responsibility for each Common Member allocated to it relative to a Covered Securities-related customer complaint [2] unless such complaint is uniquely related to another Participant's market. In the latter instance, the DOEA shall forward the matter to that Participant to whose market the matter relates, and the latter shall discharge Regulatory Responsibility with respect thereto. If a Participant receives a customer complaint for a Common Member related to a Covered Security for which the Participant is not the DOEA, the Participant shall promptly forward a copy of such complaint to the DOEA.

XI. Any written notice required or permitted to be given under this Agreement shall be deemed given if sent by certified mail, return receipt requested, or by a comparable means of electronic communication to each Participant entitled to receipt thereof, to the attention of the Participant's representative on the Council at the Participant's then principal office or by email at such address as the representative shall have filed in writing with the Chair.

XII. The Participants shall notify the Common Members of this Agreement by means of a uniform joint notice approved by the Council.

XIII. This Agreement may be amended to add a new Participant provided that such Participant does not assume Regulatory Responsibility, solely by an amendment by FINRA and such new Participant. All other Participants expressly consent to allow FINRA to add new Participants to this Agreement as provided above. FINRA will promptly notify all Participants of any such amendments to add new Participants. All other amendments to this Agreement must be approved in writing by each Participant. All amendments, including adding a new Participant, must be filed with and approved by the SEC before they become effective.

XIV. Any of the Participants may manifest its intention to cancel its participation in this Agreement at any time by giving the Council written notice thereof at least 90 days prior to the effective date of such cancellation. Upon receipt of such notice the Council shall allocate, in accordance with the provisions of this Agreement, any Common Members for which the petitioning party was the DOEA. Until such time as the Council has completed the reallocation described above; the petitioning Participant shall retain all its rights, privileges, duties and obligations hereunder.

XV. The cancellation of its participation in this Agreement by any Participant shall not terminate this Agreement as to the remaining Participants. This Agreement will only terminate following notice to the Commission, in writing, by the then Participants that they intend to terminate the Agreement and the expiration of the applicable notice period. Such notice shall be given at least six months prior to the intended date of termination, provided that in the event a notice of cancellation is received from a Participant that, assuming the effectiveness thereof, would result in there being just one remaining member of the Council, notice to the Commission of termination of this Agreement shall be given promptly upon the receipt of such notice of cancellation, which termination shall be effective upon the effectiveness of the cancellation that triggered the notice of termination to the Commission.

XVI. No Participant nor the Council nor any of their respective directors, governors, officers, employees or representatives shall be liable to any other Participant in this Agreement for any liability, loss or damage resulting from or claimed to have resulted from any delays, inaccuracies, errors or omissions with respect to the provision of Regulatory Responsibility as provided hereby or for the failure to provide any such Responsibility, except with respect to such liability, loss or damages as shall have been suffered by one or more of the Participants and caused by the willful misconduct of one or more of the other participants or their respective directors, governors, officers, employees or representatives. No warranties, express or implied, are made by any or all of the Participants or the Council with respect to any Regulatory Responsibility to be performed by each of them hereunder.

XVII. Pursuant to Section 17(d)(1)(A) of the Securities Exchange Act of 1934 and Rule 17d–2 promulgated pursuant thereto, the Participants join in requesting the Securities and Exchange Commission, upon its approval of this Agreement or any part thereof, to relieve those Participants which are from time to time participants in this Agreement which are not the DOEA as to a Common Member of any and all Regulatory Responsibility with respect to the matters allocated to the DOEA.

* * * * *

REVISED [June 21, 2013]*October 8, 2015*

EXHIBIT A

RULES ENFORCED UNDER 17d–2 AGREEMENT

Pursuant to Section II of the Agreement by and among BATS Exchange, Inc. (''BATS''), BOX Options Exchange, LLC (''BOX''), the Chicago Board Options Exchange, Incorporated (''CBOE''), C2 Options Exchange, Incorporated (''C2''), the International Securities Exchange, LLC (''ISE''), Financial Industry Regulatory Authority, Inc. (''FINRA''), Miami International Securities Exchange, LLC (''MIAX''), The NASDAQ Stock Market LLC (''NASDAQ''), NASDAQ OMX BX, Inc. (''BX''), the New York Stock Exchange LLC (''NYSE''), the NYSE MKT LLC (''NYSE MKT''), the NYSE Arca, Inc. (''NYSE ARCA''), the NASDAQ OMX PHLX LLC (''PHLX''), [and Topaz Exchange, LLC (''Topaz'')] *ISE Gemini, LLC (''ISE Gemini'') and EDGX Exchange, Inc. (''EDGX'')* pursuant to Rule 17d–2 under the Securities Exchange Act of 1934 dated [June 21, 2013] *October 8, 2015* (the

[2] For purposes of complaints, they can be reported pursuant to Form U4, Form U5 or RE–3 and any amendments thereto.

''Agreement''), a revised list of the current Common Rules of each Participant, as compared to those of FINRA, applicable to the conduct of accounts for Covered Securities is set forth in this Exhibit A.

Opening of Accounts

NYSE MKT	Rules 411, 921 and 1101.
BATS	Rule 26.2.
BOX	Rule 4020.[1]
CBOE	Rule 9.7.
C2*	CBOE Rule 9.7.
EDGX	*Rule 26.2.*
ISE	Rule 608.
FINRA	Rules 2360(b)(16) and 2352.
MIAX	Rule 1307.
NYSE	[Rule 721 [2]]*N/A.*
[Topaz]*ISE Gemini.*	Rule 608.
PHLX	Rule 1024(b) and (c).*1[3]*
NYSE ARCA	Options Rules 9.2(a) and 9.18(b) and Equities Rules 9.18(b) and 8.4.
BX	Chapter XI, Section [9]*7.*
NASDAQ	Chapter XI, Section 7.

[1] [3] FINRA shall not have any Regulatory Responsibility regarding foreign currency option requirements specificed in any of the PHLX rules in this Exhibit A.

[[1] FINRA shall not have any Regulatory Responsibility regarding the requirement for designation of Senior Options Principal and Compliance Options Principal.]

[[2] FINRA shall not have any Regulatory Responsibility regarding opening short uncovered option accounts requirements.]

Supervision

NYSE MKT	Rules 411, 922 and 1104.
BATS	Rule 26.3.
BOX	Rule 4030.
CBOE	Rule 9.8.*2*
C2	CBOE Rule 9.8.*2*
EDGX	*Rule 26.3.*
ISE	Rule 609.
FINRA	Rules 2360(b)(20), 2360(b)(17)(B), 2360(b)(16)(E), 2355 and 2358.
MIAX	Rule1308.
[Topaz]*ISE Gemini.*	Rule 609.
NYSE	N/A.
PHLX	Rule 1025.
NYSE ARCA	Options Rules 9.2(b) and 9.18(d)(2)(G) and Equities Rules 9.18(d)(2)(G) and 8.7.
BX	Chapter XI, Section [10]*8.*
NASDAQ	Chapter XI, Section 8.

[2] FINRA shall not have any Regulatory Responsibility regarding receipt of written reports by April 1 of each year pursuant to CBOE Rule 9.8(g).

Suitability

NYSE MKT	Rules 923 and 1102.
BATS	Rule 26.4.
BOX	Rule 4040.
CBOE	Rule 9.9.

Suitability—Continued

C2	CBOE Rule 9.9.
EDGX	*Rule 26.4.*
ISE	Rule 610.
FINRA	Rule 2360(b)(19) and 2353.
MIAX	Rule 1309.
[Topaz]*ISE Gemini.*	Rule 610.
NYSE	[Rule 723]*N/A.*
PHLX	Rule 1026.
NYSE ARCA	Options Rule 9.18(c) and Equities Rules 9.18(c) and 8.5.
BX	Chapter XI, Section [11]*9.*
NASDAQ	Chapter XI, Section 9.

Discretionary Accounts

NYSE MKT	Rules 421, 924 and 1103.
BATS	Rule 26.5.[5]*3*
BOX	Rule 4050.[4]
CBOE	Rule 9.10.
C2	CBOE Rule 9.10.
EDGX	*Rule 26.5.3*
ISE	Rule 611.
FINRA	Rules 2360(b)(18) and 2354.
MIAX	Rule 1310.
[Topaz]*ISE Gemini.*	Rule 611.
NYSE	N/A.
PHLX	Rule 1027.
NYSE ARCA	Options Rule 9.18(e) and Equities Rules 9.18(e) and 8.6.
BX	Chapter XI, Section [12] *10.*
NASDAQ	Chapter XI, Section 10.

[[4] FINRA shall not have any Regulatory Responsibility to enforce this rule as to time and price discretion in institutional accounts. In addition FINRA shall not have any Regulatory Responsibility regarding BOX Rule 4050(a)(2).]

3[5] FINRA shall not have any Regulatory Responsibility to enforce this rule as to time and price discretion in institutional accounts.

[[6] FINRA shall not have any Regulatory Responsibility regarding CBOE's and C2's requirements to the extent that a customer would meet FINRA's definition of Institutional Investor and Institutional Sales Material but would not meet the requirements for such definitions in under CBOE's and C2's rule.]

[[7] FINRA shall not have any Regulatory Responsibility regarding ISE's, and Topaz's requirements to the extent that a customer would meet FINRA's definition of Institutional Investor and Institutional Sales Material but would not meet the requirements for such definitions in under such rule. In addition, FINRA shall not have any Regulatory Responsibility regarding ISE's, and Topaz's requirements regarding approval of all market letters.]

Customer Communications (Advertising)

NYSE MKT	Rules 991 and 1106.
BATS	Rule 26.16.
BOX	Rule 4170.
CBOE	Rule 9.21.[6]
C2	CBOE Rule 9.21.[6]
EDGX	*Rule 26.16.*
ISE	Rule 623.[7]
FINRA	Rules 2220 and 2357.
MIAX	Rule 1322.

Customer Communications (Advertising)—Continued

[Topaz]*ISE Gemini.*	Rule 623.[7]
NYSE	N/A.
PHLX	N/A.
NYSE ARCA	Options Rules 9.21(a) and 9.21(b).
BX	Chapter XI, Section [22]*24.*
NASDAQ	Chapter XI, Section 22.

Customer Complaints

NYSE MKT	Rules 932 and 1105.
BATS	Rule 26.17.
BOX	Rule 4190.
CBOE	Rule 9.23.
C2	CBOE Rule 9.23.
EDGX	*Rule 26.17.*
ISE	Rule 625.
FINRA	FINRA Rules 2360(b)(17)(A) and 2356.
MIAX	Rule 1324.
[Topaz]*ISE Gemini.*	Rule 625.
NYSE	[Rule 732]*N/A.*
PHLX	Rule 1070.
NYSE ARCA	Options Rule 9.18(l) and Equities Rules 9.18(l) and 8.8.
BX	Chapter XI, Section [26]*24.*
NASDAQ	Chapter XI, Section 24.

Customer Statements

NYSE MKT	Rules 419 and 930.
BATS	Rule 26.7.
BOX	Rule 4070.
CBOE	Rule 9.12.
C2	CBOE Rule 9.12.
EDGX	*Rule 26.7.*
ISE	Rules 613.
FINRA	Rule 2360(b)(15).
MIAX	Rule 1312.
[Topaz]*ISE Gemini.*	Rule 613.
NYSE	[Rule 730]*N/A.*
PHLX	Rule 1032.
NYSE ARCA	Options Rule 9.18(j) and Equities Rule 9.18(j).
BX	Chapter XI, Sections [14]*12.*
NASDAQ	Chapter XI, Section 12.

Confirmations

NYSE MKT	Rule 925.
BATS	Rule 26.6.
BOX	Rule 4060.[8]
CBOE	Rule 9.11.
C2	CBOE Rule 9.11.
EDGX	*Rule 26.6.*
ISE	Rule 612.
FINRA	Rule 2360(b)(12).
MIAX	Rule 1311.
[Topaz]*ISE Gemini.*	Rule 612.
NYSE	[Rules 725 [9]]*N/A.*
PHLX	Rule 1028.
NYSE ARCA	Options Rule 9.18(f) and Equities Rule 9.18(j).
BX	Chapter XI, Section [13]*11.*

CONFIRMATIONS—Continued

NASDAQ	Chapter XI, Section 11.

[8 FINRA shall not have any Regulatory Responsibility regarding the requirement in confirmations to distinguish between BOX option transactions and other transactions in option contracts.]

[9 FINRA shall not have any Regulatory Responsibility regarding the requirement in confirmations to distinguish between NYSE option transactions and other transactions in option contracts.]

ALLOCATION OF EXERCISE ASSIGNMENT NOTICES

NYSE MKT	Rule 981.
BATS	Rule 23.2.
BOX	Rule 9010.
CBOE	Rule 11.2.
C2	CBOE Rule 11.2.
EDGX	*Rule 23.2.*
ISE	Rule 1101.
FINRA	Rule 2360(b)(23)(C).
MIAX	Rule 701.
[Topaz]*ISE Gemini.*	Rule 1101.
NYSE	[Rule 781]*N/A.*
PHLX	Rule 1043.
NYSE ARCA	Options Rule 6.25(a).
BX	Chapter VII*,* Section 2.
NASDAQ	Chapter VIII, Section 2.

DISCLOSURE DOCUMENTS

NYSE MKT	Rules 921 and 926.
BATS	Rule 26.10.
BOX	Rule 4100.
CBOE	Rule 9.15.
C2	CBOE Rule 9.15.
EDGX	*Rule 26.10.*
ISE	Rule 616.
FINRA	Rule 2360(b)(11).
MIAX	Rule 1315.
[Topaz]*ISE Gemini.*	Rule 616.
NYSE	[Rule 726 (a) and (c)]*N/A.*
PHLX	Rule 1024(b)(v), 1029.
NYSE ARCA	Options Rule 9.18(g) and Equities Rule 9.18(g).
BX	Chapter XI, Section [17]*15.*
NASDAQ	Chapter XI, Section 15.

BRANCH OFFICES OF MEMBER ORGANIZATIONS

NYSE MKT	Rule 922(d).*4[10]*
BOX	Rule 4010(b).
CBOE	Rule 9.6.
C2	CBOE Rule 9.6.
ISE	Rule 607.
FINRA	Rules 2360(b)(20)(B) and 2355.
MIAX	Rule 1306.
[Topaz]*ISE Gemini.*	Rule 607.
NYSE	N/A.
PHLX	N/A.
NYSE ARCA	Options Rule 9.18(m) and Equities Rule 9.18(m).
BX	Chapter XI, Section [8]*6.*

BRANCH OFFICES OF MEMBER ORGANIZATIONS—Continued

NASDAQ	Chapter XI, Section 6.

4[10] FINRA shall only have Regulatory Responsibility for the first paragraph and shall not have any Regulatory Responsibility regarding the requirements for debt options.

PROHIBITION AGAINST GUARANTEES

NYSE MKT	Rule 390.
BATS	Rule 26.13.
BOX	Rule 4130.
CBOE	Rule 9.18.
C2	CBOE Rule 9.18.
EDGX	*Rule 26.13.*
ISE	Rules 619.
FINRA	Rule 2150(b).
MIAX	Rule 1318.
[Topaz]*ISE Gemini.*	Rule 619.
NYSE	Rule 2150(b).
PHLX	Rule 777.
NYSE ARCA	Options Rule 9.1(e).
BX	Chapter XI, Sections [20]*18* and [21]*19.*
NASDAQ	Chapter XI, Sections 18 and 19.

SHARING IN ACCOUNTS

NYSE MKT	Rule 390.
BATS	Rule 26.14.*6*
BOX	Rule 4140.
CBOE	Rule 9.18(b).
C2	CBOE Rule 9.18(b).
EDGX	*Rule 26.14.6*
ISE	Rule 620.*5[11]*
FINRA	Rule 2150(c).
MIAX	Rule 1319.
[Topaz]*ISE Gemini.*	Rule 620.*5[11]*
NYSE	Rules 2150(c).
PHLX	N/A.
NYSE ARCA	Options Rule 9.1(f).
BX	Chapter XI, Section [21].*19*[6]
NASDAQ	Chapter XI, Section 19.*6[12]*

5[11] FINRA shall not have any Regulatory Responsibility regarding ISE's and [Topaz's] *ISE Gemini's* requirements to the extent its rule does not contain an exception to permit sharing in the profits and losses of an account.

6[12] FINRA shall not have any Regulatory Responsibility regarding NASDAQ's *BX's, BAT's, and EDGX's* requirements to the extent such rules do not contain an exception addressing immediate family.

REGISTRATION OF ROP

NYSE MKT	Rule 920.
BATS	*Rule* 17.2(g)(1), (2), (6) and (7).
BOX	Rule 2020(c)(1), (e)(1) and IM–2040–4 and IM–2040–5(b).
CBOE	Rule 9.2.
C2	CBOE Rule 9.2.
EDGX	*Rule 17.2(g)(1), (2), (6) and (7).*
ISE	Rule 601.

REGISTRATION OF ROP—Continued

FINRA	NASD Rules 1022(f) & IM–1022–1*, & 1250(a)(1).*
MIAX	Rule 1301.
[Topaz]*ISE Gemini.*	Rule 601.
NYSE	N/A.
PHLX	Rule 1024(a)(i).
NYSE ARCA	Options Rule 9.26 and Equities Rule 9.26.
BX	Chapter XI, Section 2 *and Chapter II, Section 2(g).*
NASDAQ	Chapter XI, Section 2 *and Chapter II, Section 2(g).*

CERTIFICATION OF REGISTERED PERSONNEL *7*

NYSE MKT	Rule 920.
BATS	Rule 2.5 Interpretation .01(c) and 11.4(e).
BOX	IM–2040–3.
CBOE	Rule 9.3.
C2	CBOE Rule 9.3.
EDGX	*Rule 2.5 Interpretation .01(c) and 11.4(e).*
ISE	Rule 602.
FINRA	NASD Rule 1032(d).
MIAX	Rule 1302.
[Topaz]*ISE Gemini.*	Rule 602.
NYSE	N/A.
PHLX	Rule 1024.
NYSE ARCA	Options Rule 9.27(a).
BX	Chapter XI, Section 3 *and Chapter II, Section 2(h).*
NASDAQ	Chapter XI, Section 3 *and Chapter II, Section 2(h).*

7 FINRA shall not have Regulatory Responsibility with regard to the Series 56 Examination under any exchange rules, as this examination is not recognized by FINRA.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. 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 S7–966 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 *S7–966.* 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 plan that are filed with the Commission, and all written communications relating to the proposed plan 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 plan also will be available for inspection and copying at the principal offices of FINRA and 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 S7–966 and should be submitted on or before November 25, 2015.

V. Discussion

The Commission continues to believe that the proposed plan is an achievement in cooperation among the SRO participants. The Plan, as amended, will reduce unnecessary regulatory duplication by allocating to the designated SRO the responsibility for certain options-related sales practice matters that would otherwise be performed by multiple SROs. The plan promotes efficiency by reducing costs to firms that are members of more than one of the SRO participants. In addition, because the SRO participants coordinate their regulatory functions in accordance with the plan, the plan promotes, and will continue to promote, investor protection.

Under paragraph (c) of Rule 17d–2, the Commission may, after appropriate notice and comment, declare a plan, or any part of a plan, effective. In this instance, the Commission believes that appropriate notice and comment can take place after the proposed amendment is effective. The primary purpose of the amendment is to add EDGX as a Participant to the Plan and to change the name of Topaz Exchange, LLC to ISE Gemini, LLC. By declaring it effective today, the amended Plan can become effective and be implemented without undue delay.[21] The Commission notes that the prior version of this plan immediately prior to this proposed amendment was published for comment and the Commission did not receive any comments thereon.[22] Furthermore, the Commission does not believe that the amendment to the plan raises any new regulatory issues that the Commission has not previously considered.

VI. Conclusion

This order gives effect to the amended Plan submitted to the Commission that is contained in File No. S7–966.

It is therefore ordered, pursuant to Section 17(d) of the Act, that the Plan, as amended, filed with the Commission pursuant to Rule 17d–2 on June 21, 2013 is hereby approved and declared effective.

It is further ordered that those SRO participants that are not the DOEA as to a particular common member are relieved of those regulatory responsibilities allocated to the common member's DOEA under the amended Plan to the extent of such allocation.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–28066 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[21] On August 7, 2015, the Commission approved EDGX's rules governing options trading on the EDGX Options Market. *See* Securities Exchange Act Release No. 75650, 80 FR 48600 (August 13, 2015).

[22] *See supra* note 20 (citing to Securities Exchange Act Release No. 70051).

[23] 17 CFR 200.30–3(a)(34).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76296; File No. SR–NYSE–2015–47]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Discontinuing the NYSE Retail Trading Product and the NYSE Program Trading Product Market Data Product Offerings

October 29, 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 October 15, 2015, 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 discontinue the NYSE Retail Trading Product (''NYSE ReTrac'') and the NYSE Program Trading Product (''NYSE ProTrac'') market data product offerings. 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.

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 discontinue the NYSE ReTrac and NYSE ProTrac market data offerings (together the ''NYSE ReTrac and ProTrac Products''). The NYSE ReTrac and ProTrac Products supply subscribers with information on certain executions dependent on the account type indicator associated with a trade. NYSE ReTrac is a real-time datafeed of certain execution report information that has been recorded as trades for accounts of ''individual investors'' as well as an end-of-day summary. NYSE ProTrac is a real-time data feed of certain execution report information that has been recorded as program trades, and an end-of-day summary.

In 2006, the Securities and Exchange Commission (''Commission'') approved the NYSE ReTrac and ProTrac Products and associated fees.[4] Over the several

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 53835 (May 18, 2006), 71 FR 30456 (SR–NYSE–2006–31);

Continued

years since the introduction of the products, subscription has been de minimis. As such, the Exchange believes that the NYSE ReTrac and ProTrac Products did not achieve the intended objective of supplying useful information.

The Exchange will provide subscribers with advance notice of the discontinuation of the NYSE ReTrac and ProTrac Products.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) [5] of the Act, in general, and furthers the objectives of Section 6(b)(5) [6] of the Act, in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest, and it is not designed to permit unfair discrimination among customers, brokers, or dealers.

The Exchange believes that discontinuing the NYSE ReTrac and ProTrac Products will remove impediments to and help perfect a free and open market by streamlining the Exchange's suite of market data products and discontinuing products for which there is no or limited demand.

In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and broker dealers increased authority and flexibility to offer new market data products to consumers of such data. It was believed that this authority would expand the amount of data available to users and consumers of such data and also spur innovation and competition for the provision of market data. The Commission concluded that Regulation NMS would itself further the Act's goals of facilitating efficiency and competition:

Efficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[7]

The Exchange believes the discontinuation of market data products for which there is an overall lack of demand, such as the NYSE ReTrac and ProTrac Products, promotes efficiency because it acknowledges that investors and the public have little or no use for certain information and allows the Exchange to dedicate resources to developing products (including through innovations of existing products and entirely new products) that provide information for which there is more of an expressed need. In addition, the proposal would not permit unfair discrimination because the discontinuation is applicable to all members, issuers and other persons and does not unfairly discriminate between customers, issuers, brokers or dealers.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[8] 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.

The Exchange notes that it operates in a highly competitive market in which other exchanges are free to offer similar products. Additionally, since the demand for the product was de minimis the Exchange's proposed discontinuance will not harm competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[9] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b-4(f)(6) thereunder.[11]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [12] of the Act to determine whether the proposed rule change should be approved or disapproved.

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that it may dedicate resources, without undue delay,[15] to creating and supporting products that supply investors and the public with information for which there is more demand. The Commission, noting that the subscription to these data services has been de minimis and that the Exchange has represented that it will provide advance notice of discontinuation to all subscribers, finds that it is consistent with the protection of investors and the public interest to waive the 30-day operative delay.[16] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

Securities Exchange Act Release No. 53834 (May 18, 2006), 71 FR 30011 (SR–NYSE–2006–32).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See* Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005) (''Regulation NMS Adopting Release'').

[8] 15 U.S.C. 78f(b)(8).

[9] The Exchange has fulfilled this requirement.

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6).

[12] 15 U.S.C. 78s(b)(2)(B).

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] The Commission notes that the Exchange has represented that it will provide subscribers with advance notice of the discontinuation of the NYSE ReTrac and ProTrac Products.

[16] For purposes only of accelerating the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

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.shtm*l); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2015–47 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–2015–47. 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–NYSE–2015–47 and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28033 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31886; File No. 812–14404]

U.S. Bank National Association; Notice of Application

October 29, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under Section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from certain requirements of Rule 3a–7(a)(4)(i) under the Act.

Summary of Application: Applicant requests an order that would permit an issuer of asset-backed securities (''ABS'') that is not registered as an investment company under the Act in reliance on Rule 3a–7 under the Act (an ''Issuer'') to appoint the applicant as a trustee in connection with the Issuer's ABS when the applicant is affiliated with an underwriter for the Issuer's ABS.

Applicant: U.S. Bank National Association.

Filing Dates: The application was filed on December 19, 2014 and amended on June 4, 2015, and September 29, 2015.

Hearing or Notification of Hearing: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on November 23, 2015 and should be accompanied by proof of service on the applicant, 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: The Commission: Brent J. Fields, Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicant: U.S. Bank National Association, 101 East 5th Street, Saint Paul, MN 55101.

FOR FURTHER INFORMATION CONTACT: Jean E. Minarick, Senior Counsel, at (202) 551–6811, or Daniele Marchesani 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.

Applicant's Representations:

1. The applicant is a subsidiary of U.S. Bancorp.[1] The applicant is frequently selected to act as trustee in connection with ABS issued by Issuers.

2. An ABS transaction typically involves the transfer of assets by a seller, usually by a ''sponsor,'' to a bankruptcy remote special purpose corporate or trust entity that is established for the sole purpose of holding the assets and issuing ABS to investors (an ''ABS Transaction''). Payments of interest and principal on the ABS depend primarily on the cash flow generated by the pool of assets owned by the Issuer.

3. The parties to an ABS Transaction enter into several transaction agreements that provide for the holding of the assets by the Issuer and define the rights and responsibilities of the parties to the transaction (''Transaction Documents''). The operative Transaction Document governing the trustee is referred to herein as the ''Agreement.''

4. The sponsor of an ABS Transaction assembles the pool of assets by purchasing or funding them, describes them in the offering materials, and retains the underwriter to sell interests in the assets to investors. The sponsor determines the structure of the ABS Transaction and drafts the Transaction Documents. The sponsor selects the other parties to the ABS Transaction, including the underwriter, the servicer, and the trustee.

5. The servicer, either directly or through subservicers, manages the assets held by the Issuer. The servicer typically collects the income from the assets and remits the income to the trustee. The trustee uses the income, as instructed by the servicer and as provided by the Agreement, to pay interest and principal on the ABS, to fund reserve accounts and purchases of additional assets, and to make other payments including fees owed to the

[1] The applicant also requests that the order apply to an Issuer's future appointment of any other entity controlling, controlled by, or under common control (as defined in Section 2(a)(9) of the Act) with the applicant as a trustee in connection with an Issuer's ABS. The applicant represents that any other entity intending to rely on this relief will comply with the terms and conditions of the application. Any existing entity currently intending to rely on the requested order has been named as an applicant.

trustee and other parties to the ABS Transaction.

6. The sponsor of an ABS Transaction selects the trustee and other participants in the transaction. In selecting a trustee, the sponsor generally seeks to obtain customary trust administrative and related services for the Issuer at minimal cost. In some instances, other parties to an ABS Transaction may provide recommendations to a sponsor about potential trustees. An underwriter for an ABS Transaction also may provide advice to the sponsor about trustee selection based on the underwriter's knowledge of the pricing and expertise offered by a particular trustee in light of the contemplated transaction.

7. If an underwriter affiliated with the applicant recommends a trustee to a sponsor, both the underwriter's recommendation and any selection of the applicant by the sponsor will be based upon customary market considerations of pricing and expertise, among other things, and the selection will result from an arms-length negotiation between the sponsor and the applicant. The applicant will not price its services as trustee in a manner designed to facilitate its affiliate being named underwriter.

8. The trustee's role in an ABS Transaction is specifically defined by the Agreement, and under the Agreement the trustee is not expected or required to perform discretionary functions. The responsibilities of the trustee as set forth in the Agreement are narrowly circumscribed and limited to those expressly accepted by the trustee. The trustee negotiates the provisions applicable to it directly with the sponsor and is then appointed by, and enters into the Agreement with, the Issuer.

9. The trustee usually becomes involved in an ABS Transaction after the substantive economic terms have been negotiated between the sponsor and the underwriters. The trustee does not monitor any service performed by, or obligation of, an underwriter, whether or not the underwriter is affiliated with the trustee. In the unlikely event that the applicant, in acting as trustee to an Issuer for which an affiliate acts as underwriter, becomes obligated to enforce any of the affiliated underwriter's obligations to the Issuer, the applicant will resign as trustee for the Issuer consistent with the requirements of Rule 3a–7(a)(4)(i). In such an event, the applicant will incur the costs associated with the Issuer's procurement of a successor trustee.

10. The sponsor selects one or more underwriters to purchase the Issuer's ABS and resell them or to privately place them with buyers obtained by the underwriter. The sponsor, the Issuer and/or one of their affiliates enters into an underwriting agreement with the underwriter that sets forth the responsibilities of the underwriter with respect to the distribution of the ABS and includes representations and warranties regarding, among other things, the underwriter and the quality of the Issuer's assets. The obligations of the underwriter under the underwriting agreement are enforceable against the underwriter only by the sponsor, the Issuer and/or one of their affiliates.

11. The underwriter may assist the sponsor in the organization of an Issuer by providing advice, based on its expertise in ABS Transactions, on the structuring and marketing of the ABS. This advice may relate to the risk tolerance of investors, the type of collateral, the predictability of the payment stream, the process by which payments are allocated and down-streamed to investors, the way that credit losses may affect the trust and the return to investors, whether the collateral represents a fixed set of specific assets or accounts, and the use of forms of credit enhancements to transform the risk-return profile of the underlying collateral. Any involvement of an underwriter in the organization of an Issuer that occurs is limited to helping determine the assets to be pooled, helping establish the terms of the ABS to be underwritten, and providing the sponsor with a line of credit for the assets to be transferred to the Issuer in connection with, and prior to, the related securitization.

12. An underwriter may provide advice to a sponsor regarding the sponsor's selection of a trustee for the Issuer. However, an underwriter's role in structuring a transaction would not extend to determining the obligations of a trustee, and the underwriter is not a party to the Agreement or to any of the Transaction Documents. Except for arrangements involving credit or credit enhancement for an Issuer or remarketing agent activities, the underwriter typically has no role in the operation of the Issuer after its issuance of securities. The applicant represents that although an underwriter typically may provide credit or credit enhancement for an Issuer or engage in remarketing agent activities, an underwriter affiliated with the applicant will not provide or engage in such activities.

Applicant's Legal Analysis:

1. Rule 3a–7 excludes from the definition of investment company under Section 3(a) of the Act an Issuer that meets the conditions of the rule. One of Rule 3a–7's conditions, set forth in paragraph (a)(4)(i), requires that the Issuer appoint a trustee that is not affiliated with the Issuer or with any person involved in the organization or operation of the Issuer (the ''Independent Trustee Requirement''). Rule 3a–7(a)(4)(i) therefore prohibits an Issuer from appointing a trustee that is affiliated with an underwriter.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provision of the Act, or from any rule thereunder, if and to the extent 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.

3. Applicant requests exemptive relief under Section 6(c) of the Act from Rule 3a–7(a)(4)(i) under the Act to the extent necessary to permit an Issuer to appoint the applicant as a trustee to the Issuer when the applicant is affiliated with an underwriter involved in the organization of the Issuer. Applicant submits that the requested exemptive relief from the Independent Trustee Requirement is necessary and appropriate in the public interest and is consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act due to changes in the banking industry, due to the timing and nature of the roles of the trustee and the underwriter in ABS Transactions, and because the requested relief is consistent with the policies and purposes underlying the Independent Trustee Requirement and Rule 3a–7 in general.

4. Applicant states that when Rule 3a–7 was proposed in 1992, virtually all trustees were unaffiliated with the other parties involved in an ABS Transaction. Applicant states that consolidation within the banking industry, as well as economic and other business factors, has resulted in a significant decrease in the number of bank trustees providing services to Issuers. Applicant also states that bank consolidation has been accompanied by the expansion of banks into investment banking, including the underwriting of ABS Transactions. Applicant further states that due to these banking industry changes, most trustees that provide services to Issuers, including the applicant, have affiliations with underwriters to Issuers. Applicant states that, as a result, when an affiliate of the applicant is selected to underwrite ABS in an ABS Transaction, Rule 3a–7(a)(4)(i)'s

Independent Trustee Requirement generally prevents applicant from serving as trustee for the Issuer. Applicant states that the Independent Trustee Requirement imposes an unnecessary regulatory limitation on trustee selection and causes market distortions by leading to the selection of trustees for reasons other than customary market considerations of pricing and expertise. This result is disadvantageous to the ABS market and to ABS investors.

5. Applicant submits that due to the nature and timing of the roles of the trustee and the underwriter, applicant's affiliation with an underwriter would not result in a conflict of interest or possibility of overreaching that could harm investors. Applicant states that the trustee's role begins with the Issuer's issuance of its securities, and the trustee performs its role over the life of the Issuer. Applicant states that, in contrast, the underwriter is chosen early in the ABS Transaction process, may help to structure the ABS Transaction, distributes the Issuer's securities to investors, and generally has no role subsequent to the distribution of the Issuer's securities. Applicant further states that an ABS trustee does not monitor the distribution of securities or any other activity performed by underwriters and there is no opportunity for a trustee and an affiliated underwriter to act in concert to benefit themselves at the expense of holders of the ABS either prior to or after the closing of the ABS Transaction.

6. Applicant states that the trustee's role is narrowly defined, and that the trustee is neither expected nor required to exercise discretion or judgment except after a default in the ABS transaction, which rarely occurs. Applicant states that the duties of a trustee after a default are limited to enforcing the terms of the Agreement for the benefit of debt holders as a ''prudent person'' would enforce such interests for his own benefit. Applicant further states that the trustee of the Issuer has virtually no discretion to pursue anyone in any regard other than preserving and realizing on the assets. In any event, Applicant states that any role taken by the Trustee in the event of a default would occur after the underwriter has terminated its role in the transaction.

7. Applicant submits that the concerns underlying the Independent Trustee Requirement are not implicated if the trustee for an Issuer is independent of the sponsor, servicer, and credit enhancer for the Issuer, but is affiliated with an underwriter for the Issuer, because in that situation no single entity would act in all capacities in the issuance of the ABS and the operation of an Issuer. Applicant states that applicant would continue to act as an independent party safeguarding the assets of any Issuer regardless of an affiliation with an underwriter of the ABS. Applicant submits that the concern that affiliation could lead to a trustee monitoring the activities of an affiliate also is not implicated by a trustee's affiliation with an underwriter, because, in practice, a trustee for an Issuer does not monitor the distribution of securities or any other activity performed by underwriters. Applicant further states that the requested relief would be consistent with the broader purpose of Rule 3a–7 of not hampering the growth and development of the ABS market, to the extent consistent with investor protection.

8. Applicant states that the conditions set forth below provide additional protections against conflicts and overreaching. For example, the conditions ensure that the Applicant will continue to act as an independent party safeguarding the assets of an Issuer regardless of an affiliation with the underwriter of the ABS and would not allow the underwriter any greater access to the assets, or cash flows derived from the assets, of the Issuer than if there were no affiliation.

Applicant's Conditions:

The applicant agrees that any order granting the requested relief will be subject to the following conditions:

1. The applicant will not be affiliated with any person involved in the organization or operation of the Issuer in an ABS Transaction other than the underwriter.

2. The applicant's relationship to an affiliated underwriter will be disclosed in writing to all parties involved in an ABS Transaction, including the rating agencies and the ABS holders.

3. An underwriter affiliated with the applicant will not be involved in the operation of an Issuer, and its involvement in the organization of an Issuer will extend only to determining the assets to be pooled, assisting in establishing the terms of the ABS to be underwritten, and/or providing the sponsor with a line of credit for the assets to be transferred to the Issuer in connection with, and prior to, the related securitization.

4. An affiliated person of the applicant, including an affiliated underwriter, will not provide credit or credit enhancement to an Issuer if the applicant serves as trustee to the Issuer.

5. An underwriter affiliated with the applicant will not engage in any remarketing agent activities, including involvement in any auction process in which ABS interest rates, yields, or dividends are reset at designated intervals in any ABS Transaction for which the applicant serves as trustee to the Issuer.

6. All of an affiliated underwriter's contractual obligations pursuant to the underwriting agreement will be enforceable by the sponsor, the Issuer and/or one of their affiliates.

7. Consistent with the requirements of Rule 3a–7(a)(4)(i), the applicant will resign as trustee for the Issuer if applicant becomes obligated to enforce any of an affiliated underwriter's obligations to the Issuer.

8. The applicant will not price its services as trustee in a manner designed to facilitate its affiliate being named underwriter.

For the Commission, by the Division of Investment Management, under delegated authority.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2015–28069 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76302 ; File No. SR–EDGX–2015–52]

Self-Regulatory Organizations; EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.8, Order Display and Book Processing

October 29, 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 October 28, 2015, EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[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).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to authorize the Exchange's equity options platform (''EDGX Options'') to make a modification to Rule 21.8 (Order Display and Book Processing).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com*, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to modify Rule 21.8, Order Display and Book Processing, which sets forth the priority rules applicable to EDGX Options. Specifically, Rule 21.8 describes the general priority rules for EDGX Options, including that quotes and orders are prioritized by price and then on a pro-rata basis according to size. Rule 21.8 also describes additional priority overlays, including special priority provisions for Customer orders, Directed Market Makers and Primary Market Makers. The purpose of this rule filing is to make a minor modification to the Directed Market Maker and Primary Market Maker priority overlays, as described below.

The Directed Market Maker overlay provides the Directed Market Maker with priority over other participants for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other Market Maker quotes at the NBBO). Similarly, the Primary Market Maker overlay provides Primary Market Makers with priority over other participants for a certain percentage of contracts allocated at the same price (60% or 40% depending upon the number of other Market Maker quotes at the NBBO) and for small size orders. The Exchange proposes to modify both of these priority overlays so that the percentage allocation (60% or 40%) is dependent on the number of Market Maker quotations or other non-Customer orders at the NBBO rather than simply the number of other Market Maker quotations at the NBBO. The Exchange believes that the amended rule would appropriately recognize that other professional market participants, not just Market Makers, may compete on the Exchange. Further, the rule as amended would be consistent with the priority rules of both the International Securities Exchange LLC (''ISE'') [5] and NASDAQ OMX PHLX LLC (''PHLX'').[6] The Exchange believes that the proposed change will have a positive competitive impact on quoting by reducing the likelihood of a Primary Market Maker or Directed Market Maker will receive the higher 60% allocation by increasing the types of other participants and, in turn, the number of orders from participants, that are considered when allocating executions. In other words, because other non-Customer orders will be considered, not just the quotes of other Market Makers, such other non-Customers will be better incentivized to provide liquidity at the NBBO.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[7] In particular, the proposal is consistent with Section 6(b)(5) of the Act [8] because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to, and perfect the mechanism of, a free and open market and a national market system and, in general, to protect investors and the public interest.

The proposed rule change will allow the Exchange to launch the EDGX Options platform with a priority allocation model that allocates a different percentage of contracts to Directed Market Makers and Primary Market Makers, either 60% or 40%, depending on whether there is more than one non-Customer with an order at the NBBO rather than whether there is more than one Market Maker at the NBBO. The Exchange believes that the change is appropriate and consistent with the Act because it recognizes that other professional participants, not just Market Makers, can compete for orders with Directed Market Makers and Primary Market Makers. As noted above, certain other options exchanges operate with a similar priority rule.[9]

(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. The proposed rule change is not designed to address any competitive issues but rather to make a modification to the Exchange's priority rule prior to the launch of EDGX Options. As noted above, the change would make the Exchange's priority rule similar to that of certain other options exchanges.[10] As noted above, the Exchange believes that the proposed change will have a positive competitive impact on quoting by reducing the likelihood of a Primary Market Maker or Directed Market Maker will receive the higher 60% allocation by increasing the types of other participants and, in turn, the number of orders from participants, that are considered when allocating executions. In other words, because other non-Customer orders will be considered, not just the quotes of other Market Makers, such other non-Customers will be better incentivized to provide liquidity at the NBBO.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

[5] *See* ISE Rule 713(e) and Supplementary Material .01(b) to Rule 713, which count the number of other ''Professional Orders'' for application of the priority rule. Professional Orders, in turn, are defined in ISE Rule 100(a)(37C) as orders ''for the account of a person or entity that is not a Priority Customer,'' and are thus equivalent to non-Customer orders on the Exchange.

[6] *See* PHLX Rule 1014(g)(ii), which counts the number of ''controlled accounts'' for application of the priority rule. Controlled accounts are accounts ''controlled by or under common control with a broker-dealer'', and thus, apply to a broader range of participants than just market makers or the equivalent.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] *See supra* notes 5 and 6.

[10] *Id.*

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, 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 [11] and paragraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6) [13] normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) [14] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange notes that the commencement of the operations of EDGX Options is scheduled for November 2, 2015, and waiver of the 30-day operative delay would permit the Exchange to launch EDGX Options with the proposed priority allocation model. The Exchange also notes that the proposed rule change is similar to priority rules already in place on other options exchanges and does not raise any new policy issues. Based on the foregoing, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest.[15] The Commission hereby grants the Exchange's request and designates the proposal operative 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: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) 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 proposal 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–EDGX–2015–52 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–2015–52. 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 will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–EDGX–2015–52 and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28025 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76303; File No. SR–MIAX–2015–61]

Self-Regulatory Organizations: Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt Rule 321 Business Continuity and Disaster Recovery Plans Testing Requirements for Designated Members

October 29, 2015.

Pursuant to the provisions of 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 October 21, 2015, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to adopt Rule 321, Business Continuity and Disaster Recovery Plans Testing Requirements for Designated Members.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 Exchange is proposing to adopt new Rule 321 to require those MIAX Members designated by the Exchange to participate in certain scheduled testing of the Exchange's business continuity and disaster recovery plans (''BC/DR plans''), as required by Section 1004 of Regulation Systems Compliance and Integrity (''Regulation SCI'').[3]

As adopted by the Securities and Exchange Commission (''Commission''), Regulation SCI applies to certain self-regulatory organizations (including the Exchange), alternative trading systems (''ATSs''), plan processors, and exempt clearing agencies (collectively, ''SCI entities''), and will require these SCI entities to comply with requirements with respect to the automated systems central to the performance of their regulated activities. Among the requirements of Regulation SCI is Rule 1001(a)(2)(v), which requires the Exchange and other SCI entities to maintain ''[b]usiness continuity and disaster recovery plans that include maintaining backup and recovery capabilities sufficiently resilient and geographically diverse and that are reasonably designed to achieve next business day resumption of trading and two-hour resumption of critical SCI systems following a wide-scale disruption.'' The Exchange takes pride in the reliability and availability of its systems. Historically, MIAX systems have been up and available more than 99.999% of the time; yet as a precaution, MIAX has and intends to continue to put extensive time and resources toward planning for system failures and to implement and maintain robust BC/DR plans consistent with the Rule. As set forth below, in connection with Regulation SCI, the Exchange is proposing to require certain Members to participate in testing of the operation of the Exchange's BC/DR plans.

With respect to an SCI entity's BC/DR plans, paragraph (a) of Rule 1004 of Regulation SCI requires each SCI entity to: ''[e]stablish standards for the designation of those members or participants that the SCI entity reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans.'' Paragraph (b) of Rule 1004 further requires each SCI entity to ''[d]esignate members or participants pursuant to the standards established in paragraph (a) of [Rule 1004] and require participation by such designated members or participants in scheduled functional and performance testing of the operation of such plans, in the manner and frequency specified by the SCI entity, provided that such frequency shall not be less than once every 12 months.'' In order to comply with Regulation SCI, the Exchange proposes to adopt Rule 321 governing mandatory participation in testing of Exchange disaster recovery plans and systems, as described below.

First, in paragraph (a) of Rule 321, the Exchange proposes to include language from paragraph (a) of Rule 1004 of Regulation SCI to summarize the Exchange's obligation pursuant to the rule. Specifically, the Exchange proposes to state that ''[p]ursuant to Regulation Systems Compliance and Integrity (''Regulation SCI''), 17 CFR 242.1000 *et seq.* and with respect to the Exchange's business continuity and disaster recovery plans, including its disaster recovery systems, the Exchange is required to establish standards for the designation of Members that the Exchange reasonably determines are, taken as a whole, the minimum necessary for the maintenance of fair and orderly markets in the event of the activation of such plans.'' The Exchange further proposes that paragraph (a) indicate that ''[t]he Exchange has established standards and will designate Members according to those standards'' as set forth in the proposed Rule. In addition, the Exchange proposes to make clear that all Members are permitted to connect to the Exchange's disaster recovery systems as well as to participate in testing of such systems. Proposed paragraph (a) is consistent with the Commission's adoption of Regulation SCI, which encouraged ''SCI entities to permit non-designated members or participants to participate in the testing of the SCI entity's BC/DR plans if they request to do so.''[4]

Second, in paragraph (b) of Rule 321, the Exchange proposes to specify the criteria that will result in a Member receiving a designation requiring it to connect to the Exchange's disaster recovery systems and to participate in functional and performance testing as announced by the Exchange, which shall occur at least once every 12 months. Specifically, proposed paragraph (b) would require all Members that account for a meaningful percentage of the Exchange's volume to connect to the Exchange's disaster recovery systems and to participate in functional and performance testing.

The Exchange notes that it encourages all Members to connect to the Exchange's disaster recovery systems and to participate in testing of such systems. In fact, the Exchange provides logical ports to all Members that connect to Exchange disaster recovery systems without additional charge in order to help reduce the economic burden of maintaining connectivity to Exchange disaster recovery systems. However, in adopting the requirements of Rule 321(b), including both the requirement to maintain connectivity to Exchange disaster recovery systems and to participate in mandatory testing of such systems, the Exchange intends to subject to the Rule only those Members that the Exchange believes are necessary to maintain fair and orderly markets at the Exchange. The Exchange believes that designating Members to participate in mandatory testing because they account for a meaningful percentage of the Exchange's overall volume is a reasonable means to ensure the maintenance of a fair and orderly market on the Exchange.

In addition to paragraphs (a) and (b) described above, the Exchange also proposes to adopt Interpretation and Policy .01, which would provide additional detail regarding the notice that will be provided to Members that have been designated pursuant to paragraph (b) of the Rule as well as the Exchange's notice of the applicable measuring calendar quarter and method for measuring the volume threshold. As proposed, Interpretation and Policy .01 would state that for purposes of identifying Members that account for a meaningful percentage of the Exchange's overall volume (''meaningful percentage''), the Exchange will measure volume executed on the Exchange during a calendar quarter to be determined by the Exchange (''measurement quarter'') and announced via circular distributed to Members. The meaningful percentage will also be determined by the Exchange and published in a circular distributed to Members. The meaningful percentage applicable in any measurement quarter will be published in advance of such measurement quarter and will not apply retroactively to any measurement quarter completed or in progress. The Exchange will publish the first circular consistent with this proposal prior to the Regulation SCI compliance date of

[3] *See* Securities Exchange Act Release No. 73639 (November 19, 2014), 79 FR 72252 (December 5, 2014) (the ''Reg SCI Adopting Release'').

[4] *See id* at p. 72350.

November 3, 2015. The proposed Interpretation and Policy would also require the Exchange to notify individual Members that are subject to proposed paragraph (b) based on the applicable calendar quarter's volume following the completion of such calendar quarter. The Exchange believes the proposed notice requirements will provide Members with proper advance notice in the event they become subject to proposed Rule 321(b) to become compliant with such Rule, including allowing for adequate time to make any necessary infrastructure changes to connect to the Exchange's disaster recovery systems for a Member that is not already connected.

2. Statutory Basis

MIAX believes that its proposed rule change is consistent with Section 6(b) of the Act [5] in general, and furthers the objectives of Section 6(b)(5) of the Act [6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest. The proposal will ensure that the Members necessary to ensure the maintenance of a fair and orderly market are properly designated consistent with Rule 1004 of Regulation SCI. Specifically, the proposal will adopt criteria with respect to the designation of Members that are required to participate in the testing of the Exchange's BC/DR plans, as well as appropriate notification regarding such designation. As set forth in the SCI Adopting Release, ''SROs have the authority, and legal responsibility, under Section 6 of the Exchange Act, to adopt and enforce rules (including rules to comply with Regulation SCI's requirements relating to BC/DR testing) applicable to their members or participants that are designed to, among other things, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.'' [7] The Exchange believes that this proposal is consistent with such authority and legal responsibility.

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. To the contrary, the proposal is not a competitive proposal but rather is necessary for the Exchange's compliance with Regulation SCI.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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 after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act [8] and Rule 19b–4(f)(6) [9] thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii) [11] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest as it will allow the Exchange to incorporate changes required under Regulation SCI, such as establishing standards for designating BCP/DR Participants, prior to the November 3, 2015 compliance date. Therefore, the Commission designates the proposed rule change to be operative upon filing.[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, 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–MIAX–2015–61 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–MIAX–2015–61. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site *(http://www.sec.gov/rules/sro.shtml).*

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] *See supra* note 4.

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

All submissions should refer to File Number SR–MIAX–2015–61 and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28026 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76294; File No. SR–NYSEMKT–2015–83]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rules 46—Equities, 46A—Equities, 103B—Equities, and 497—Equities To Replace References to the NYSE Regulation Board of Directors With the Exchange's Regulatory Oversight Committee

October 29, 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 October 19, 2015, 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 and II below, which Items have been prepared by the self-regulatory organization. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[4] and Rule 19b–4(f)(6)(iii) thereunder,[5] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rules 46—Equities, 46A—Equities, 103B—Equities, and 497—Equities to replace references to the NYSE Regulation Board of Directors with the Exchange's Regulatory Oversight Committee. 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.

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 Rules 46—Equities, 46A—Equities, 103B—Equities, and 497—Equities to replace references to the NYSE Regulation Board of Directors with the Exchange's Regulatory Oversight Committee (''ROC'').

The Exchange recently amended the Operating Agreement to, among other things, establish a ROC.[6] The Exchange now proposes the following conforming amendments to Rules 46—Equities, 46A– Equities, 103B—Equities, and 497—Equities. These proposed changes, described below, are similar to changes to the rules of the Exchange's affiliate, NYSE, which were recently approved by the Commission.[7]

First, the Exchange proposes to amend Rule 46(b)—Equities, which governs the appointment of Floor Officials, to replace the reference to the ''NYSE Regulation Board of Directors'' with the ROC as the entity with which the Board would consult on those appointments.

Similarly, the Exchange proposes to amend Rule 46A—Equities, which governs the appointment of Executive Floor Governors, to replace the ''Board of Directors of NYSE Regulation'' with the ROC as the entity with which the Board would consult on those appointments.

Third, Rule 103B—Equities, which governs the security allocation and reallocation process, would be amended to replace ''NYSER Board of Directors'' in subsection (b) of Supplementary Material .10 with the ''Exchange's Regulatory Oversight Committee''.

Finally, Rule 497—Equities sets forth certain requirements that securities issued by Intercontinental Exchange, Inc., or its affiliates must meet before they can be listed on the Exchange. The Exchange proposes to replace ''NYSE Regulation Board of Directors'' in Rule 497(b) and (c)(1) with ''Exchange's Regulatory Oversight Committee''. The ROC is now the entity that approves regulatory findings that the security to be listed satisfies Exchange listing rules under Rule 497(b) and that would receive the reports specified in Rule 497(c)—Equities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act[8] in general, and with Section 6(b)(5)[9] in particular, in that it in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, help to protect investors and the public interest. Specifically, the Exchange believes that replacing references to the NYSE Regulation Board of Directors with the Exchange's ROC in Rules 46—Equities, 46A—Equities, 103B—Equities, and 497—Equities removes impediments to and perfects the mechanism of a free and open market by removing confusion that may result from having obsolete references in the Exchange's rulebook. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by ensuring that persons

---

[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(3)(A).

[5] 17 CFR 240.19b–4(f)(6)(iii).

[6] *See* Securities Exchange Act Release No. 75148 (June 11, 2015), 80 FR 34751 (SR–NYSEMKT–2015–27) (approving creation of a ROC with primary responsibility to independently monitor the exchange's regulatory operations).

[7] *See* Securities Exchange Act Release No. 75991 (September 28, 2015), 80 FR 59837, 59839 (October 2, 2015) (SR–NYSE–2015–27).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rulebook. The Exchange believes that eliminating obsolete references would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from increased transparency, thereby reducing potential confusion. Removing such obsolete references will also further the goal of transparency and add clarity to the Exchange's rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather to delete obsolete references, thereby increasing transparency, reducing confusion, and making the Exchange's rules easier to understand and navigate.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the 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, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii) 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 so that the proposal may become operative immediately upon filing. The Commission believes that waiver of the 30-day operative delay is appropriate because the proposed rule change would replace references to NYSE Regulation Board of Directors or NYSER Board of Directors with references to the Exchange's Regulatory Oversight Committee and thus reflect recently approved changes to the Exchange's Operating Agreement that established the Exchange's Regulatory Oversight Committee.[11] Based on the foregoing, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest.[12] The Commission hereby grants the waiver and designates the proposal operative 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 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–NYSEMKT–2015–83 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–2015–83. 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 20549–1090, 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–2015–83 and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28019 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[10] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] *See supra* note 6.

[12] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–76298; File No. SR–NASDAQ–2015–126]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Nasdaq Rule 7018

October 29, 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 October 22, 2015, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Commission (''Commission'') a 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 the Substance of the Proposed Rule Change

Nasdaq is proposing changes to amend Nasdaq Rule 7018(a), governing fees and credits assessed for execution and routing of securities.

The text of the proposed rule change is available at *nasdaq.cchwallstreet.com* at Nasdaq principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Nasdaq included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Nasdaq Rule 7018, governing fees and credits assessed for execution and routing of securities on Nasdaq,[3] listed on the New York Stock Exchange (''NYSE'')[4] and listed on exchanges other than Nasdaq and NYSE[5] (collectively, the ''Tapes'').

Specifically, the Exchange proposes to amend the criteria for a member to be eligible for the $0.0030 per share executed credit. Nasdaq proposes to amend romanette (i) across all Tapes in order to reduce the Consolidated Volume requirement during the month for a member from 0.60% to 0.20%. The Exchange also proposes to amend romanette (ii) across all Tapes in order to include NOM Market Maker volume as part of the qualifying volume and to reduce the volume threshold in Penny Pilot and Non-Penny Pilot Options from 1.25% to 0.90%.

Nasdaq also proposes to add new subsection (4) to Nasdaq Rule 7018(a) and entitle it ''Fees and Credits for Execution of Orders in Select Symbols''.[6] This new subsection will state that for members receiving less than a $0.0029 per share executed credit in paragraphs (1) through (3) of Nasdaq Rule 7018(a) for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity for certain enumerated securities, Nasdaq will provide a credit of $0.0029 per share executed for the enumerated securities: EEM, EWJ, GDX, IWM, NUGT, SPY, UWTI, VXX, XIV and XLF.

2. Statutory Basis

Nasdaq believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and with Sections 6(b)(4) and 6(b)(5) of the Act,[8] 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 Nasdaq operates or controls and is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Nasdaq believes that the proposed changes to Nasdaq Rule 7018(a)(1), (2) and (3) are reasonable because broadening the above criteria so that this credit is applicable to more members falls within the Exchange's efforts to draw additional order flow to the Exchange to improve market quality for all market participants. The Exchange also believes that the proposed rule change is equitable and not unfairly discriminatory because the amended credit criteria applies uniformly to securities across all Tapes and makes it easier for members to satisfy the requirements for this credit tier.

Nasdaq believes that the proposed credits of no less than $0.0029 per share executed for displayed orders to members for trading in the Select Symbols are reasonable and equitably allocated as all members are eligible for the credits and the Exchange believes it will improve market quality, specifically in the trading of these symbols. These credits for adding displayed liquidity only replace the credits provided in paragraphs (1) through (3) of Nasdaq Rule 7018(a) when a member would otherwise receive a credit of less than $0.0029 per share executed. The Select Symbols include EEM, EWJ, GDX, IWM, NUGT, SPY, UWTI, VXX, XIV and XLF. If members qualify for credits under Nasdaq Rule 7014, such credits will continue to apply to these symbols.

Nasdaq also believes that the proposed changes are not unfairly discriminatory because they will apply uniformly to all member firms that trade in the Select Symbols. Moreover, the proposed minimum credit for all member firms that trade in the Select Symbols is not unfairly discriminatory because the Exchange seeks to provide incentives to member firms to direct order flow away from off-exchange venues and on to Nasdaq and to improve the markets for these symbols. Additionally, members that trade in the Select Symbols may still qualify for higher credits in trading in these symbols and all members are entitled to determine whether or not to trade in these Select Symbols. Also, members will still be able to receive the credits they are otherwise entitled to in other symbols and can only benefit from this additional credit.

B. Self-Regulatory Organization's Statement on Burden on Competition

Nasdaq does not believe that the proposed rule change will result in a burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.[9] Nasdaq notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee and credit levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, Nasdaq must continually adjust its fees and credits to remain competitive with

[3] Nasdaq Rule 7018(a)(1).

[4] Nasdaq Rule 7018(a)(2).

[5] Nasdaq Rule 7018(a)(3).

[6] This is not related to the previous Select Symbols program. *See* Securities Exchange Act Release No. 73967 (December 30, 2014), 80 FR 594 (January 6, 2015) (SR–NASDAQ–2014–128) (creating the unrelated Select Symbol program); *see also* Securities Exchange Act Release No. 75261 (June 22, 2015), 80 FR 36877 (June 26, 2015) (SR–NASDAQ–2015–062) (eliminating the unrelated Select Symbol program).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] 15 U.S.C. 78f(b)(8).

other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, Nasdaq believes that the degree to which changes to credits in this market may impose a burden on competition is extremely limited or even non-existent. In this instance, the changes to Nasdaq Rule 7018 to amend criteria to qualify for credits do not impose a burden on competition because Nasdaq's execution services are voluntary and subject to extensive competition both from other exchanges and from off-exchange venues.

Additionally, the Exchange does not believe the addition of credits available to members that execute shares in Select Symbols will impose a burden on competition, but rather may promote competition among exchanges in trading in the Select Symbols. Moreover, the proposed changes are reflective of the competition that exists between exchanges and off-exchange venues that are subject to lesser regulatory burdens than the exchanges, including transparency. Lastly, the proposed changes are designed to enhance market quality.

While the Exchange does not believe that the proposed changes will result in burden on competition, if the changes proposed herein are unattractive to market participants it is likely that Nasdaq will lose market share as a result.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] 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.

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2015–126 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2015–126. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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–NASDAQ–2015–126, and should be submitted on or before November 25, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2015–28022 Filed 11–3–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14495 and #14496]

South Carolina Disaster Number SC–00031

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 7.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for the State of SOUTH CAROLINA (FEMA–4241–DR), dated 10/05/2015.

Incident: Severe Storms and Flooding.

Incident Period: 10/01/2015 through 10/23/2015.

Effective Date: 10/27/2015.

Physical Loan Application Deadline Date: 12/04/2015.

EIDL Loan Application Deadline Date: 07/05/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the Presidential disaster declaration for the State of South Carolina, dated 10/05/2015 is hereby amended to include the following areas as adversely affected by the disaster:

Primary Counties: (Physical Damage and Economic Injury Loans): Greenville, Spartanburg.

Contiguous Counties: (Economic Injury Loans Only):

South Carolina: Anderson, Cherokee, Pickens.

North Carolina: Henderson, Polk, Rutherford, Transylvania.

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

James E. Rivera,

Associate Administrator for Disaster Assistance.

[FR Doc. 2015–28046 Filed 11–3–15; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14522 and #14523]

Washington Disaster #WA–00059

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of WASHINGTON dated 10/28/2015.

Incident: Wildfires,

Incident Period: 08/09/2015 through 09/10/2015,

Effective Date: 10/28/2015,

Physical Loan Application Deadline Date: 12/28/2015,

Economic Injury (EIDL) Loan Application Deadline Date: 07/28/2016.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Chelan, Okanogan.

Contiguous Counties:

Washington: Douglas, Ferry, Grant, King, Kittitas, Lincoln, Skagit, Snohomish, Whatcom.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	3.750
Homeowners Without Credit Available Elsewhere	1.875
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14522 5 and for economic injury is 14523 0.

The State which received an EIDL Declaration # is WASHINGTON.

(Catalog of Federal Domestic Assistance Numbers 59008)

Dated: October 28, 2015.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2015–28042 Filed 11–3–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Environmental Impact Statement for the Washington Union Station Expansion Project

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

ACTION: Notice of intent to prepare an Environmental Impact Statement (EIS).

SUMMARY: FRA is issuing this notice to advise the public that FRA will prepare an Environmental Impact Statement (EIS) to evaluate the potential impacts to the human and natural environment of the Washington Union Station Expansion Project (Project) proposed by the Union Station Redevelopment Corporation (USRC) in coordination with the National Railroad Passenger Corporation (Amtrak). The Project includes expanding and modernizing the multimodal transportation facilities at Washington Union Station, while preserving the historically significant station building. FRA is preparing this EIS in accordance with the National Environmental Policy Act (NEPA). FRA will evaluate reasonable alternatives for the proposed Project, including a No Action (No Build) Alternative. FRA is issuing this notice to solicit public and agency input into the scope of the EIS and to advise the public that outreach activities conducted by FRA, USRC, and its representatives will be considered in the preparation of the EIS. To ensure all significant issues are identified and considered, the public is invited to comment on the scope of the EIS, including the purpose and need, alternatives to be considered, impacts to be evaluated, and methodologies to be used in the evaluation.

DATES: FRA invites the public, governmental agencies, and all other interested parties to comment on the scope of the EIS. All such comments should be provided to FRA, via mail or email, by January 4, 2016, to the addresses listed below. Comments may also be provided orally or in writing at the public scoping meeting for the Project, scheduled for December 7, 2015 in the Presidential Room at Union Station located at 50 Massachusetts Avenue NE., Washington, DC 20002. The meeting will be an open-house format for discussions with the project team from 4:00 to 8:00 p.m. with two brief identical presentations; one at 4:30 p.m. and the second at 7:00 p.m. to provide a thorough project description. Information on the project and the scoping meeting is available on the FRA Web site at *www.fra.dot.gov.*

ADDRESSES: Written comments on the scope of the EIS may be mailed or emailed by January 4, 2016 to Michelle Fishburne, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, or *Michelle.Fishburne@dot.gov.* The December 7, 2015 Public Scoping Meeting will be held in the Presidential Room at Union Station located at 50 Massachusetts Avenue NE., Washington, DC 20002.

FOR FURTHER INFORMATION CONTACT: Michelle Fishburne, Office of Railroad Policy and Development, Federal Railroad Administration, 1200 New Jersey Avenue SE., Washington, DC 20590, *Michelle.Fishburne@dot.gov.* Information and documents regarding the EIS process will also be made available through the FRA Web site at *www.fra.dot.gov.*

SUPPLEMENTARY INFORMATION: The Washington Union Station Expansion Project would expand and modernize Washington Union Station. The Project includes reconstructing and relocating tracks, developing new concourse facilities, maintaining multi-modal transportation services, and improving and expanding infrastructure and other supporting facilities. The EIS will evaluate the potential environmental impacts of an expanded multi-modal transportation facility at Union Station.

Environmental Review Process

FRA as the lead federal agency will prepare the EIS in accordance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality (CEQ) regulations implementing NEPA (40 CFR parts 1500–1508), and the Federal Railroad Administration (FRA) Procedures for Considering Environmental Impacts (64 FR 28545, May 26, 1999, and 78 FR 2713, Jan. 14, 2013). In addition to NEPA, the EIS will address other applicable statutes, regulations and executive orders,

including the 1980 Clean Air Act Amendments, Section 404 of the Clean Water Act, the National Historic Preservation Act (NHPA), Section 4(f) of the Department of Transportation Act, the Endangered Species Act, and Executive Order 12898 on Environmental Justice.

Alternatives considered in the EIS may involve Columbus Circle and other properties adjacent to Washington Union Station. The EIS will provide the FRA, reviewing and cooperating agencies, and the public with information to evaluate the potential environmental impacts of Project alternatives, and to identify potential avoidance/mitigation measures as appropriate.

The Project may affect historic properties and will be subject to the requirements of Section 106 of the NHPA (54 U.S.C. 306108). In accordance with regulations issued by the Advisory Council on Historic Preservation (36 CFR part 800), FRA may coordinate compliance with Section 106 of the NHPA with the preparation of the EIS, beginning with the identification of consulting parties through the scoping process, in a manner consistent with the standards set out in 36 CFR 800.8.

Project Background

In 2012, Amtrak prepared a Union Station Master Plan in coordination with USRC and other stakeholders, including regional transportation agencies and a real estate development company, Akridge, who owns development rights above the rail terminal. Akridge purchased the right to develop above the Amtrak property between Union Station and K Street NE from the U.S. General Services Administration in 2006. In June 2011, the Akridge property was rezoned ''USN'' by the DC Zoning Commission, which allows for a three million square foot-plus mixed use development, referred to as Burnham Place, to be constructed on a concrete deck over the Amtrak rail terminal. The 2012 Master Plan addressed future rail capacity needs, including additional tracks, a new train shed, and passenger concourses, and it provided a concept envisioning improved rail services at Washington Union Station in coordination with the Burnham Place development.

The Amtrak 2012 Master Plan is the starting point and framework for the 2nd Century Plan for Washington Union Station being planned by USRC and Amtrak, in partnership with Akridge (collectively referred to as the Partners). The Partner's 2nd Century Plan will serve to coordinate multiple near-term and long-term public and private projects at Washington Union Station as those projects are further developed and implemented.

USRC in coordination with Amtrak propose the Project to expand Washington Union Station, the main project within the 2nd Century Plan. The Project is anticipated to require federal funding and approval. The EIS for the Project will address the reconstruction and expansion of the rail terminal (track and platforms), construction of new concourses, changed and improved access, and associated improvements to modernize the multi-modal services and facilities of the station.

Purpose and Need

Union Station is the second busiest station on the Northeast Corridor with its capacity expected to double, while the volume of non-railroad pedestrians through the station is expected to increase threefold, by 2030. The station supports upwards of 100,000 rail and transit passenger trips daily utilizing intercity rail, commuter rail and Metro rail, commuter, local and tour buses, taxis, private cars, rental cars, limousine services, bicycles, foot traffic and, in the near future, streetcar. As a rail station, the facilities are inadequate for current and future operations and cannot provide the rail capacity needed to meet the future demands for Amtrak Acela, future High Speed Rail, commuter rail, Metrorail, and other rail services. The existing Station does not provide adequate or efficient capacity, access, and connections for different transportation modes, such as taxi and car services, Metrorail, intercity bus, or rental cars and parking facilities. In addition, Washington Union Station is not integrated with its surrounding neighbors and land uses. The station limits movement and flow among neighborhoods and between neighborhoods and destinations. As the demographic profile of station users and visitors changes and grows to include diverse local populations and new residents in addition to commuters and long distance travelers, the transportation infrastructure, amenities, and services at Washington Union Station need to be expanded to meet these multimodal demands.

The purpose of the Project is to expand and modernize Washington Union Station as the National Capitol Region's principal intermodal transportation hub in order to provide a positive customer experience; support current and future rail service and operational needs; facilitate intermodal travel; sustain its economic viability and continued preservation; and enhance integration with the adjacent businesses, neighborhoods, and future development. Specific elements of this broad purpose include: Increasing station capacity to accommodate growth in passenger traffic and railroad operations; achieving compliance with the 2006 U.S. Department of Transportation Americans with Disabilities Act of 1990 (ADA) Standards for Transportation Facilities providing connectivity among transportation modes; providing access to and among surrounding neighborhoods; and maintaining financial self-sufficiency of station maintenance and operations. The Project will protect and preserve the main historic station building, consistent with USRC's 2015 Historic Preservation Plan.

Scoping and Public Involvement

FRA encourages broad participation in the EIS process during scoping and review of the resulting environmental documents. Comments are invited from all interested agencies and the public to ensure the full range of issues related to the Project are addressed, reasonable alternatives are considered, and significant issues are identified. In particular, FRA is interested in identifying areas of environmental concern where there might be a potential for significant impacts.

Public agencies with jurisdiction are requested to advise FRA of the applicable permit and environmental review requirements of each agency, and the scope and content of the environmental information that is germane to the agency's statutory responsibilities in connection with the proposed Project. Public agencies are requested to advise FRA if they anticipate taking a major action in connection with the proposed Project and if they wish to cooperate in the preparation of the EIS in accordance with 40 CFR 1501.16.

The public scoping meeting described above is an important component of the scoping process for Federal environmental review. FRA seeks participation and input of interested Federal, State, and local agencies, Native American groups, and other concerned private organizations and individuals on the scope of the EIS. Opportunities for public participation in the EIS process will be announced through mailings, notices, advertisements, press releases, and the FRA Web site at *www.fra.dot.gov.*

Comments or questions concerning the Proposed Project and the scope of

the EIS are invited from all interested parties and should be directed to the FRA at the address provided above.

Issued in Washington, DC, on October 30, 2015.

David Valenstein,

Division Chief, Environment and Corridor Planning.

[FR Doc. 2015–28079 Filed 11–3–15; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. 2015–0031]

Notice of Request for the Extension of a Currently Approved Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to renew the following information collection:

Bus Testing Program

OMB Control No.: 2132–0550.

The information to be collected for the Bus Testing Program is necessary to ensure that buses have been tested at the Bus Testing Center for maintainability, reliability, safety, performance (including breaking performance), structural integrity, fuel economy, emissions, and noise. Specifically, this notice invites comment on FTA's proposal to adopt new streamlined online procedures for accepting and reviewing applications for entry into the New Bus Model Testing Program.

DATES: Comments must be submitted before January 4, 2016.

ADDRESSES: To ensure that your comments are not entered more than once into the docket, submit comments identified by the docket number by only one of the following methods:

1. *Web site: www.regulations.gov.* Follow the instructions for submitting comments on the U.S. Government electronic docket site. (Note: The U.S. Department of Transportation's (DOT's) electronic docket is no longer accepting electronic comments.) All electronic submissions must be made to the U.S. Government electronic docket site at *www.regulations.gov.* Commenters should follow the directions below for mailed and hand-delivered comments.

2. *Fax:* 202–493–2251.

3. *Mail:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.

4. *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

Instructions: You must include the agency name and docket number for this notice at the beginning of your comments. Submit two copies of your comments if you submit them by mail. For confirmation that FTA has received your comments, include a self-addressed stamped postcard. Note that all comments received, including any personal information, will be posted and will be available to Internet users, without change, to *www.regulations.gov.* You may review DOT's complete Privacy Act Statement in the **Federal Register** published April 11, 2000, (65 FR 19477), or you may visit *www.regulations.gov.* Docket: For access to the docket to read background documents and comments received, go to *www.regulations.gov* at any time. Background documents and comments received may also be viewed at the U.S. Department of Transportation, 1200 New Jersey Avenue SE., Docket Operations, M–30, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001 between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or a draft copy of the application for entry into the New Bus Model Testing Program should be directed to—Mr. Gregory Rymarz, Office of Research, Demonstration and Innovation (202) 366–6410, or email: *gregory.rymarz@dot.gov.*

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Respondents: Bus manufacturers and FTA grantees.

Estimated Annual Burden on Respondents: 28 partial testing determination requests at 1.71 hours each and 18 test requests at 9 hours each.

Estimated Total Time to Complete New Bus Model Testing Application: 45 mins.

Estimated Total Annual Burden: 210 hours.

Frequency: On occasion.

Matthew Crouch,

Associate Administrator for Administration and Chief Information Officer.

[FR Doc. 2015–28000 Filed 11–3–15; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2014–0003; PDA–37(R)]

Hazardous Materials: New York City Permit Requirements for Transportation of Certain Hazardous Materials

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice, and extension of comment period.

SUMMARY: PHMSA is extending the period for comments on the American Trucking Associations, Inc.'s (ATA) application for a preemption determination concerning the requirements of the New York City Fire Department for a permit to transport certain hazardous materials by motor vehicles through New York City, or for transshipment from New York City, and the fee for the permit.

DATES: Comments received on or before December 4, 2015 will be considered before an administrative determination is issued by PHMSA's Chief Counsel.

ADDRESSES: All documents in this proceeding, including the comments submitted by the New York City Fire Department (FDNY), may be reviewed in the Docket Operations Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. All documents in this proceeding are also available on the U.S. Government Regulations.gov Web site: *http://www.regulations.gov.* Comments must refer to Docket No. PHMSA–2014–0003 and may be submitted to the docket in writing or

electronically. Mail or hand deliver three copies of each written comment to the above address. If you wish to receive confirmation of receipt of your comments, include a self-addressed, stamped postcard. To submit comments electronically, log onto the U.S. Government Regulations.gov Web site: *http://www.regulations.gov.* Use the Search Documents section of the home page and follow the instructions for submitting comments. Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (70 FR 19477–78), or you may visit *http://www.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Vincent Lopez, Office of Chief Counsel, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590; Telephone No. 202–366–4400; Facsimile No. 202–366–7041.

SUPPLEMENTARY INFORMATION: ATA applied for an administrative determination concerning whether Federal hazardous material transportation law, 49 U.S.C. 5101 *et seq.,* preempts requirements of the New York City Fire Department for a permit to transport certain hazardous materials by motor vehicle through New York City, or for transshipment from New York City, and the fee for the permit. PHMSA published notice of ATA's application in the **Federal Register** on April 17, 2014. 79 FR 21838. On June 2, 2014, the comment period closed without any interested parties submitting comments. On April 27, 2015, we published a notice of delay in processing ATA's application in order to conduct additional fact-finding and legal analysis in response to the application. 80 FR 23328. In order to ensure PHMSA has all of the relevant information before making a determination, we sent a letter to the FDNY and requested that it submit comments as to whether Federal hazardous material transportation law preempts the New York City requirements that are the subject of this proceeding. On August 20, 2015, the FDNY submitted its comments on ATA's application. Therefore, on October 1, 2015, we published a notice announcing that we were reopening the comment period in the proceeding to provide interested parties the opportunity to address any of the issues raised by the FDNY in its comments. 80 FR 59244. On October 21, 2015, ATA asked us for an extension of time in which to file comments, and after review of ATA's request, we have granted its request.

Issued in Washington, DC, on October 29, 2015.

Joseph Solomey,

Senior Assistant Chief Counsel.

[FR Doc. 2015–28012 Filed 11–3–15; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35947]

Cicero Central Railroad, L.L.C.—Lease Exemption—Illinois Central Railroad Company

Cicero Central Railroad, L.L.C. (CCR),[1] a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from Illinois Central Railroad Company (IC), and to operate, approximately 5,675 feet of rail line between the western edge of Cicero Avenue and the eastern edge of the Central Avenue overpass at or near Stickney, Ill.

This transaction is related to a concurrently filed verified notice of exemption in *Watco Holdings, Inc.—Continuance in Control Exemption—Cicero Central Railroad,* Docket No. FD 35948, wherein Watco Holdings, Inc. seeks Board approval under 49 CFR 1180.2(d)(2) to continue in control of CCR, upon CCR's becoming a Class III rail carrier.

CCR states that the agreement between CCR and IC does not contain any provision that prohibits CCR from interchanging traffic with a third party or limits CCR's ability to interchange with a third party.

CCR has certified that its projected annual revenues as a result of this transaction will not result in CCR's becoming a Class II or Class I rail carrier, and that its projected annual revenues as a result of this transaction will not exceed $5 million.

This transaction may be consummated on or after November 18, 2015, the effective date of the exemption (30 days after the exemption was filed).

If the notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed no later than November 10, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35947 must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: October 30, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Tia Delano,

Clearance Clerk.

[FR Doc. 2015–28044 Filed 11–3–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. FD 35948]

Watco Holdings, Inc.—Continuance in Control Exemption—Cicero Central Railroad, L.L.C.

Watco Holdings, Inc. (Watco), a noncarrier, has filed a verified notice of exemption pursuant to 49 CFR 1180.2(d)(2) to continue in control of Cicero Central Railroad, L.L.C. (CCR), upon CCR's becoming a Class III rail carrier. Watco owns, indirectly, 100 percent of the issued and outstanding stock of CCR, a limited liability company.

This transaction is related to a concurrently filed verified notice of exemption in *Cicero Central Railroad—Lease Exemption—Illinois Central Railroad,* Docket No. FD 35947, wherein CCR seeks Board approval to lease and operate approximately 5,675 feet of rail line between the western edge of Cicero Avenue and the eastern edge of the Central Avenue overpass at or near Stickney, Ill.

The transaction may be consummated on or after November 18, 2015, the effective date of the exemption (30 days after the notice of exemption was filed).

Watco is a Kansas corporation that currently controls, indirectly, one Class II rail carrier and 32 Class III rail carriers, collectively operating in 23 states. For a complete list of these rail carriers, and the states in which they

[1] CCR is a wholly owned subsidiary of Watco Holdings, Inc.

operate, see Watco's notice of exemption filed on October 19, 2015. The notice is available on the Board's Web site at *WWW.STB.DOT.GOV.*

Watco represents that: (1) The rail lines to be operated by CCR do not connect with any of the rail lines operated by the carriers in the Watco corporate family; (2) the continuance in control is not a part of a series of anticipated transactions that would result in such a connection; and (3) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Watco states that the purpose of the transaction is to reduce overhead expenses, coordinate billing, maintenance, mechanical, and personnel policies and practices of its rail carrier subsidiaries and thereby improve the overall efficiency of rail service provided by the railroads in the Watco corporate family.

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Because the transaction involves the control of one Class II and one or more Class III rail carriers, the transaction is subject to the labor protection requirements of 49 U.S.C. 11326(b) and *Wisconsin Central Ltd.—Acquisition Exemption—Lines of Union Pacific Railroad,* 2 S.T.B. 218 (1997).

If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions for stay must be filed by November 10, 2015 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 35948, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Karl Morell & Associates, 655 Fifteenth Street NW., Suite 225, Washington, DC 20005.

Board decisions and notices are available on our Web site at *WWW.STB.DOT.GOV.*

Decided: October 30, 2015.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Kenyatta Clay,

Clearance Clerk.

[FR Doc. 2015–28039 Filed 11–3–15; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Senior Executive Service; Fiscal Service Performance Review Board

AGENCY: Bureau of the Fiscal Service, Treasury.

ACTION: Notice.

SUMMARY: This notice announces the appointment of the members of the Fiscal Service Performance Review Board (PRB) for the Bureau of the Fiscal Service (Fiscal Service). The PRB reviews the performance appraisals of career senior executives who are below the level of Assistant Commissioner/Executive Director and who are not assigned to the Office of the Commissioner in the Fiscal Service. The PRB makes recommendations regarding proposed performance appraisals, ratings, bonuses, pay adjustments, and other appropriate personnel actions.

DATES: Effective on November 4, 2015.

FOR FURTHER INFORMATION CONTACT: Randy Thornton, Chief Human Capital Officer, Bureau of the Fiscal Service, (202) 874–5147.

SUPPLEMENTARY INFORMATION: This Notice announces the appointment of the following primary and alternate members to the Fiscal Service PRB:

Primary Members:

Kimberly A. McCoy, Deputy Commissioner, Fiscal Accounting and Shared Services, Fiscal Service

John B. Hill, Assistant Commissioner, Payment Management, Fiscal Service

Corvelli McDaniel, Assistant Commissioner, Revenue Collections Management, Fiscal Service

Alternate Member:

Patricia M. Greiner, Assistant Commissioner/CFO, Management, Fiscal Service

Authority: 5 U.S.C. 4314(c)(4).

Sheryl R. Morrow,

Commissioner.

[FR Doc. 2015–28074 Filed 11–3–15; 8:45 am]

BILLING CODE 4810–AS–P

DEPARTMENT OF THE TREASURY

Fiscal Service

Surety Companies Acceptable on Federal Bonds: Amendment Insurance Company of the State of Pennsylvania (The) New Hampshire Insurance Company

AGENCY: Bureau of the Fiscal Service, Fiscal Service, Department of the Treasury.

ACTION: Notice.

SUMMARY: This is Supplement No. 3 to the Treasury Department Circular 570, 2015 Revision, published July 1, 2015, at 80 FR 37735.

FOR FURTHER INFORMATION CONTACT: Surety Bond Branch at (202) 874–6850.

SUPPLEMENTARY INFORMATION: The underwriting limitations for Insurance Company of State of Pennsylvania (The) and New Hampshire Insurance Company, which were listed in the Treasury Department Circular 570, published on July 1, 2015, are hereby amended. The underwriting limitation for Insurance Company of the State of Pennsylvania (The) is amended to read $4,277,000. The underwriting limitation for New Hampshire Insurance Company is amended to read $5,206,000. Federal bond-approving officers should annotate their reference copies of the Treasury Department Circular 570 (''Circular''), 2015 Revision, to reflect this change.

The Circular may be viewed and downloaded through the Internet at *http://www.fiscal.treasury.gov/fsreports/ref/suretyBnd/surety_home.htm.*

Questions concerning this notice may be directed to the U.S. Department of the Treasury, Bureau of the Fiscal Service, Financial Accounting and Services Branch, Surety Bond Section, 3700 East-West Highway, Room 6D22, Hyattsville, MD 20782.

Dated: October 27, 2015.

Kevin McIntyre,

Manager, Financial Accounting Services Branch, Bureau of the Fiscal Service.

[FR Doc. 2015–28073 Filed 11–3–15; 8:45 am]

BILLING CODE 4810–AS–P

U.S.-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION

Notice of Open Public Hearing

AGENCY: U.S.-China Economic and Security Review Commission.

ACTION: Notice of Official Public Release of the Commission's 2015 Annual Report to Congress on November 18, 2015, Washington, DC.

SUMMARY: Notice is hereby given of the following public hearing of the U.S.-China Economic and Security Review Commission.

Name: William A. Reinsch, Chairman of the U.S.-China Economic and Security Review Commission. The Commission is mandated by Congress to investigate, assess, and report to Congress annually on ''the national security implications of the economic relationship between the United States

and the People's Republic of China.'' Pursuant to this mandate, the Commission will hold an official public release of the Commission's 2015 Annual Report to Congress on November 18, 2015.

Purpose of Meeting: Pursuant to this mandate, the Commission will hold an official public conference in Washington, DC to release the 2015 Annual Report on November 18, 2015.

The Commission is subject to the Federal Advisory Committee Act (FACA) with the enactment of the Science, State, Justice, Commerce and Related Agencies Appropriations Act, 2006 that was signed into law on November 22, 2005 (Public Law 109–108). In accord with FACA, meetings of the Commission to make decisions concerning the substance and recommendations of its 2015 Annual Report to Congress are open to the public.

Topics Addressed:

The Commission's 2015 Annual Report contains the following chapters and sections:

Chapter 1: U.S.-China Economic and Trade Relations
- Section 1: Year in Review: Economics and Trade
- Section 2: Foreign Investment Climate in China
- Section 3: China's State-Led Market Reform and Competitiveness Agenda
- Section 4: Commercial Cyber Espionage and Barriers to Digital Trade in China

Chapter 2: Security and Foreign Policy Issues Involving China
- Section 1: Year in Review: Security and Foreign Affairs
- Section 2: China's Space and Counterspace Programs
- Section 3: China's Offensive Missile Forces

Chapter 3: China and the World
- Section 1: China and Central Asia
- Section 2: China and Southeast Asia
- Section 3: Taiwan
- Section 4: Hong Kong

Location, Date and Time: Room TBA. Wednesday, November 18, 2015, Time TBA. Please check our Web site, *www.uscc.gov,* for possible changes to the public meeting and for information on the meeting location.

Reservations are not required to attend the hearing.

FOR FURTHER INFORMATION CONTACT: Any member of the public seeking further information concerning the hearing should contact Anthony DeMarino, 444 North Capitol Street NW., Suite 602, Washington, DC 20001; phone: 202–624–1496, or via email at *ADeMarino@uscc.gov. Reservations are not required to attend the hearing.*

Authority: Congress created the U.S.-China Economic and Security Review Commission in 2000 in the National Defense Authorization Act (Public Law 106–398), as amended by Division P of the Consolidated Appropriations Resolution, 2003 (Public Law 108–7), as amended by Public Law 109–108 (November 22, 2005), as amended by Public Law 113–291 (December 19, 2014).

Dated: October 29, 2015.

Michael Danis,

Executive Director, U.S.-China Economic and Security Review Commission.

[FR Doc. 2015–28055 Filed 11–3–15; 8:45 am]

BILLING CODE 1137–00–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 213 November 4, 2015

Part II

Department of Defense

Department of the Navy

32 CFR Part 776

Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General; Final Rule

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2013–0011]

RIN 0703–AA92

32 CFR Part 776

Professional Conduct of Attorneys Practicing Under the Cognizance and Supervision of the Judge Advocate General

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy (DoN) is issuing a final rule to comport with current policy as stated in JAG Instruction 5803.1 (Series) governing the professional conduct of attorneys practicing under the cognizance and supervision of the Judge Advocate General. The rule generally aligns with the American Bar Association Model Rules of Professional Conduct.

DATES: This rule is effective December 4, 2015.

FOR FURTHER INFORMATION CONTACT: Commander Noreen A. Hagerty-Ford, JAGC, U.S. Navy, Office of the Judge Advocate General (Administrative Law), Department of the Navy, 1322 Patterson Ave., SE., Suite 3000, Washington Navy Yard, DC 20374–5066, telephone: 703–614–7408.

SUPPLEMENTARY INFORMATION: The DoN published a proposed rule at 78 FR 25538 on May 1, 2013, to revise 32 CFR part 776, to comport with current policy as stated in JAG Instruction 5803.1 (Series) governing the professional conduct of attorneys practicing under the cognizance and supervision of the Judge Advocate General. Accordingly, the proposed rule amending 32 CFR part 776 is adopted as a final rule with minor editorial changes.

Executive Summary

This final rule serves as an update to the current 32 CFR part 776 and replaces current regulations. The rule generally aligns with the American Bar Association Model Rules of Professional Conduct. In the proposed rule, updates were made to § 776.25 of this part (Confidentiality of information), clarifying when an attorney shall reveal confidential information and when such disclosure is discretionary. The update to this part allowed covered attorneys to make reasonable disclosures necessary to ensure compliance with the Rules of Professional Conduct. Section 776.26 of this part (Conflict of interest: General rule) was revised to require that a client give informed consent, in writing, when waiving a potential or actual conflict of interest. Section 776.42 of this part (Candor and obligations toward the tribunal) was revised to clearly articulate a covered attorney's responsibility for false evidence presented by a client, witness, or the attorney. Procedural revisions to this part included the addition of the Chief Judge of the Navy as the designated Rules Counsel for professional responsibility matters involving military judges, and the removal of the requirement to route professional responsibility complaints concerning Marine judge advocates through the General Court-Martial Convening Authority. Additional commentary and annotation applicable to the Navy JAG's Professional Responsibility Rules are contained in JAG Instruction 5803.1 (Series), which can be accessed through *http://www.jag.navy.mil.*

The revisions to this rule are part of the Department of Defense (DoD) retrospective plan under E.O. 13563 completed in August 2011. DoD's full plan can be accessed at *http://www.regulations.gov/#!docketDetail;D=DOD-2011-OS-0036.*

Public Comment Summary

The proposed rule received one public comment in three parts. Following is a summary of the comment and our response.

Comment: The first part of the comment is in regard to the judicial function and the appearance of improper influence. The commenter recommends that the Rules explicitly acknowledge that military judges do not have any inherent judicial authority separate from the court-martial to which they have been detailed and when they act, they do so as a court-martial and not as a military judge.

Response: We appreciate the comment; however, military judges remain judges, even when not performing duties associated with a particular referred court-martial. For purposes of the Appointments Clause, which provided the background upon which the comment relied, military judges are military officers performing judicial functions. For purposes of the Canons and the role they fulfill in military justice, military judges remain judges. While it may be true that military judges have limited inherent judicial authority separate from a court-martial, this does not diminish their status as judges nor relieve them of the requirement at all times to avoid conduct that would call into question their integrity and impartiality or cause the public to question the impartiality of the judiciary.

Likewise, covered attorneys are bound by professional responsibility rules, such as ABA Rule 8.2, regarding statements concerning the qualifications and integrity of judges. Military judges, even when not sitting in court, are judges under the Rules, and as such, are entitled to both the respect due their commissions and the respect commanded by Rule 8.2, which places specific limits on covered attorneys regarding statements they make concerning judges.

Public confidence in the independence, integrity and impartiality of the judiciary will not be served by noting that military judges are military officers performing judicial functions with limited judicial authority. A professional responsibility rule modification as suggested by the commentator could explicitly separate the military officer from the office he or she holds as a military judge thus creating a perception that a judge could be subject to pressure or inappropriate criticism outside an ongoing court-martial. The rules seek to maintain a separate and distinct place for judicial officers that does not cease with the referral and conclusion of a court-martial and require that a judge be and appear impartial, fair, and appropriate in decorum while avoiding an abuse of the prestige of the judicial office. We note that the comment suggests the rules contain adequate guidance without marginalizing the authority and standing of the judge.

The second part of the comment is in regard to the special responsibilities of trial counsel. The commenter suggests that the proposed language perpetuates a misconception regarding the relationship between a trial counsel and a convening authority.

Response: We appreciate this comment. As stated in the Executive Summary to the proposed rule, additional commentary is contained in JAG Instruction 5803.1. The concern raised by the comment is appropriately and adequately addressed in Rule 1.13, which clarifies that the trial counsel's client is the DoN, and that the trial counsel only maintains an attorney-client relationship with the DoN. The comments to Rule 3.8 further emphasize that the trial counsel's client is the DoN.

The last part of the comment pertains to the complaint processing procedures. Specifically, the commenter wishes to add language regarding appointment of Investigating Officers (IO) using the words ''neutral and detached'' since it is not mentioned that IOs should be neutral and detached. In addition, the commenter disagrees with JAG not

being bound by the findings of an investigation.

Response: We appreciate this comment. As stated in the Executive Summary to the proposed rule, additional commentary is contained in JAG Instruction 5803.1. The instruction requires investigating officers normally be officers who are senior to the respondent and who were not previously involved in the case, which adequately ensures an appropriate investigating officer is assigned. The complaint process is intended to create an administrative record for the JAG in exercising his authority and responsibility under SECNAVINST 5430.27D for ensuring the ethical and professional practice of covered attorneys. Such authority has not been delegated to investigating officers. The nature of each stage of the investigation with escalating burdens of proof is sufficient to provide the JAG with the information necessary to make an informed, independent decision.

Regulatory Procedures

Executive Order 12866, ''Regulatory Planning and Review'' and Executive Order 13563, ''Improving Regulation and Regulatory Review''

It has been determined that 32 CFR part 776 is not a significant regulatory action. The rule does not:

(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 these Executive Orders.

Unfunded Mandates Reform Act (Sec. 202, Pub. L. 104–4)

It has been determined that 32 CFR part 776 does not contain a Federal mandate that may result in the expenditure by State, local and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year.

Public Law 96–354, ''Regulatory Flexibility Act'' (5 U.S.C. 601)

It has been certified that 32 CFR part 776 is not subject to the Regulatory Flexibility Act (5 U.S.C. 601) because it would not, if promulgated, have a significant economic impact on a substantial number of small entities.

Public Law 96–511, ''Paperwork Reduction Act'' (44 U.S.C. Chapter 35)

It has been determined that 32 CFR part 776 does not impose any reporting or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

Federalism (Executive Order 13132)

It has been determined that 32 CFR part 776 does not have federalism implications, as set forth in Executive Order 13132. This rule does not have substantial direct effects on:

(1) The States;

(2) The relationship between the National Government and the States; or

(3) The distribution of power and responsibilities among the various levels of government.

List of Subjects in 32 CFR Part 776

Rules of Professional Conduct, and Complaint Processing Procedures.

For the reasons set forth in the preamble, revise 32 CFR part 776 to read as follows:

PART 776—PROFESSIONAL CONDUCT OF ATTORNEYS PRACTICING UNDER THE COGNIZANCE AND SUPERVISION OF THE JUDGE ADVOCATE GENERAL

Subpart A—General

Sec.
776.1 Purpose.
776.2 Applicability.
776.3 Policy.
776.4 Attorney-client relationships.
776.5 Judicial conduct.
776.6 Conflict.
776.7 Reporting requirements.
776.8 Professional Responsibility Committee.
776.9 Rules Counsel.
776.10 Informal ethics advice.
776.11 Outside practice of law.
776.12 Maintenance of files.
776.13–776.17 [Reserved]

Subpart B—Rules of Professional Conduct

776.18 Preamble.
776.19 Principles.
776.20 Competence.
776.21 Establishment and scope of representation.
776.22 Diligence.
776.23 Communication.
776.24 Fees.
776.25 Confidentiality of information.
776.26 Conflict of interest: General rule.
776.27 Conflict of interests: Prohibited transactions.
776.28 Conflict of interest: Former client.
776.29 Imputed disqualification: General rule.
776.30 Successive Government and private employment.
776.31 Former judge or arbitrator.
776.32 Department of the Navy as client.
776.33 Client with diminished capacity.
776.34 Safekeeping property.
776.35 Declining or terminating representation.
776.36 Prohibited sexual relations.
776.37 Advisor.
776.38 Mediation.
776.39 Evaluation for use by third persons.
776.40 Meritorious claims and contentions.
776.41 Expediting litigation.
776.42 Candor and obligations toward the tribunal.
776.43 Fairness to opposing party and counsel.
776.44 Impartiality and decorum of the tribunal.
776.45 Extra-tribunal statements.
776.46 Attorney as witness.
776.47 Special responsibilities of a trial counsel and other government counsel.
776.48 Advocate in nonadjudicative proceedings.
776.49 Truthfulness in statements to others.
776.50 Communication with person represented by counsel.
776.51 Dealing with an unrepresented person.
776.52 Respect for rights of third persons.
776.53 Responsibilities of the Judge Advocate General and supervisory attorneys.
776.54 Responsibilities of a subordinate attorney.
776.55 Responsibilities regarding non-attorney assistants.
776.56 Professional independence of a covered USG attorney.
776.57 Unauthorized practice of law.
776.58–776.65 [Reserved]
776.66 Bar admission and disciplinary matters.
776.67 Judicial and legal officers.
776.68 Reporting professional misconduct.
776.69 Misconduct.
776.70 Jurisdiction.
776.71 Requirement to remain in good standing with licensing authorities.
776.72–776.75 [Reserved]

Subpart C—Complaint Processing Procedures

776.76 Policy.
776.77 Related investigations and actions.
776.78 Informal complaints.
776.79 The formal complaint.
776.80 Initial screening.
776.81 Forwarding the complaint.
776.82 Interim suspension.
776.83 Preliminary inquiry.
776.84 Ethics investigation.
776.85 Effect of separate proceeding.
776.86 Action by the Judge Advocate General.
776.87 Finality.
776.88 Report to licensing authorities.

Subpart D—Outside Practice of Law by Covered USG Attorneys

776.89 Background.
776.90 Definition.
776.91 Policy.

776.92 Action.
776.93 Revalidation.
776.94 Outside Law Practice Questionnaire and Request.

Subpart E—Relations with Non-USG Counsel

776.95 Relations with Non-USG Counsel.

Subpart F [Reserved]

Authority: 10 U.S.C. 806, 806a, 826, 827, 1044; Manual for Courts-Martial, United States, 2012; U.S. Navy Regulations, 1990; Department of Defense Instruction 1442.02 (series); Secretary of the Navy Instruction 5430.27 (series), Responsibility of the Judge Advocate General of the Navy and the Staff Judge Advocate to the Commandant of the Marine Corps for Supervision and Provision of Certain Legal Services.

Subpart A—General

§ 776.1 Purpose.

In furtherance of the authority citations (which, if not found in local libraries, are available from the Office of the Judge Advocate General, 1322 Patterson Avenue SE., Suite 3000, Washington Navy Yard DC 20374–5066), which require the Judge Advocate General of the Navy (JAG) to supervise the performance of legal services under JAG cognizance throughout the Department of the Navy (DoN), this part is promulgated:

(a) To establish Rules of Professional Conduct (subpart B of this part) for attorneys subject to this part;

(b) To establish procedures for receiving, processing, and taking action on complaints of professional misconduct made against attorneys practicing under the supervision of the JAG, whether arising from professional legal activities in DoN proceedings and matters, or arising from other, non-U.S. Government related professional legal activities or personal misconduct that suggests the attorney is ethically, professionally, or morally unqualified to perform legal services within the DoN;

(c) To prescribe limitations on and procedures for processing requests to engage in the outside practice of law by those DoN attorneys practicing under the supervision of the JAG; and

(d) To ensure quality legal services at all proceedings under the cognizance and supervision of the JAG.

§ 776.2 Applicability.

(a) This part applies to all ''covered attorneys'' as defined herein.''

(b) ''Covered attorneys'' include:

(1) The following U.S. Government (USG) attorneys, referred to collectively as ''covered USG attorneys'' throughout this part:

(i) All active-duty Navy judge advocates (designator 2500 or 2505) or Marine Corps judge advocates (Military Occupational Specialty (MOS) 4402 or 9914).

(ii) All active-duty judge advocates of other U.S. armed forces who practice law or provide legal services under the cognizance and supervision of the JAG.

(iii) All civil service and contracted civilian attorneys who practice law or perform legal services under the cognizance and supervision of the JAG. This includes civilian attorneys employed by the DoN as Executive Agent for Combatant Commands, and for whom the JAG serves as the ''qualifying authority'' under the authority citations.

(iv) All Reserve or Retired judge advocates of the Navy or Marine Corps (and any other U.S. armed force), who, while performing official DoN duties, practice law, provide legal services under the cognizance and supervision of the JAG or are serving in non-legal MOS billets.

(v) All other attorneys appointed by the JAG (or the Staff Judge Advocate to the Commandant of the Marine Corps (SJA to CMC) in Marine Corps matters) to serve in billets or to provide legal services normally provided by Navy or Marine Corps judge advocates. This policy applies to officer and enlisted Reservists, active-duty personnel, and any other personnel who are licensed to practice law by any Federal or state authority but who are not members of the Judge Advocate General's Corps or who do not hold the 4402 or 9914 MOS designation in the Marine Corps.

(vi) All qualified volunteer attorneys that have been certified as legal assistance attorneys by the JAG, or his designee, pursuant to the authority citations.

(2) The following non-U.S. Government attorneys, referred to collectively as ''covered non-USG attorneys'' throughout this part:

(i) All civilian attorneys representing individuals in any matter for which the JAG is charged with supervising the provision of legal services. These matters include, but are not limited to, courts-martial, administrative separation boards or hearings, boards of inquiry, and disability evaluation proceedings.

(3) The term ''covered attorney'' does not include those civil service or civilian attorneys who practice law or perform legal services under the cognizance and supervision of the General Counsel of the Navy.

(c) Professional or personal misconduct unrelated to a covered attorney's DoN activities, while normally outside the ambit of Subpart B of this part, may be reviewed under procedures established herein and may provide the basis for decisions by the JAG regarding the covered attorney's continued qualification to provide legal services in DoN matters.

(d) Although subpart B of this part do not apply to non-attorneys, they do define the type of ethical conduct that the public and the military community have a right to expect from DoN legal personnel. Accordingly, Subpart B of this part shall serve as the model of ethical conduct for the following personnel when involved with the delivery of legal services under the supervision of the JAG:

(1) Navy Legalmen and Marine Corps legal administrative officers, legal service specialists, and legal services reporters;

(2) Limited duty officers (LAW);

(3) Legal interns; and

(4) civilian support personnel including paralegals, legal secretaries, legal technicians, secretaries, court reporters, and other personnel holding similar positions. Covered USG attorneys who supervise non-attorney DON employees are responsible for their ethical conduct to the extent provided for in § 776.55 of this part.

§ 776.3 Policy.

(a) Covered attorneys shall maintain the highest standards of professional ethical conduct. Loyalty and fidelity to the United States, the law, clients, both institutional and individual, and the rules and principles of professional ethical conduct set forth in subpart B of this part must come before private gain or personal interest.

(b) Subpart B of this part and related procedures set forth herein concern matters solely under the purview of the JAG. Whether conduct or failure to act constitutes a violation of the professional duties imposed by this part is a matter within the sole discretion of the JAG or officials authorized to act for the JAG. Subpart B of this part are not substitutes for, and do not take the place of, other rules and standards governing DoN personnel, such as the Department of Defense Joint Ethics Regulation, the Code of Conduct for members of the Armed Forces, the Uniform Code of Military Justice (UCMJ), and the general precepts of ethical conduct to which all DoN service members and employees are expected to adhere. Similarly, action taken per this part is not supplanted or barred by, and does not, even if the underlying misconduct is the same, supplant or bar the following action from being taken by authorized officials:

(1) Punitive or disciplinary action under the UCMJ; or

(2) Administrative action under the Manual for Courts-Martial (MCM), U.S. Navy Regulations, or under other applicable authority.

(c) Inquiries into allegations of professional misconduct will normally be held in abeyance until any related criminal investigation or proceeding is complete. However, a pending criminal investigation or proceeding does not bar the initiation or completion of a professional misconduct investigation stemming from the same or related conduct or prevent the JAG from imposing professional disciplinary sanctions as provided for in this part.

§ 776.4 Attorney-client relationships.

(a) The executive agency to which the covered USG attorney is assigned (DoN in most cases) is the client served by the covered USG attorney unless detailed to represent another client by competent authority. Specific guidelines are contained in § 776.32 of this part.

(b) Covered USG attorneys will not establish attorney-client relationships with any individual unless detailed, assigned, or otherwise authorized to do so by competent authority. Wrongfully establishing an attorney-client relationship may subject the attorney to discipline administered per this part. See § 776.21 of this part.

(c) Employment of a non-USG attorney by an individual client does not alter the professional responsibilities of a covered USG attorney detailed or otherwise assigned by competent authority to represent that client. Specific guidance is set forth in subpart E.

§ 776.5 Judicial conduct.

To the extent that it does not conflict with statutes, regulations, or this part, the current version of the American Bar Association Model Code of Judicial Conduct (as amended), hereafter referred to as the 'Code of Judicial Conduct,' applies to all military and appellate judges and to all other covered USG attorneys performing judicial functions under the JAG's supervision within the DoN.

§ 776.6 Conflict.

(a) To the extent that a conflict exists between this part and the rules of other jurisdictions that regulate the professional conduct of attorneys, this part will govern the conduct of covered attorneys engaged in legal functions under JAG cognizance and supervision. Specific and significant instances of conflict between the rules contained in subpart B of this part and the rules of other jurisdictions shall be reported promptly to the Rules Counsel (see § 776.9 of this part), via the supervisory attorney. See § 776.53 of this part.

(b) In the case of Navy and Marine Corps personnel engaged in legal functions under Department of Defense (DoD) vice JAG cognizance and supervision (*e.g.,* DoD Office of Military Commissions), this part and the applicable DoD professional responsibility rules apply. In such a case, to the extent that a conflict exists between Subpart B of this part and applicable DoD professional responsibility rules, the DoD rules shall take precedence.

§ 776.7 Reporting requirements.

Covered USG attorneys shall report promptly to the Rules Counsel (see § 776.9 of this part) any disciplinary or administrative action, including initiation of investigation, by any licensing authority or Federal, State, or local bar, possessing the power to revoke, suspend, or in any way limit the authority to practice law in that jurisdiction, upon himself, herself, or another covered attorney. Failure to report such discipline or administrative action may subject the covered USG attorney to discipline administered per this part. See § 776.71 of this part.

§ 776.8 Professional Responsibility Committee.

(a) *Composition.* This standing committee will consist of the Assistant Judge Advocate General (AJAG) for Military Justice; the Deputy Chiefs of Staff for Naval Legal Service Offices (or Defense Services Offices, effective 1 October 2012), and Region Legal Service Offices; the Chief Judge, Navy-Marine Corps Trial Judiciary; and in cases involving Marine Corps judge advocates, the Deputy Staff Judge Advocate to the Commandant of the Marine Corps (DSJA to CMC); and such other personnel as the JAG from time-to-time may appoint. A majority of the members constitutes a quorum. The Chairman of the Committee shall be the AJAG for Military Justice. The Chairman may excuse members disqualified for cause, illness, or exigencies of military service, and may appoint additional or alternate members on a permanent basis.

(b) *Purpose.* (1) When requested by the JAG, the SJA to CMC, or the Rules Counsel, the Committee will provide formal advisory opinions to the JAG regarding application of subpart B of this part to individual or hypothetical cases.

(2) On its own motion, the Committee may also issue formal advisory opinions on ethical issues of importance to the DoN legal community.

(3) Upon written request, the Committee may also provide formal advisory opinions to covered attorneys about the propriety of proposed courses of action under subpart B of this part. If such requests are predicated upon full disclosure of all relevant facts, and if the Committee advises that the proposed course of conduct does not violate subpart B of this part, then no adverse action under this rule may be taken against a covered attorney who acts consistently with the Committee's advice. Such requests must be made via the Rules Counsel.

(4) The Chairman will forward copies of all opinions issued by the Committee to the Rules Counsel.

(c) *Limitation.* The Committee will not normally provide ethics advice or opinions concerning professional responsibility matters that are then the subject of litigation.

§ 776.9 Rules Counsel.

Appointed by JAG to act as special assistants for the administration of subpart B of this part, the Rules Counsel derive authority from JAG and, as detailed in this part, have ''by direction'' authority. The Rules Counsel shall cause opinions issued by the Professional Responsibility Committee of general interest to the DoN legal community to be published in summarized, non-personal form in suitable publications. Unless another officer is appointed by JAG to act in individual cases, the following officers shall act as Rules Counsel:

(a) The SJA to CMC, for cases involving Marine Corps judge advocates, or civil service and contracted civilian attorneys who perform legal services under his cognizance;

(b) Assistant Judge Advocate General, Chief Judge, DoN (AJAG–CJ) for cases involving Navy and Marine Corps trial and appellate judges; and

(c) AJAG (Civil Law), in all other cases.

§ 776.10 Informal ethics advice.

(a) *Advisors.* Covered attorneys may seek informal ethics advice either from the officers named below or from supervisory attorneys in the field. Within the Office of the Judge Advocate General (OJAG) and the Office of the SJA to CMC, the following officials are designated to respond, either orally or in writing, to informal inquiries concerning this rule in the areas of practice indicated:

(1) Director, Criminal Law Division (OJAG Code 20): Military justice matters;

(2) Director, Trial Counsel Assistance Program (TCAP): Trial counsel matters;

(3) Director, Defense Counsel Assistance Program (DCAP): Defense counsel matters;

(4) Director, Legal Assistance Division (OJAG Code 16): Legal assistance matters;

(5) The DSJA to CMC and Head, Research and Civil Law Branch (JAR), Judge Advocate (JA) Division, Headquarters United States Marine Corps (HQMC): Cases involving Marine Corps judge advocates, or civil service and contracted civilian attorneys who perform legal services under the cognizance and supervision of SJA to CMC;

(6) Deputy Chief Judge, Navy-Marine Corps Trial Judiciary: Judicial matters; and

(7) Professional Responsibility Coordinator, Administrative Law Division (OJAG Code 13): All other matters.

(b) *Limitation.* Informal ethics advice will not normally be provided by JAG/HQMC advisors concerning professional responsibility matters that are then the subject of litigation.

(c) *Written advice.* A request for informal advice does not relieve the requester of the obligation to comply with subpart B of this part. Although covered attorneys are encouraged to seek advice when in doubt as to their responsibilities, they remain personally accountable for their professional conduct. If, however, an attorney receives written advice on an ethical matter after full disclosure of all relevant facts and reasonably relies on such advice, no adverse action under this part will be taken against the attorney. Written advice may be sought from either a supervisory attorney or the appropriate advisor in paragraph (a) of this section. The JAG is not bound by unwritten advice or by advice provided by personnel who are not supervisory attorneys or advisors. See §§ 776.8(b)(3) and 776.54(c) of this part.

§ 776.11 Outside practice of law.

A covered USG attorney's primary professional responsibility is to the client, as defined by § 776.4 of this part, and he or she is expected to ensure that representation of such client is free from conflicts of interest and otherwise conforms to the requirements of Subpart B of this part and other regulations concerning the provision of legal services within the DoN. The outside practice of law, therefore, must be carefully monitored. Covered USG attorneys who wish to engage in the outside practice of law, including while on terminal leave, must first obtain permission from the JAG. Failure to obtain permission before engaging in the outside practice of law may subject the covered USG attorney to administrative or disciplinary action, including professional sanctions administered per subpart C of this part. Further details are contained in § 776.57 and subpart D of this part.

§ 776.12 Maintenance of files.

Pursuant to SECNAVINST 5211.5 (series) and SECNAVINST 5212.5 (series) ethics complaint records and outside practice of law request files shall be maintained by the Office of the Chief Judge, DoN (Code 05) for judicial conduct matters; the Research and Civil Law Branch, JA Division, HQMC (JAR) for Marine matters; and the Office of the JAG, Administrative Law Division (Code 13) for all other matters.

(a) Requests for access to such records should be referred to the Office of the Chief Judge, Washington Navy Yard, 1254 Charles Morris Street SE., Suite 320 Washington, DC, 20374–5124; Deputy Assistant Judge Advocate General (Administrative Law), Office of the Judge Advocate General (Code 13), 1322 Patterson Avenue SE Suite 3000, Washington Navy Yard, DC, 20374–5066; or to Head, Research and Civil Law Branch, Office of the Staff Judge Advocate to the Commandant of the Marine Corps, Headquarters United States Marine Corps, 3000 Marine Corps Pentagon (Room 4D556), Washington DC, 20350–3000, as appropriate.

(b) Local command files regarding professional responsibility complaints will not be maintained. Commanding officers and other supervisory attorneys may, however, maintain personal files but must not share their contents with others.

(c) All records maintained under this part shall be maintained in accordance with the following procedures established by JAGINST 5801.2 (series) and DON Privacy Act Notice N05813–1:

(1) Records shall be maintained for a minimum of two years;

(2) Records shall be maintained for as long as an attorney remains subject to JAG-imposed limitations on practice; and

(3) Records pertaining to unsubstantiated complaints, or to attorneys who are no longer subject to limitation on practice, shall be destroyed after 10 years.

§§ 776.13–776.17 [Reserved]

Subpart B—Rules of Professional Conduct

§ 776.18 Preamble.

(a) A covered attorney is a representative of clients, an officer of the legal system, an officer of the Federal Government, and a public citizen who has a special responsibility for the quality of justice and legal services provided to the DoN and to individual clients. These Rules of Professional Conduct (Subpart B of this part) govern the ethical conduct of covered attorneys practicing under the Uniform Code of Military Justice, the MCM, 10 U.S.C. 1044 (Legal Assistance), other laws of the United States, and regulations of the DoN.

(b) Subpart B of this part not only address the professional conduct of judge advocates, but also apply to all other covered attorneys who practice under the cognizance and supervision of the Navy JAG.

(c) All covered attorneys are subject to professional disciplinary action, as outlined in this part, for violation of subpart B of this part. Action on allegations of professional or personal misconduct undertaken per subpart B of this part does not prevent other Federal, state, or local bar associations, or other licensing authorities, from taking professional disciplinary or other administrative action for the same or similar conduct.

§ 776.19 Principles.

Subpart B of this part is based on the following principles. Interpretation of subpart B of this part should flow from their common meaning. To the extent that any ambiguity or conflict exists, subpart B of this part should be interpreted consistent with these general principles.

(a) Covered attorneys shall:

(1) Obey the law and applicable military regulations, and counsel clients to do so.

(2) Follow all applicable ethics rules.

(3) Protect the legal rights and interests of clients, organizational and individual.

(4) Be honest and truthful in all dealings.

(5) Not derive personal gain, except as authorized, for the performance of legal services.

(6) Maintain the integrity of the legal profession.

(b) Ethical rules should be consistent with law. If law and ethics conflict, the law prevails unless an ethical rule is constitutionally based.

(c) The military criminal justice system is a truth-finding process consistent with constitutional law.

§ 776.20 Competence.

(a) A covered attorney shall provide competent, diligent, and prompt representation to a client. Competent representation requires the legal knowledge, skill, access to evidence, thoroughness, and expeditious preparation reasonably necessary for representation. Initial determinations as to competence of a covered USG attorney for a particular assignment shall be made by a supervising attorney before case or issue assignments; however, assigned attorneys may consult with supervisors concerning competence in a particular case.

(b) [Reserved]

§ 776.21 Establishment and scope of representation.

(a) Formation of attorney-client relationships by covered USG attorneys with, and representation of, clients is permissible only when the attorney is authorized to do so by competent authority. For purposes of this part, Military Rules of Evidence 502, the Manual of the Judge Advocate General (JAGINST 5800.7 series), and the Naval Legal Service Command Manual (COMNAVLEGSVCCOMINST 5800.1 series), generally define when an attorney-client relationship is formed between a covered USG attorney and a client servicemember, dependent, or employee.

(b) Generally, the subject matter scope of a covered attorney's representation will be consistent with the terms of the assignment to perform specific representational or advisory duties. A covered attorney shall inform clients at the earliest opportunity of any limitations on representation and professional responsibilities of the attorney towards the client.

(c) A covered attorney shall follow the client's well-informed and lawful decisions concerning case objectives, choice of counsel, forum, pleas, whether to testify, and settlements.

(d) A covered attorney's representation of a client does not constitute an endorsement of the client's political, economic, social, or moral views or activities.

(e) A covered attorney shall not counsel or assist a client to engage in conduct that the attorney knows is criminal or fraudulent, but a covered attorney may discuss the legal and moral consequences of any proposed course of conduct with a client, and may counsel or assist a client in making a good faith effort to determine the validity, scope, meaning, or application of the law.

(f) [Reserved]

§ 776.22 Diligence.

(a) A covered attorney shall act with reasonable diligence and promptness in representing a client, and shall consult with a client as soon as practicable and as often as necessary upon being assigned to the case or issue.

(b) [Reserved]

§ 776.23 Communication.

(a) A covered attorney shall keep a client reasonably informed about the status of a matter and promptly comply with reasonable requests for information.

(b) A covered attorney shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

(c) [Reserved]

§ 776.24 Fees.

(a) A covered USG attorney shall not accept any salary, fee, compensation, or other payments or benefits, directly or indirectly, other than Government compensation, for services provided in the course of the covered USG attorney's official duties or employment.

(b) A covered USG attorney shall not accept any salary or other payments as compensation for legal services rendered, by that covered USG attorney in a private capacity, to a client who is eligible for assistance under the DoN Legal Assistance Program, unless so authorized by the JAG. This rule does not apply to Reserve or Retired judge advocates not then serving on extended active-duty.

(c) A Reserve or Retired judge advocate, whether or not serving on extended active-duty, who has initially represented or interviewed a client or prospective client concerning a matter as part of the attorney's official Navy or Marine Corps duties, shall not accept any salary or other payments as compensation for services rendered to that client in a private capacity concerning the same general matter for which the client was seen in an official capacity, unless so authorized by the JAG.

(d) Covered non-USG attorneys may charge fees. Fees shall be reasonable. Factors considered in determining the reasonableness of a fee include the following:

(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney;

(3) The fee customarily charged in the locality for similar legal services;

(4) The amount involved and the results obtained;

(5) The time limitations imposed by the client or by the circumstances;

(6) The nature and length of the professional relationship with the client;

(7) The experience, reputation, and ability of the attorney or attorneys performing the services; and

(8) Whether the fee is fixed or contingent.

(e) When the covered non-USG attorney has not regularly represented the client, the basis or rate of the fee shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation.

(f) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (a)(7) of this section or other law. A contingent fee agreement shall be in writing and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the covered non-USG attorney in the event of settlement, trial or appeal, litigation and other expenses to be deducted from the recovery, and whether such expenses are to be deducted before or after the contingent fee is calculated. Upon conclusion of a contingent fee matter, the covered non-USG attorney shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(g) A covered non-USG attorney shall not enter into an arrangement for, charge, or collect a contingent fee for representing an accused in a criminal case.

(h) A division of fees between covered non-USG attorneys who are not in the same firm may be made only if:

(1) The division is in proportion to the services performed by each attorney or, by written agreement with the client, each attorney assumes joint responsibility for the representation;

(2) The client is advised of and does not object to the participation of all the attorneys involved; and

(3) The total fee is reasonable.

(i) Covered Non-USG Attorneys. Paragraphs (d) through (h) of this section apply only to private civilian attorneys practicing in proceedings

conducted under the cognizance and supervision of the JAG. The primary purposes of paragraphs (d) through (h) of this section are not to permit the JAG to regulate fee arrangements between civilian attorneys and their clients but to provide guidance to covered USG attorneys practicing with non-USG attorneys and to supervisory attorneys who may be asked to inquire into alleged fee irregularities. Absent paragraphs (d) through (h) of this section, such supervisory attorneys have no readily available standard against which to compare allegedly questionable conduct of a civilian attorney.

§ 776.25 Confidentiality of information.

(a) A covered attorney shall not reveal information relating to representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by paragraph (b) of this section.

(b) A covered attorney shall reveal information relating to the representation of a client to the extent the covered attorney reasonably believes necessary:

(1) To prevent reasonably certain death or substantial bodily harm; or

(2) To prevent the client from committing a criminal act that the covered attorney reasonably believes is likely to result in the significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system.

(c) A covered attorney may reveal such information to the extent the covered attorney reasonably believes necessary:

(1) To secure legal advice about the covered attorney's compliance with subpart B of this part;

(2) To establish a claim or defense on behalf of the covered attorney in a controversy between the covered attorney and the client, to establish a defense to a criminal charge or civil claim against the covered attorney based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the attorney's representation of the client; and/or

(3) To comply with other law or a court order.

(d) Examples of conduct likely to result in the significant impairment of national security or the readiness or capability of a military unit, vessel, aircraft, or weapon system include: Divulging the classified location of a special operations unit such that the lives of members of the unit are placed in immediate danger; sabotaging a vessel or aircraft to the extent that the vessel or aircraft could not conduct an assigned mission, or that the vessel or aircraft and crew could be lost; and compromising the security of a weapons site such that the weapons are likely to be stolen or detonated. Paragraph (b) of this section is not intended to and does not mandate the disclosure of conduct that may have a slight impact on the readiness or capability of a unit, vessel, aircraft, or weapon system. Examples of such conduct are: Absence without authority from a peacetime training exercise; intentional damage to an individually assigned weapon; and intentional minor damage to military property.

§ 776.26 Conflict of interest: General rule.

(a) Except as provided by paragraph (b) of this section, a covered attorney shall not represent a client if the representation of that client involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) The representation of one client will be directly adverse to another client; or

(2) There is a significant risk that the representation of one or more clients will be materially limited by the covered attorney's responsibilities to another client, a former client or a third person or by a personal interest of the covered attorney.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a) of this section, a covered attorney may represent a client if:

(1) The covered attorney reasonably believes that the covered attorney will be able to provide competent and diligent representation to each affected client;

(2) The representation is not prohibited by law or regulation;

(3) The representation does not involve the assertion of a claim by one client against another client represented by the covered attorney in the same litigation or other proceeding before a tribunal; and

(4) Each affected client gives informed consent, confirmed in writing.

(c) These conflict-of-interest rules apply to Reservists only while they are actually drilling or on active-duty-for-training, or, as is the case with Retirees, on extended active-duty or when performing other duties subject to JAG supervision. Therefore, unless otherwise prohibited by criminal conflict-of-interest statutes, Reserve or Retired attorneys providing legal services in their civilian capacity may represent clients, or work in firms whose attorneys represent clients, with interests adverse to the United States. Reserve judge advocates who, in their civilian capacities, represent persons whose interests are adverse to the DoN will provide written notification to their supervisory attorney and commanding officer, detailing their involvement in the matter. Reserve judge advocates shall refrain from undertaking any official action or representation of the DoN with respect to any particular matter in which they are providing representation or services to other clients.

§ 776.27 Conflict of interests: Prohibited transactions.

(a) Covered USG attorneys shall strictly adhere to current DoD Ethics Regulations and shall not:

(1) Knowingly enter into any business transactions on behalf of, or adverse to, a client's interest that directly or indirectly relate to or result from the attorney-client relationship; or

(2) Provide any financial assistance to a client or otherwise serve in a financial or proprietorial fiduciary or bailment relationship, unless otherwise specifically authorized by competent authority.

(b) No covered attorney shall:

(1) Use information relating to representation of a client to the disadvantage of the client unless the client consents after consultation, except as permitted or required by subpart B of this part;

(2) Prepare an instrument giving the covered attorney or a person related to the covered attorney as parent, child, sibling, or spouse any gift from a client, including a testamentary gift, except where the client is related to the donee;

(3) In the case of covered non-USG attorneys, accept compensation for representing a client from one other than the client unless the client consents after consultation, there is no interference with the covered attorney's independence of professional judgment or with the attorney-client relationship, and information relating to representation of a client is protected as required by § 776.25 of this part;

(4) Negotiate any settlement on behalf of multiple clients in a single matter unless each client provides fully informed consent;

(5) Prior to the conclusion of representation of the client, make or negotiate an agreement giving a covered attorney literary or media rights for a portrayal or account based in substantial part on information relating to representation of a client;

(6) Represent a client in a matter directly adverse to a person whom the covered attorney knows is represented

by another attorney who is related as parent, child, sibling, or spouse to the covered attorney, except upon consent by the client after consultation regarding the relationship; or

(7) Acquire a proprietary interest in the cause of action or subject matter of litigation the covered attorney is conducting for a client.

(c) [Reserved]

§ 776.28 Conflict of interest: Former client.

(a) A covered attorney who has formerly represented a client in a matter shall not thereafter represent another person in the same or a substantially related matter in which that person's interests are materially adverse to the interests of the former client, unless the former client gives informed consent, confirmed in writing.

(b) A covered attorney who has formerly represented a client in a matter shall not thereafter:

(1) Use information relating to the representation to the disadvantage of the former client or to the covered attorney's own advantage, except as Subpart B of this part would permit or require with respect to a client, or when the information has become generally known; or

(2) Reveal information relating to the representation except as subpart B of this part would permit or require with respect to a client.

(c) [Reserved]

§ 776.29 Imputed disqualification: General rule.

(a) *Imputed disqualification: General rule.* Covered USG attorneys working in the same military law office are not automatically disqualified from representing a client because any of them practicing alone would be prohibited from doing so by § 776.26, § 776.27, § 776.28, or § 776.38 of this part. Covered non-USG attorneys must consult their federal, state, and local bar rules governing the representation of multiple or adverse clients within the same office before such representation is initiated, as such representation may expose them to disciplinary action under the rules established by their licensing authorities.

(b) *Comment.* (1) The circumstances of military (or Government) service may require representation of opposing sides by covered USG attorneys working in the same law office. Such representation is permissible so long as conflicts of interests are avoided and independent judgment, zealous representation, and protection of confidences are not compromised. Thus, the principle of imputed disqualification is not automatically controlling for covered USG attorneys. The knowledge, actions, and conflicts of interests of one covered USG attorney are not imputed to another simply because they operate from the same office. For example, the fact that a number of defense attorneys operate from one office and normally share clerical assistance would not prohibit them from representing co-accused at trial by court-martial. Imputed disqualification rules for non-USG attorneys are established by their individual licensing authorities and may well proscribe all attorneys from one law office from representing a co-accused, or a party with an adverse interest to an existing client, if any attorney in the same office were so prohibited.

(2) Whether a covered USG attorney is disqualified requires a functional analysis of the facts in a specific situation. The analysis should include consideration of whether the following will be compromised: Preserving attorney-client confidentiality; maintaining independence of judgment; and avoiding positions adverse to a client. See, *e.g.,* U.S. v. Stubbs, 23 M.J. 188 (CMA 1987).

(3) Preserving confidentiality is a question of access to information. Access to information, in turn, is essentially a question of fact in a particular circumstance, aided by inferences, deductions, or working presumptions that reasonably may be made about the way in which covered USG attorneys work together. A covered USG attorney may have general access to files of all clients of a military law office (*e.g.,* legal assistance attorney) and may regularly participate in discussions of their affairs; it may be inferred that such a covered USG attorney in fact is privy to all information about all the office's clients. In contrast, another covered USG attorney (*e.g.,* military defense counsel) may have access to the files of only a limited number of clients and participate in discussion of the affairs of no other clients; in the absence of information to the contrary, it should be inferred that such a covered USG attorney in fact is privy to information about the clients actually served but not to information of other clients. Additionally, a covered USG attorney changing duty stations or changing assignments within a military office has a continuing duty to preserve confidentiality of information about a client formerly represented. See § 776.25 and § 776.28 of this part.

(4) In military practice, where covered USG attorneys representing adverse interests are sometimes required to share common spaces, equipment, and clerical assistance, inadvertent disclosure of confidential or privileged material may occur. A covered attorney who mistakenly receives any such confidential or privileged materials should refrain from reviewing them (except for the limited purpose of ascertaining ownership or proper routing), notify the attorney to whom the material belongs that he or she has such material, and either follow instructions of the attorney with respect to the disposition of the materials or refrain from further reviewing or using the materials until a definitive resolution of the proper disposition of the materials is obtained from a court. A covered attorney's duty to provide his or her client zealous representation does not justify a rule allowing the receiving attorney to take advantage of inadvertent disclosures of privileged and/or confidential materials. This policy recognizes and reinforces the principles of: Confidentiality and the attorney-client privilege; analogous principles governing the inadvertent waiver of the attorney-client privilege; the law governing bailments and missent property; and considerations of common sense, reciprocity, and professional courtesy.

(5) Maintaining independent judgment allows a covered USG attorney to consider, recommend, and carry out any appropriate course of action for a client without regard to the covered USG attorney's personal interests or the interests of another. When such independence is lacking or unlikely, representation cannot be zealous.

(6) Another aspect of loyalty to a client is the general obligation of any attorney to decline subsequent representations involving positions adverse to a former client in substantially related matters. This obligation normally requires abstention from adverse representation by the individual covered attorney involved, but, in the military legal office, abstention is not required by other covered USG attorneys through imputed disqualification.

§ 776.30 Successive Government and private employment.

(a) Except as the law or regulations may otherwise expressly permit, a former covered USG attorney, who has information known to be confidential Government information about a person that was acquired while a covered USG attorney, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person.

The former covered USG attorney may continue association with a firm, partnership, or association representing any such client only if the disqualified covered USG attorney is screened from any participation in the matter and is apportioned no part of the fee or any other benefit therefrom.

(1) The disqualified former covered USG attorney must ensure that he or she is screened from any participation in the matter and is apportioned no part of the fee or any other benefit therefrom; and,

(2) Must provide written notice promptly to the appropriate Government agency to enable it to ascertain compliance with the provisions of applicable law and regulations.

(b) Except as the law or regulations may otherwise expressly permit, a former covered USG attorney, who has information known to be confidential Government information about a person which was acquired while a covered USG attorney, may not represent a private client whose interests are adverse to that person in a matter in which the information could be used to the material disadvantage of that person. The former covered USG attorney may continue association with a firm, partnership, or association representing any such client only if the disqualified covered USG attorney is screened from any participation in the matter and is apportioned no part of the fee or any other benefit therefrom.

(c) Except as the law or regulations may otherwise expressly permit, a covered USG attorney shall not:

(1) Participate in a matter in which the covered USG attorney participated personally and substantially while in private practice or nongovernmental employment, unless under applicable law no one is, or by lawful delegation may be, authorized to act in the covered USG attorney's stead in the matter; or,

(2) Negotiate for private employment with any person who is involved as a party or as attorney for a party in a matter in which the covered USG attorney is participating personally and substantially.

(d) As used in this paragraph (d), the term ''matter'' includes:

(1) Any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, investigation, charge, accusation, arrest, or other particular matter involving a specific party or parties, and

(2) Any other matter covered by the conflict-of-interest rules of the DoD, DoN, or other appropriate Government agency.

(e) As used in the rule, the term ''confidential Governmental information'' means information that has been obtained under Governmental authority and that, at the time this Rule is applied, the Government is prohibited by law or regulations from disclosing to the public or has a legal privilege not to disclose, and that is not otherwise available to the public.

(f) [Reserved]

§ 776.31 Former judge or arbitrator.

(a) Except as stated in paragraph (c) of this section, a covered USG attorney shall not represent anyone in connection with a matter in which the covered USG attorney participated personally and substantially as a judge or other adjudicative officer, arbitrator, or law clerk to such a person, unless all parties to the proceeding give informed consent, confirmed in writing.

(b) A covered USG attorney shall not negotiate for employment with any person who is involved as a party or as attorney for a party in a matter in which the covered USG attorney is participating personally and substantially as a judge or other adjudicative officer. A covered USG attorney serving as law clerk to a judge, other adjudicative officer, or arbitrator may negotiate for employment with a party or attorney involved in a matter in which the clerk is participating personally and substantially, but only after the covered USG attorney has notified the judge, other adjudicative officer, or arbitrator, and been disqualified from further involvement in the matter.

(c) An arbitrator selected as a partisan of a party in a multi-member arbitration panel is not prohibited from subsequently representing that party.

(d) [Reserved]

§ 776.32 Department of the Navy as client.

(a) Except when representing an individual client pursuant to paragraph (f) of this section, a covered USG attorney represents the DoN (or the Executive agency to which assigned) acting through its authorized officials. These officials include the heads of organizational elements within the naval service, such as the commanders of fleets, divisions, ships and other heads of activities. When a covered USG attorney is assigned to such an organizational element and designated to provide legal services to the head of the organization, an attorney-client relationship exists between the covered attorney and the DoN as represented by the head of the organization as to matters within the scope of the official business of the organization. The head of the organization may not invoke the attorney-client privilege or the rule of confidentiality for the head of the organization's own benefit but may invoke either for the benefit of the DoN. In invoking either the attorney-client privilege or attorney-client confidentiality on behalf of the DoN, the head of the organization is subject to being overruled by higher authority.

(b) If a covered USG attorney knows that an officer, employee, or other member associated with the organizational client is engaged in action, intends to act or refuses to act in a matter related to the representation that is either adverse to the legal interests or obligations of the DoN or a violation of law that reasonably might be imputed to the DoN, the covered USG attorney shall proceed as is reasonably necessary in the best interest of the naval service. In determining how to proceed, the covered USG attorney shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the covered USG attorney's representation, the responsibility in the naval service and the apparent motivation of the person involved, the policies of the naval service concerning such matters, and any other relevant considerations. Any measures taken shall be designed to minimize prejudice to the interests of the naval service and the risk of revealing information relating to the representation to persons outside the service. Such measures shall include:

(1) Asking for reconsideration of the matter by the acting official;

(2) Advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the naval service;

(3) Referring the matter to, or seeking guidance from, higher authority in the chain of command including, if warranted by the seriousness of the matter, referral to the supervisory attorney assigned to the staff of the acting official's next superior in the chain of command; or

(4) Advising the acting official that his or her personal legal interests are at risk and that he or she should consult counsel as there may exist a conflict of interest for the covered USG attorney, and the covered USG attorney's responsibility is to the organization.

(c) If, despite the covered USG attorney's efforts per paragraph (b) of this section, the highest authority that can act concerning the matter insists upon action or refuses to act, in clear violation of law, the covered USG attorney shall terminate representation

with respect to the matter in question. In no event shall the attorney participate or assist in the illegal activity. In this case, a covered USG attorney shall report such termination of representation to the attorney's supervisory attorney or attorney representing the next superior in the chain of command.

(d) In dealing with the officers, employees, or members of the naval service a covered USG attorney shall explain the identity of the client when it is apparent that the naval service's interests are adverse to those of the officer, employee, or member.

(e) A covered USG attorney representing the naval service may also represent any of its officers, employees, or members, subject to the provisions of § 776.26 of this part and other applicable authority. If the DoN's consent to dual representation is required by § 776.26 of this part, the consent shall be given by an appropriate official of the DoN other than the individual who is to be represented.

(f) A covered USG attorney who has been duly assigned to represent an individual who is subject to criminal or disciplinary action or administrative proceedings, or to provide legal assistance to an individual, has, for those purposes, an attorney-client relationship with that individual.

(g) [Reserved]

§ 776.33 Client with diminished capacity.

(a) When a client's capacity to make adequately considered decisions in connection with the representation is diminished, whether because of minority, mental impairment, or for some other reason, the covered attorney shall, as far as reasonably possible, maintain a normal attorney-client relationship with the client.

(b) When the covered attorney reasonably believes that the client has diminished capacity, is at risk of substantial physical, financial, or other harm unless action is taken and cannot adequately act in the client's own interest, the covered attorney may take reasonably necessary protective action, including consulting with individuals or entities that have the ability to take action to protect the client.

(c) Information relating to the representation of a client with diminished capacity is protected by § 776.25 of this part. When taking protective action pursuant to paragraph (b) of this section, the covered attorney is impliedly authorized under § 776.25(a) of this part to reveal information about the client, but only to the extent reasonably necessary to protect the client's interests.

(d) [Reserved]

§ 776.34 Safekeeping property.

(a) Covered USG attorneys shall not normally hold or safeguard property of a client or third persons in connection with representational duties. See § 776.27 of this part.

(b) [Reserved]

§ 776.35 Declining or terminating representation.

(a) Except as stated in paragraph (c) of this section, a covered attorney shall not represent a client or, when representation has commenced, shall seek to withdraw from the representation of a client if:

(1) The representation will result in violation of subpart B of this part or other law or regulation;

(2) The covered attorney's physical or mental condition materially impairs his or her ability to represent the client; or

(3) The covered attorney is dismissed by the client.

(b) Except as stated in paragraph (c) of this section, a covered attorney may seek to withdraw from representing a client if withdrawal can be accomplished without material adverse effect on the interests of the client, or if:

(1) The client persists in a course of action involving the covered attorney's services that the covered attorney reasonably believes is criminal or fraudulent;

(2) The client has used the covered attorney's services to perpetrate a crime or fraud;

(3) The client insists upon pursuing an objective that the covered attorney considers repugnant or imprudent;

(4) In the case of covered non-USG attorneys, the representation will result in an unreasonable financial burden on the attorney or has been rendered unreasonably difficult by the client; or

(5) Other good cause for withdrawal exists.

(c) A covered attorney must comply with applicable law requiring notice to or permission of a tribunal when terminating a representation. When ordered to do so by a tribunal or other competent authority, a covered attorney shall continue representation notwithstanding good cause for terminating the representation.

(d) Upon termination of representation, a covered attorney shall take steps to the extent reasonably practicable to protect a client's interests, such as giving reasonable notice to the client, allowing time for assignment or employment of other counsel, and surrendering papers and property to which the client is entitled and, where a non-USG attorney provided representation, refunding any advance payment of fee that has not been earned. The covered attorney may retain papers relating to the client to the extent permitted by law.

(e) [Reserved]

§ 776.36 Prohibited sexual relations.

(a) A covered attorney shall not have sexual relations with a current client. A covered attorney shall not require, demand, or solicit sexual relations with a client incident to any professional representation.

(b) A covered attorney shall not engage in sexual relations with another attorney currently representing a party whose interests are adverse to those of a client currently represented by the covered attorney.

(c) A covered attorney shall not engage in sexual relations with a judge who is presiding or who is likely to preside over any proceeding in which the covered attorney will appear in a representative capacity.

(d) A covered attorney shall not engage in sexual relations with other persons involved in the particular case, judicial or administrative proceeding, or other matter for which representation has been established, including but not limited to witnesses, victims, co-accused, and court-martial or board members.

(e) For purposes of this paragraph (e), ''sexual relations'' means:

(1) Sexual intercourse; or

(2) Any touching of the sexual or other intimate parts of a person or causing such person to touch the sexual or other intimate parts of the covered attorney for the purpose of arousing or gratifying the sexual desire of either party.

(f) [Reserved]

§ 776.37 Advisor.

(a) In representing a client, a covered attorney shall exercise independent professional judgment and render candid advice. In rendering advice, a covered attorney may refer not only to law but to other considerations such as moral, economic, social, and political factors that may be relevant to the client's situation.

(b) [Reserved]

§ 776.38 Mediation.

(a) A covered attorney may act as a mediator between individuals if:

(1) The covered attorney consults with each individual concerning the implications of the mediation, including the advantages and risks involved, and the effect on the attorney-client confidentiality, and obtains each individual's consent to the mediation;

(2) The covered attorney reasonably believes that the matter can be resolved on terms compatible with each individual's best interests, that each individual will be able to make adequately informed decisions in the matter, and that there is little risk of material prejudice to the interests of any of the individuals if the contemplated resolution is unsuccessful; and,

(3) The covered attorney reasonably believes that the mediation can be undertaken impartially and without improper effect on other responsibilities the covered attorney has to any of the individuals.

(b) While acting as a mediator, the covered attorney shall consult with each individual concerning the decisions to be made and the considerations relevant in making them, so that each individual can make adequately informed decisions.

(c) A covered attorney shall withdraw as a mediator if any of the individuals so requests, or if any of the conditions stated in paragraph (a)(1) of this section is no longer satisfied. Upon withdrawal, the covered attorney shall not represent any of the individuals in the matter that was the subject of the mediation unless each individual consents.

(d) [Reserved]

§ 776.39 Evaluation for use by third persons.

(a) A covered attorney may provide an evaluation of a matter affecting a client for the use of someone other than the client if:

(1) The covered attorney reasonably believes that making the evaluation is compatible with other aspects of the covered attorney's relationship with the client; and

(2) The client provides informed consent, confirmed in writing.

(b) Except as disclosure is required in connection with a report of an evaluation, information relating to the evaluation is otherwise protected by § 776.25 of this part.

(c) [Reserved]

§ 776.40 Meritorious claims and contentions.

(a) A covered attorney shall not bring or defend a proceeding, or assert or controvert an issue therein, unless there is a basis for doing so that is not frivolous, which includes a good faith argument for an extension, modification, or reversal of existing law. A covered attorney representing an accused in a criminal proceeding or the respondent in an administrative proceeding, that could result in incarceration, discharge from the Naval service, or other adverse personnel action, may nevertheless defend the client at the proceeding as to require that every element of the case is established.

(b) [Reserved]

§ 776.41 Expediting litigation.

(a) A covered attorney shall make reasonable efforts to expedite litigation or other proceedings consistent with the interests of the client.

(b) [Reserved]

§ 776.42 Candor and obligations toward the tribunal.

(a) A covered attorney shall not knowingly:

(1) Make a false statement of material fact or law to a tribunal or fail to correct a false statement of material fact or law previously made to the tribunal by the covered attorney;

(2) Fail to disclose to the tribunal legal authority in the controlling jurisdiction known to the covered attorney to be directly adverse to the position of the client and not disclosed by opposing counsel;

(3) Offer evidence that the covered attorney knows to be false. If a covered attorney, the attorney's client, or a witness called by the covered attorney, has offered material evidence and the covered attorney comes to know of its falsity, the covered attorney shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal. A covered attorney may refuse to offer evidence, other than the testimony of an accused in a criminal matter, that the covered attorney reasonably believes is false; or

(4) Disobey an order imposed by a tribunal unless done openly before the tribunal in a good faith assertion that no valid order should exist.

(b) A covered attorney who represents a client in an adjudicative proceeding and who knows that a person intends to engage, is engaging or has engaged in criminal or fraudulent conduct related to the proceeding shall take reasonable remedial measures, including, if necessary, disclosure to the tribunal.

(c) The duties stated in paragraph (a) of this section continue to the conclusion of the proceedings, and apply even if compliance requires disclosure of information otherwise protected by § 776.25 of this part.

(d) In an ex parte proceeding, a covered attorney shall inform the tribunal of all material facts known to the covered attorney that will enable the tribunal to make an informed decision, whether or not the facts are adverse.

(e) [Reserved]

§ 776.43 Fairness to opposing party and counsel.

(a) A covered attorney shall not:

(1) Unlawfully obstruct a party's access to evidence or unlawfully alter, destroy, or conceal a document or other material having potential evidentiary value. A covered attorney shall not counsel or assist another person to do any such act;

(2) Falsify evidence, counsel or assist a witness to testify falsely, or offer an inducement to a witness that is prohibited by law;

(3) Knowingly disobey an order of the tribunal except for an open refusal based on an assertion that no valid obligation exists;

(4) In pretrial procedure, make a frivolous discovery request or fail to make reasonably diligent effort to comply with a legally proper discovery request by a party;

(5) In trial, allude to any matter that the covered attorney does not reasonably believe is relevant or that will not be supported by admissible evidence, assert personal knowledge of facts in issue except when testifying as a witness, or state a personal opinion as to the justness of a cause, the credibility of a witness, the culpability of a civil litigant, or the guilt or innocence of an accused; or

(6) Request a person other than a client to refrain from voluntarily giving relevant information to another party unless:

(i) The person is a relative, an employee, or other agent of a client; and

(ii) The covered attorney reasonably believes that the person's interests will not be adversely affected by refraining from giving such information.

(b) [Reserved]

§ 776.44 Impartiality and decorum of the tribunal.

(a) A covered attorney shall not:

(1) Seek to influence a judge, court member, member of a tribunal, prospective court member or member of a tribunal, or other official by means prohibited by law or regulation;

(2) Communicate ex parte with such a person except as permitted by law or regulation; or

(3) Engage in conduct intended to disrupt a tribunal.

(b) [Reserved]

§ 776.45 Extra-tribunal statements.

(a) A covered attorney shall not make an extrajudicial statement about any person or case pending investigation or adverse administrative or disciplinary proceedings that a reasonable person would expect to be disseminated by means of public communication if the

covered attorney knows or reasonably should know that it will have a substantial likelihood of materially prejudicing an adjudicative proceeding or an official review process thereof.

(b) A statement referred to in paragraph (a) of this section ordinarily is likely to have such an effect when it refers to a civil matter triable to a jury, a criminal matter (including before a military tribunal or commission), or any other proceeding that could result in incarceration, discharge from the naval service, or other adverse personnel action, and the statement relates to:

(1) The character, credibility, reputation, or criminal record of a party, suspect in a criminal investigation, victim, or witness, or the identity of a victim or witness, or the expected testimony of a party, suspect, victim, or witness;

(2) The possibility of a plea of guilty to the offense or the existence or contents of any confession, admission, or statement given by an accused or suspect or that person's refusal or failure to make a statement;

(3) The performance or results of any forensic examination or test or the refusal or failure of a person to submit to an examination or test, or the identity or nature of physical evidence expected to be presented;

(4) Any opinion as to the guilt or innocence of an accused or suspect in a criminal case or other proceeding that could result in incarceration, discharge from the naval service, or other adverse personnel action;

(5) Information the covered attorney knows or reasonably should know is likely to be inadmissible as evidence before a tribunal and would, if disclosed, create a substantial risk of materially prejudicing an impartial proceeding;

(6) The fact that an accused has been charged with a crime, unless there is included therein a statement explaining that the charge is merely an accusation and that the accused is presumed innocent until and unless proven guilty; or

(7) The credibility, reputation, motives, or character of civilian or military officials of the DoD.

(c) Notwithstanding paragraphs (a) and (b)(1) through (7) of this section, a covered attorney involved in the investigation or litigation of a matter may state without elaboration:

(1) The general nature of the claim, offense, or defense;

(2) The information contained in a public record;

(3) That an investigation of the matter is in progress, including the general scope of the investigation, the offense or claim or defense involved and, except when prohibited by law or regulation, the identity of the persons involved;

(4) The scheduling or result of any step in litigation;

(5) A request for assistance in obtaining evidence and information necessary thereto;

(6) A warning of danger concerning the behavior of the person involved, when there is reason to believe that there exists the likelihood of substantial harm to an individual or to the public interest; and

(7) In a criminal case, in addition to paragraphs (c)(1) through (6) of this section:

(i) The identity, duty station, occupation, and family status of the accused;

(ii) If the accused has not been apprehended, information necessary to aid in apprehension of that person;

(iii) The fact, time, and place of apprehension; and

(iv) The identity of investigating and apprehending officers or agencies and the length of the investigation.

(d) Notwithstanding paragraphs (a) and (b)(1) through (7) of this section, a covered attorney may make a statement that a reasonable covered attorney would believe is required to protect a client from the substantial undue prejudicial effect of recent publicity not initiated by the covered attorney or the attorney's client. A statement made pursuant to this paragraph shall be limited to such information as is necessary to mitigate the recent adverse publicity.

(e) The protection and release of information in matters pertaining to the DoN is governed by such statutes as the Freedom of Information Act and the Privacy Act, in addition to those governing protection of national defense information. In addition, other laws and regulations may further restrict the information that can be released or the source from which it is to be released (*e.g.,* the Manual of the Judge Advocate General).

(f) [Reserved]

§ 776.46 Attorney as witness.

(a) A covered attorney shall not act as advocate at a trial in which the covered attorney is likely to be a necessary witness except when:

(1) The testimony relates to an uncontested issue;

(2) The testimony relates to the nature and quality of legal services rendered in the case; or

(3) Disqualification of the covered attorney would work substantial hardship on the client.

(b) A covered attorney may act as advocate in a trial in which another attorney in the covered attorney's office is likely to be called as a witness, unless precluded from doing so by § 776.26 or § 776.28 of this part.

(c) [Reserved]

§ 776.47 Special responsibilities of a trial counsel and other government counsel.

(a) A trial counsel in a criminal case shall:

(1) Recommend to the convening authority that any charge or specification not supported by probable cause be withdrawn;

(2) Make reasonable efforts to assure that the accused has been advised of the right to, and the procedure for obtaining, counsel and has been given reasonable opportunity to obtain counsel;

(3) Not seek to obtain from an unrepresented accused a waiver of important pretrial rights;

(4) Make timely disclosure to the defense of all evidence or information known to the trial counsel that tends to negate the guilt of the accused or mitigates the offense, and, in connection with sentencing, disclose to the defense all unprivileged mitigating information known to the trial counsel, except when the trial counsel is relieved of this responsibility by a protective order or regulation;

(5) Exercise reasonable care to prevent investigators, law enforcement personnel, employees, or other persons assisting or associated with the trial counsel from making an extrajudicial statement that the trial counsel would be prohibited from making under § 776.45 of this part; and

(6) Except for statements that are necessary to inform the public of the nature and extent of the trial counsel's actions and that serve a legitimate law enforcement purpose, refrain from making extrajudicial comments that have a substantial likelihood of heightening public condemnation of the accused.

(b) Trial counsel and other government counsel shall exercise reasonable care to avoid intercepting, seizing, copying, viewing, or listening to communications protected by the attorney-client privilege during investigation of a suspected offense (particularly when conducting government-sanctioned searches where attorney-client privileged communications may be present), as well as in the preparation or prosecution of a case. Such communications expressly include, but are not limited to, land-line telephone conversations, facsimile transmissions, U.S. mail, and Email. Trial counsel and other government counsel must not

infringe upon the confidential nature of attorney-client privileged communications and are responsible for the actions of their agents or representatives when they induce or assist them in intercepting, seizing, copying, viewing, or listening to such privileged communications.

(c)(1) The trial counsel represents the United States in the prosecution of special and general courts-martial. See Article 38(a), UCMJ; see also R.C.M. 103(16), 405(d)(3)(A), and 502(d)(5). Accordingly, a trial counsel has the responsibility of administering justice and is not simply an advocate. This responsibility carries with it specific obligations to see that the accused is accorded procedural justice and that guilt is decided upon the basis of sufficient evidence. Paragraph (a)(1) of this section recognizes that the trial counsel does not have all the authority vested in modern civilian prosecutors. The authority to convene courts-martial, and to refer and withdraw specific charges, is vested in convening authorities. Trial counsel may have the duty, in certain circumstances, to bring to the court's attention any charge that lacks sufficient evidence to support a conviction. See United States v. Howe, 37 M.J. 1062 (NMCMR 1993). Such action should be undertaken only after consultation with a supervisory attorney and the convening authority. See also § 776.42(d) of this part (governing ex parte proceedings). Applicable law may require other measures by the trial counsel. Knowing disregard of those obligations or a systematic abuse of prosecutorial discretion could constitute a violation of § 776.69 of this part.

(2) Paragraph (a)(3) of this section does not apply to an accused appearing pro se with the approval of the tribunal. Nor does it forbid the lawful questioning of a suspect who has knowingly waived the rights to counsel and to remain silent.

(3) The exception in paragraph (a)(4) of this section recognizes that a trial counsel may seek an appropriate protective order from the tribunal if disclosure of information to the defense could result in substantial harm to an individual or organization or to the public interest. This exception also recognizes that applicable statutes and regulations may proscribe the disclosure of certain information without proper authorization.

(4) A trial counsel may comply with paragraph (a)(5) of this section in a number of ways. These include personally informing others of the trial counsel's obligations under § 776.46 of this part, conducting training of law enforcement personnel, and appropriately supervising the activities of personnel assisting the trial counsel.

(5) Paragraph (a)(6) of this section supplements § 776.45 of this part, which prohibits extrajudicial statements that have a substantial likelihood of prejudicing an adjudicatory proceeding. A trial counsel can, and should, avoid comments that have no legitimate law enforcement purpose and have a substantial likelihood of increasing public opprobrium of the accused. Nothing in this Comment is intended to restrict the statements that a trial counsel may make that comply with § 776.45 of this part.

(6) The ''ABA Standards for Criminal Justice: The Prosecution Function,'' (3d ed. 1993), has been used by appellate courts in analyzing issues concerning trial counsel conduct. To the extent consistent with these Rules, the ABA standards may be used to guide trial counsel in the prosecution of criminal cases. See United States v. Howe, 37 M.J. 1062 (NMCRS 1993); United States v. Dancy, 38 M.J. 1 (CMA 1993); United States v. Hamilton, 41 M.J. 22 (CMA 1994); United States v. Meek, 44 M.J. 1 (CMA 1996).

(d) [Reserved]

§ 776.48 Advocate in nonadjudicative proceedings.

(a) A covered attorney representing a client before a legislative or administrative tribunal in a nonadjudicative proceeding shall disclose that the appearance is in a representative capacity and shall conform to the provisions of §§ 776.42 (a) through (d), 776.43, and 776.44 of this part.

(b) [Reserved]

§ 776.49 Truthfulness in statements to others.

(a) In the course of representing a client a covered attorney shall not knowingly;

(1) Make a false statement of material fact or law to a third person; or

(2) Fail to disclose a material fact to a third person when disclosure is necessary to avoid assisting a criminal or fraudulent act by a client, unless disclosure is prohibited by § 776.25 of this part.

(b) [Reserved]

§ 776.50 Communication with person represented by counsel.

(a) In representing a client, a covered attorney shall not communicate about the subject of the representation with a party the covered attorney knows to be represented by another attorney in the matter, unless the covered attorney has the consent of the other attorney or is authorized by law to do so.

(b) [Reserved]

§ 776.51 Dealing with an unrepresented person.

(a) When dealing on behalf of a client with a person who is not represented by counsel, a covered attorney shall not state or imply that the covered attorney is disinterested. When the covered attorney knows or reasonably should know that the unrepresented person misunderstands the covered attorney's role in the matter, the covered attorney shall make reasonable efforts to correct the misunderstanding.

(b) [Reserved]

§ 776.52 Respect for rights of third persons.

(a) In representing a client, a covered attorney shall not use means that have no substantial purpose other than to embarrass, delay, or burden a third person, or use methods of obtaining evidence that violate the legal rights of such a person.

(b) [Reserved]

§ 776.53 Responsibilities of the Judge Advocate General and supervisory attorneys.

(a) The JAG and supervisory attorneys shall make reasonable efforts to ensure that all covered attorneys conform to subpart B of this part.

(b) A covered attorney having direct supervisory authority over another covered attorney shall make reasonable efforts to ensure that the other attorney conforms to subpart B of this part.

(c) A supervisory attorney shall be responsible for another subordinate covered attorney's violation of subpart B of this part if:

(1) The supervisory attorney orders or, with knowledge of the specific conduct, ratifies the conduct involved; or

(2) The supervisory attorney has direct supervisory authority over the other attorney and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(d) A supervisory attorney is responsible for ensuring that the subordinate covered attorney is properly trained and is competent to perform the duties to which the subordinate covered attorney is assigned.

(e) [Reserved]

§ 776.54 Responsibilities of a subordinate attorney.

(a) A covered attorney is bound by this part notwithstanding that the covered attorney acted at the direction of another person.

(b) In recognition of the judge advocate's unique dual role as a commissioned officer and attorney, subordinate judge advocates shall obey lawful directives and regulations of supervisory attorneys when not inconsistent with this part or the duty of a judge advocate to exercise independent professional judgment as to the best interest of an individual client.

(c) A subordinate covered attorney does not violate this part if that covered attorney acts in accordance with a supervisory attorney's written and reasonable resolution of an arguable question of professional duty.

(d) [Reserved]

§ 776.55 Responsibilities regarding non-attorney assistants.

(a) With respect to a non-attorney acting under the authority, supervision, or direction of a covered attorney:

(1) The senior supervisory attorney in an office shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of a covered attorney;

(2) A covered attorney having direct supervisory authority over the non-attorney shall make reasonable efforts to ensure that the person's conduct is compatible with the professional obligations of a covered attorney; and

(3) A covered attorney shall be responsible for conduct of such a person that would be a violation of this part if engaged in by a covered attorney if:

(i) The covered attorney orders or, with the knowledge of the specific conduct, explicitly or impliedly ratifies the conduct involved; or

(ii) The covered attorney has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

(b) [Reserved]

§ 776.56 Professional independence of a covered USG attorney.

(a) Notwithstanding a judge advocate's status as a commissioned officer subject, generally, to the authority of superiors, a judge advocate detailed or assigned to represent an individual member or employee of the DoN is expected to exercise unfettered loyalty and professional independence during the representation consistent with subpart B of this part and remains ultimately responsible for acting in the best interest of the individual client.

(b) Notwithstanding a civilian USG attorney's status as a Federal employee subject, generally, to the authority of superiors, a civilian USG attorney detailed or assigned to represent an individual member or employee of the DoN is expected to exercise unfettered loyalty and professional independence during the representation consistent with this part and remains ultimately responsible for acting in the best interest of the individual client.

(c) The exercise of professional judgment in accordance with paragraph (a) or (b) of this section shall not, standing alone, be a basis for an adverse evaluation or other prejudicial action.

(1) Subpart B of this part recognizes that a judge advocate is a military officer required by law to obey the lawful orders of superior officers. It also recognizes the similar status of a civilian USG attorney. Nevertheless, the practice of law requires the exercise of judgment solely for the benefit of the client and free of compromising influences and loyalties. Thus, when a covered USG attorney is assigned to represent an individual client, neither the attorney's personal interests, the interests of other clients, nor the interests of third persons should affect loyalty to the individual client.

(2) Not all direction given to a subordinate covered attorney is an attempt to influence improperly the covered attorney's professional judgment. Each situation must be evaluated by the facts and circumstances, giving due consideration to the subordinate's training, experience, and skill. A covered attorney subjected to outside pressures should make full disclosure of them to the client. If the covered attorney or the client believes the effectiveness of the representation has been or will be impaired thereby, the covered attorney should take proper steps to withdraw from representation of the client.

(3) Additionally, a judge advocate has a responsibility to report any instances of unlawful command influence. See R.C.M. 104, MCM, 1998.

§ 776.57 Unauthorized practice of law.

(a) A covered USG attorney shall not:

(1) Except as authorized by an appropriate military department, practice law in a jurisdiction where doing so is prohibited by the regulations of the legal profession in that jurisdiction; or

(2) Assist a person who is not a member of the bar in the performance of activity that constitutes the unauthorized practice of law.

(3) Engage in the outside practice of law without receiving proper authorization from the JAG.

(b) Limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. A covered USG attorney's performance of legal duties pursuant to a military department's authorization, however, is considered a Federal function and not subject to regulation by the states. Thus, a covered USG attorney may perform legal assistance duties even though the covered attorney is not licensed to practice in the jurisdiction within which the covered attorney's duty station is located. Paragraph (a)(2) of this section does not prohibit a covered USG attorney from using the services of non-attorneys and delegating functions to them, so long as the covered attorney supervises the delegated work and retains responsibility for it. See § 776.55 of this part. Likewise, it does not prohibit covered USG attorneys from providing professional advice and instruction to non-attorneys whose employment requires knowledge of law; for example, claims adjusters, social workers, accountants and persons employed in Government agencies. In addition, a covered USG attorney may counsel individuals who wish to proceed pro se or non-attorneys authorized by law or regulation to appear and represent themselves or others before military proceedings.

§§ 776.58–776.65 [Reserved]

§ 776.66 Bar admission and disciplinary matters.

(a) A covered attorney, in connection with any application for bar admission, appointment as a judge advocate, employment as a civilian USG attorney, certification by the JAG or his designee, or in connection with any disciplinary matter, shall not:

(1) Knowingly make a false statement of fact; or

(2) Fail to disclose a fact necessary to correct a misapprehension known by the person to have arisen in the matter, or knowingly fail to respond to a lawful demand for information from an admissions or disciplinary authority, except that this part does not require disclosure of information otherwise protected by § 776.25 of this part.

(b) The duty imposed by subpart B of this part extends to covered attorneys and other attorneys seeking admission to a bar, application for appointment as a covered USG attorney (military or civilian) or certification by the JAG or his designee. Hence, if a person makes a false statement in connection with an application for admission or certification (*e.g.,* misstatement by a civilian attorney before a military judge regarding qualifications under R.C.M. 502), it may be the basis for subsequent disciplinary action if the person is

admitted, and in any event may be relevant in a subsequent admission application. The duty imposed by subpart B of this part applies to a covered attorney's own admission or discipline as well as that of others. Thus, it is a separate professional offense for a covered attorney to make a knowing misrepresentation or omission in connection with a disciplinary investigation of the covered attorney's own conduct. Subpart B of this part also requires affirmative clarification of any misunderstanding on the part of the admissions, certification, or disciplinary authority of which the person involved becomes aware.

§ 776.67 Judicial and legal officers.

(a) A covered attorney shall not make a statement that the covered attorney knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity of a judge, investigating officer, hearing officer, adjudicatory officer, or public legal officer, or of a candidate for election or appointment to judicial or legal office.

(b) [Reserved]

§ 776.68 Reporting professional misconduct.

(a) A covered attorney having knowledge that another covered attorney has committed a violation of subpart B of this part that raises a substantial question as to that covered attorney's honesty, trustworthiness, or fitness as a covered attorney in other respects, shall report such violation in accordance with the procedures set forth in this part.

(b) A covered attorney having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall report such violation in accordance with the procedures set forth in this part.

(c) This part does not require disclosure of information otherwise protected by § 776.25 of this part.

(d) [Reserved]

§ 776.69 Misconduct.

(a) It is professional misconduct for a covered attorney to:

(1) Violate or attempt to violate subpart B of this part, knowingly assist or induce another to do so, or do so through the acts of another;

(2) Commit a criminal act that reflects adversely on the covered attorney's honesty, trustworthiness, or fitness as an attorney in other respects;

(3) Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;

(4) Engage in conduct that is prejudicial to the administration of justice;

(5) State or imply an ability to influence improperly a government agency or official; or

(6) Knowingly assist a judge or judicial officer in conduct that is a violation of applicable rules of judicial conduct or other law.

(b)(1) Judge advocates hold a commission as an officer in the Navy or Marine Corps and assume legal responsibilities going beyond those of other citizens. A judge advocate's abuse of such commission can suggest an inability to fulfill the professional role of judge advocate and attorney. This concept has similar application to civilian USG attorneys.

(2) Covered non-USG attorneys, Reservists, and Retirees (acting in their civilian capacity), like their active-duty counterparts, are expected to demonstrate model behavior and exemplary integrity at all times. The JAG may consider any and all derogatory or beneficial information about a covered attorney, for purposes of determining the attorney's qualification, professional competence, or fitness to practice law in DoN matters, or to administer discipline under this rule. Such consideration shall be made, except in emergency situations necessitating immediate action, according to the procedures established in this rule.

§ 776.70 Jurisdiction.

(a) All covered attorneys shall be governed by this part.

(b)(1) Many covered USG attorneys practice outside the territorial limits of the jurisdiction in which they are licensed. While covered attorneys remain subject to the governing authority of the jurisdiction in which they are licensed to practice, they are also subject to subpart B of this part.

(2) When covered USG attorneys are engaged in the conduct of Navy or Marine Corps legal functions, whether serving the Navy or Marine Corps as a client or serving an individual client as authorized by the Navy or Marine Corps, the provisions contained in subpart B of this part supersede any conflicting rules applicable in jurisdictions in which the covered attorney may be licensed. However, covered attorneys practicing in State or Federal civilian court proceedings will abide by the rules adopted by that State or Federal civilian court during the proceedings. As for covered non-USG attorneys practicing under the supervision of the JAG, violation of the provisions contained in subpart B of this part may result in suspension from practice in DoN proceedings.

(3) Covered non-USG attorneys, Reservists, or Retirees (acting in their civilian capacity) who seek to provide legal services in any DoN matter under JAG cognizance and supervision, may be precluded from such practice of law if, in the opinion of the JAG (as exercised through this rule) the attorney's conduct in any venue renders that attorney unable or unqualified to practice in DoN programs or proceedings.

§ 776.71 Requirement to remain in good standing with licensing authorities.

(a) Each officer of the Navy appointed as a member of the JAG Corps, each officer of the Marine Corps designated a judge advocate, and each civil service and contracted civilian attorney who practices law under the cognizance and supervision of the JAG shall maintain a status considered ''in good standing'' at all times with the licensing authority admitting the individual to the practice of law before the highest court of at least one State, Territory, Commonwealth, or the District of Columbia.

(b) The JAG, the Staff Judge Advocate to the Commandant of the Marine Corps, or any other supervisory attorney may require any covered USG attorney over whom they exercise authority to establish that the attorney continues to be in good standing with his or her licensing authority. Representatives of the JAG or of the Staff Judge Advocate to the Commandant of the Marine Corps may also inquire directly of any such covered USG attorney's licensing authority to establish whether he or she continues to be in good standing and has no disciplinary action pending.

(c) Each covered USG attorney shall immediately report to the JAG if any jurisdiction in which the covered USG attorney is or has been a member in good standing commences disciplinary investigation or action against him or her or if the covered USG attorney is disciplined, suspended, or disbarred from the practice of law in any jurisdiction.

(d) Each covered non-USG attorney representing an accused in any court-martial or administrative separation proceeding shall be a member in good standing with, and authorized to practice law by, the bar of a Federal court or of the bar of the highest court of a State, or a lawyer otherwise authorized by a recognized licensing authority to practice law and found by

the military judge to be qualified to represent the accused.

(e)(1) Generally, the JAG relies on the licensing authority granting the certification or privilege to practice law to define the phrase ''good standing.'' However, as circumstances require, the JAG may, instead, use separate criteria to determine compliance. At a minimum, ''good standing'' means the individual:

(i) Is subject to the jurisdiction's disciplinary review process;

(ii) Has not been suspended or disbarred from the practice of law within the jurisdiction;

(iii) Is current in the payment of all required fees;

(iv) Has met applicable continuing legal education requirements that the jurisdiction has imposed (or the cognizant authority has waived); and

(v) Has met such other requirements as the cognizant authority has set for eligibility to practice law. So long as these conditions are met, a covered USG attorney may be ''inactive'' as to the practice of law within a particular jurisdiction and still be ''in good standing'' for purposes of subpart B of this part.

(2) Rule for Court-Martial 502(d)(3)(A) requires that any civilian defense counsel representing an accused in a court-martial be a member of the bar of a Federal court or of the bar of the highest court of a State. This civilian defense counsel qualification only has meaning if the attorney is a member ''in good standing,'' and is then authorized to practice law within that jurisdiction. See United States v. Waggoner, 22 M.J. 692 (AFCMR 1986). It is appropriate for the military judge, in each and every case, to ensure that a civilian defense counsel is qualified to represent the accused.

(3) Failure of a judge advocate to comply with the requirements of subpart B of this part may result in professional disciplinary action as provided for in this rule, loss of certification under Articles 26 and/or 27(b), UCMJ, adverse entries in military service records, and administrative separation under SECNAVINST 1920.6 (series) based on the officer's failure to maintain professional qualifications. In the case of civil service and contracted civilian attorneys practicing under the JAG's cognizance and supervision, failure to maintain good standing or otherwise to comply with the requirements of subpart B of this part may result in adverse administrative action under applicable personnel regulations, including termination of employment.

(4) A covered USG attorney need only remain in good standing in one jurisdiction. If admitted to the practice of law in more than one jurisdiction, however, and any jurisdiction commences disciplinary action against or disciplines, suspends or disbars the covered USG attorney from the practice of law, the covered USG attorney must so advise the JAG.

(5) An essential time to verify that a judge advocate is currently in good standing is upon accession. Other appropriate times for verification are before a judge advocate is promoted to a higher grade, detailed to a new command, or assigned to duties where there is a statutory requirement to be a member of the bar, such as a military judge per 10 U.S.C. 826(b). The JAG, the SJA to CMC, or any other supervisory attorney may need to verify the professional qualifications of a judge advocate, either periodically or on an occasional basis. JAGINST 5803.2 (series) establishes a biennial requirement for all covered attorneys to provide proof of good standing.

(6) Certification by the United States Court of Appeals for the Armed Forces that a judge advocate is in good standing with that court will not satisfy the requirement of this section, since such status is normally dependent on Article 27, UCMJ, certification.

§§ 776.72–776.75 [Reserved]

Subpart C—Complaint Processing Procedures

§ 776.76 Policy.

(a) It is JAG's policy to investigate and resolve, expeditiously and fairly, all allegations of professional impropriety lodged against covered attorneys under JAG supervision.

(b) Rules Counsel approval will be obtained before conducting any preliminary inquiry or formal investigation into an alleged violation of the Rules of Professional Conduct (subpart B of this part) or the ABA Model Code of Judicial Conduct (Code of Judicial Conduct). The Rules Counsel will notify the JAG prior to the commencement of any preliminary inquiry or investigation. The preliminary inquiry and any subsequent investigation will be conducted according to the procedures set forth in this subpart.

§ 776.77 Related investigations and actions.

Acts or omissions by covered attorneys may constitute professional misconduct, criminal misconduct, poor performance of duty, or a combination of all three. Care must be taken to characterize appropriately the nature of a covered attorney's conduct to determine who may and properly should take official action.

(a) Questions of legal ethics and professional misconduct by covered attorneys are within the exclusive province of the JAG. Ethical or professional misconduct will not be attributed to any covered attorney in any official record without a final JAG determination, made in accordance with this part that such misconduct has occurred.

(b) Criminal misconduct is properly addressed by the covered USG attorney's commander through the disciplinary process provided under the UCMJ and implementing regulations, or through referral to appropriate civil authority.

(c) Poor performance of duty is properly addressed by the covered USG attorney's reporting senior through a variety of administrative actions, including documentation in fitness reports or employee appraisals.

(d) Prior JAG approval is not required to investigate allegations of criminal conduct or poor performance of duty involving covered attorneys. When, however, investigations into criminal conduct or poor performance reveal conduct that constitutes a violation of this part or of the Code of Judicial Conduct in the case of judges, such conduct shall be reported to the Rules Counsel immediately.

(e) Generally, professional responsibility complaints will be processed in accordance with this part upon receipt. Rules Counsel may, however, on a case-by-case basis, delay such processing to await the outcome of pending related criminal, administrative, or investigative proceedings.

(f) Nothing in this part prevents a military judge or other appropriate official from removing a covered attorney from acting in a particular court-martial or prevents the JAG, the SJA to CMC, or the appropriate official from reassigning a covered attorney to different duties prior to, during, or subsequent to proceedings conducted under the provision of this part.

§ 776.78 Informal complaints.

Informal, anonymous, or ''hot line'' type complaints alleging professional misconduct must be referred to the appropriate authority (such as the JAG Inspector General or the concerned supervisory attorney) for inquiry. Such complaints are not, by themselves, cognizable under this subpart but may, if reasonably confirmed, be the basis of

a formal complaint described in § 776.79 of this part.

§ 776.79 The formal complaint.

(a) The formal complaint shall:

(1) Be in writing and be signed by the complainant;

(2) State that the complainant has personal knowledge, or has otherwise received reliable information indicating, that:

(i) The covered attorney concerned is, or has been, engaged in misconduct that demonstrates a lack of integrity, that constitutes a violation of this part or the Code of Judicial Conduct or a failure to meet the ethical standards of the profession; or

(ii) The covered attorney concerned is ethically, professionally, or morally unqualified to perform his or her duties; and

(3) Contain a complete, factual statement of the acts or omissions constituting the substance of the complaint, as well as a description of any attempted resolution with the covered attorney concerned. Supporting statements, if any, should be attached to the complaint.

(b) A complaint may be initiated by any person, including the Administrative Law Division of the Office of the Judge Advocate General (OJAG) Administrative Law Division (Code 13) or the Judge Advocate Research and Civil Law Branch, Office of the SJA to CMC, HQMC (JAR).

§ 776.80 Initial screening.

(a) Complaints involving conduct of a Navy or Marine Corps trial or appellate judge shall be forwarded to OJAG (Code 05). All other complaints shall be forwarded to OJAG (Code 13) or, in cases involving Marine Corps judge advocates or civil service and contracted civilian attorneys who perform legal services under the cognizance and supervision of the SJA to CMC, to JAR. In cases involving Marine judge advocates, including trial and appellate judges, where the SJA to CMC is not the Rules Counsel, the cognizant Rules Counsel will notify the SJA to CMC when a complaint is received.

(b) OJAG (Code 05), OJAG (Code 13), and JAR shall log all formal complaints received and will ensure a copy of the complaint and allied papers is provided to the covered attorney who is the subject of the complaint. Service of the formal complaint and other materials on the covered attorney must be accomplished through personal service or registered/certified mail sent to the covered attorney's last known address reflected in official Navy and Marine Corps records or in the records of the state bar(s) that licensed the attorney to practice law. The covered attorney's supervisory attorney must also be provided notice of the complaint.

(c) The covered attorney concerned may elect to provide an initial statement, normally within ten calendar days from receipt, regarding the complaint for the Rules Counsel's consideration. The covered attorney will promptly inform OJAG (Code 05), OJAG (Code 13), or JAR if he or she intends to submit any such statement. At this screening stage, forwarding of the complaint to the Rules Counsel will not be unduly delayed to await the covered attorney's submission.

(d) The cognizant Rules Counsel shall initially review the complaint, and any statement submitted by the covered attorney complained of, to determine whether it complies with the requirements set forth in paragraph (4) of this section. The Rules Counsel is not required to delay the initial review of the complaint awaiting the covered attorney's submission.

(1) Complaints that do not comply with the requirements may be returned to the complainant for correction or completion, and resubmission to OJAG (Code 05), OJAG (Code 13), or JAR. If the complaint is not corrected or completed and resubmitted within 30 days of the date of its return, the Rules Counsel may close the file without further action. OJAG (Code 05), OJAG (Code 13), and JAR will maintain copies of all correspondence relating to the return and resubmission of a complaint, and shall notify the covered attorney concerned, as well as the supervisory attorney, if and when the Rules Counsel takes action to close the file.

(2) Complaints that comply with the requirements shall be further reviewed by the cognizant Rules Counsel to determine whether the complaint establishes probable cause to believe that a violation of subpart B of this part or Code of Judicial Conduct has occurred.

(e) The cognizant Rules Counsel shall close the file without further action if the complaint does not establish probable cause to believe a violation has occurred. The Rules Counsel shall notify the complainant, the covered attorney concerned, and the supervisory attorney, that the file has been closed. OJAG (Code 05), OJAG (Code 13), and JAR will maintain copies of all correspondence related to the closing of the file.

(f) The cognizant Rules Counsel may close the file if there is a determination that the complaint establishes probable cause but the violation is of a minor or technical nature appropriately addressed through corrective counseling. The Rules Counsel shall report any such decision, to include a brief summary of the case, to the JAG. (In cases relating to Marine judge advocates, including trial and appellate judges, in which the SJA to CMC is not the cognizant Rules Counsel, an information copy shall be forwarded to the SJA to CMC.) The Rules Counsel shall ensure the covered attorney concerned receives appropriate counseling and shall notify the complainant, the covered attorney concerned, and the supervisory attorney that the file has been closed. OJAG (Code 05), OJAG (Code 13), and JAR will maintain copies of all correspondence related to the closing of the file. The covered attorney concerned is responsible, under these circumstances, to determine if his or her Federal, state, or local licensing authority requires reporting of such action.

§ 776.81 Forwarding the complaint.

(a) If the Rules Counsel determines there is probable cause to believe that a violation of subpart B of this part or of the Code of Judicial Conduct has occurred, and the violation is not of a minor or technical nature, the Rules Counsel shall notify the JAG. (In cases relating to Marine Corps judge advocates, including trial and appellate judges, in which the SJA to CMC is not the cognizant Rules Counsel, the SJA to CMC shall also be notified.) The Rules Counsel shall forward the complaint and any allied papers, as follows:

(1) In cases involving a military trial judge, if practicable, to a covered attorney with experience as a military trial judge (normally senior to and of the same Service (Navy or Marine Corps) as the covered attorney complained of and not previously involved in the case) and assign the officer to conduct a preliminary inquiry into the matter;

(2) In cases involving a military appellate judge, if practicable, to a covered attorney with experience as a military appellate judge (normally senior to and of the same Service (Navy or Marine Corps) as the covered attorney complained of and not previously involved in the case) and assign the officer to conduct a preliminary inquiry into the matter;

(3) In all other cases, to such covered attorney as the cognizant Rules Counsel may designate (normally senior to the covered attorney complained of and not previously involved in the case), and assign the officer to conduct a preliminary inquiry into the matter.

(b) The Rules Counsel shall provide notice of the complaint (if not

previously informed) as well as notice of the preliminary inquiry:

(1) To the covered attorney against whom the complaint is made as well as the supervisory attorney;

(2) In cases involving a covered USG attorney on active duty or in civilian Federal service, to the commanding officer, or equivalent, of the covered USG attorney concerned;

(3) In cases involving Navy or Marine Corps judge advocates serving in Naval Legal Service Command (NLSC) units, to Commander, NLSC;

(4) In cases involving Navy attorneys serving in Marine Corps units, involving Marine Corps attorneys serving in Navy units, or involving Marine Corps trial and appellate judges, to the SJA to CMC (Attn: JAR);

(5) In cases involving trial or appellate court judges, to either the Chief Judge, Navy-Marine Corps Trial Judiciary or Chief Judge, Navy-Marine Corps Court of Criminal Appeals, as appropriate; and

(6) In cases involving covered attorneys certified by the Judge Advocates General/Chief Counsel of the other uniformed services, to the appropriate military service attorney discipline section.

§ 776.82 Interim suspension.

(a) Where the Rules Counsel determines there is probable cause to believe that a covered attorney has committed misconduct and poses a substantial threat of irreparable harm to his or her clients or the orderly administration of military justice, the Rules Counsel shall so advise the JAG. Examples of when a covered attorney may pose a ''substantial threat of irreparable harm'' include, but are not limited to:

(1) When charged with the commission of a crime which involves moral turpitude or reflects adversely upon the covered attorney's fitness to practice law, and where substantial evidence exists to support the charge;

(2) When engaged in the unauthorized practice of law (*e.g.*, failure to maintain good standing in accordance with § 776.71 of this part); or

(3) Where unable to represent client interests competently.

(b) Upon receipt of information from the Rules Counsel, JAG may order the covered attorney to show cause why he or she should not face interim suspension, pending completion of a professional responsibility investigation. The covered attorney shall have 10 calendar days in which to respond. Notice of the show cause order shall be provided as outlined in § 776.81(b) of this part.

(c) If an order to show cause has been issued under paragraph (b) of this section, and the period for response has passed without a response, or after consideration of any response and finding sufficient evidence demonstrating probable cause to believe that the covered attorney is guilty of misconduct and poses a substantial threat of irreparable harm to his or her client or the orderly administration of military justice, the JAG may direct an interim suspension of the covered attorney's certification under Articles 26(b) or 27(b), UCMJ, or R.C.M. 502(d)(3), or the authority to provide legal assistance, pending the results of the investigation and final action under this part. Notice of such action shall be provided as outlined in § 776.81(b) of this part.

(d) Within 10 days of the JAG's decision to impose an interim suspension, the covered attorney may request an opportunity to be heard before an impartial officer designated by the JAG. Where so requested, that opportunity will be scheduled within 10 calendar days of the request. The designated officer shall receive any information that the covered attorney chooses to submit on the limited issue of whether to continue the interim suspension. The designated officer shall submit a recommendation to the JAG within 5 calendar days of conclusion.

(e) A covered attorney may, based upon a claim of changed circumstances or newly discovered evidence, petition for dissolution or amendment of the JAG's imposition of interim suspension.

(f) Any professional responsibility investigation involving a covered attorney who has been suspended pursuant to subpart B of this part shall proceed and be concluded without appreciable delay. However, the JAG may determine it necessary to await completion of a related criminal investigation or proceeding, or completion of a professional responsibility action initiated by other licensing authorities. In such cases, the JAG shall cause the Rules Counsel to so notify the covered attorney under interim suspension as well as those officials outlined in § 776.81(b) of this part. Where necessary, continuation of the interim suspension shall be reviewed by the JAG every 6 months.

§ 776.83 Preliminary inquiry.

(a) The purpose of the preliminary inquiry is to determine whether, in the opinion of the officer appointed to conduct the preliminary inquiry (PIO), the questioned conduct occurred and, if so, whether the preponderance of the evidence demonstrates that such conduct constitutes a violation of subpart B of this part or the Code of Judicial Conduct. The PIO is to recommend appropriate action in cases of substantiated violations.

(b) Upon receipt of the complaint, the PIO shall promptly investigate the allegations, generally following the format and procedures set forth in the Manual of the Judge Advocate General (JAGMAN) for the conduct of command investigations. Reports of relevant investigations by other authorities including, but not limited to, the command, the Inspector General, and State licensing authorities should be used. The PIO should also:

(1) Identify and obtain sworn affidavits or statements from all relevant and material witnesses to the extent practicable;

(2) Identify, gather, and preserve all other relevant and material evidence; and

(3) Provide the covered attorney concerned an opportunity to review all evidence, affidavits, and statements collected and a reasonable period of time (normally not exceeding 10 calendar days) to submit a written statement or any other written material that the covered attorney wishes considered.

(c) The PIO may appoint and use such assistants as may be necessary to conduct the preliminary inquiry.

(d) The PIO shall personally review the results of the preliminary inquiry to determine whether, by a preponderance of the evidence, a violation of subpart B of this part or of the Code of Judicial Conduct has occurred.

(1) If the PIO determines that no violation has occurred or that the violation is minor or technical in nature and warrants only corrective counseling, then he or she may recommend that the file be closed.

(2) If the PIO determines by a preponderance of the evidence that a violation did occur, and that corrective action greater than counseling may be warranted, he or she shall:

(i) Draft a list of substantiated violations of these Rules of Professional Conduct or the Code of Judicial Conduct;

(ii) Recommend appropriate action; and

(iii) Forward the preliminary inquiry to the Rules Counsel, providing copies to the covered attorney concerned and the supervisory attorney.

(e) The Rules Counsel shall review all preliminary inquiries. If the report is determined by the Rules Counsel to be incomplete, the Rules Counsel shall return it to the PIO, or to another inquiry officer, for further or

supplemental inquiry. If the report is complete, then:

(1) If the Rules Counsel determines, either consistent with the PIO recommendation or through the Rules Counsel's own review of the report, that a violation of this part has not occurred and that further action is not warranted, the Rules Counsel shall close the file and notify the complainant, the covered attorney concerned, and all officials previously provided notice of the complaint. OJAG (Code 05), OJAG (Code 13), and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file.

(2) If the Rules Counsel determines, either consistent with a PIO recommendation or through the Rules Counsel's own review of the report, that a violation of subpart B of this part has occurred but that the violation is of a minor or technical nature, then the Rules Counsel may determine that corrective counseling is appropriate and close the file. The Rules Counsel shall report any such decision, to include a brief summary of the case, to the JAG. The Rules Counsel shall ensure that the covered attorney concerned receives appropriate counseling and shall notify the complainant, the covered attorney concerned, and all officials previously provided notice of the complaint that the file has been closed. OJAG (Code 05), OJAG (Code 13), and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file. The covered attorney concerned is responsible, under these circumstances, to determine if his or her Federal, state, or local licensing authority requires reporting such action.

(3) If the Rules Counsel determines, either consistent with a PIO recommendation or through the Rules Counsel's own review of the report, that further professional discipline or corrective action may be warranted, the Rules Counsel shall notify the JAG and take the following action:

(i) In cases involving a military trial judge, if practicable, forward the recommendation to a covered attorney with experience as a military trial judge (normally senior to and of the same Service (Navy or Marine Corps) as the covered attorney complained of and not previously involved in the case) and assign the officer to conduct an ethics investigation into the matter (see R.C.M. 109 of the Manual for Courts-Martial);

(ii) In cases involving a military appellate judge, forward the recommendation to a covered attorney with experience as a military appellate judge (normally senior to and of the same Service (Navy or Marine Corps) as the covered attorney complained of and not previously involved in the case) and assign the officer to conduct an ethics investigation into the matter (see R.C.M. 109 of the Manual for Courts-Martial); or

(iii) In all other cases, assign a covered attorney (normally senior to the covered attorney complained of and not previously involved in the case) to conduct an ethics investigation.

§ 776.84 Ethics investigation.

(a) When an ethics investigation is initiated, the covered attorney concerned shall be so notified, in writing, by the Rules Counsel. Notice of such action shall also be provided as outlined in § 776.81(b) of this part.

(b) The covered attorney concerned will be provided written notice of the following rights in connection with the ethics investigation:

(1) To request a hearing before the investigating officer (IO);

(2) To inspect all evidence gathered;

(3) To present written or oral statements or materials for consideration;

(4) To call witnesses at his or her own expense (local military witnesses should be made available at no cost);

(5) To be assisted by counsel (see paragraph (c) of this section);

(6) To challenge the IO for cause (such challenges must be made in writing and sent to the Rules Counsel via the challenged officer); and

(7) To waive any or all of these rights. Failure to affirmatively elect any of the rights included in this section shall be deemed a waiver by the covered attorney.

(c) If a hearing is requested, the covered attorney may be represented by counsel at the hearing. Such counsel may be:

(1) A civilian attorney retained at no expense to the Government; or,

(2) In the case of a covered USG attorney, another USG attorney:

(i) Detailed by the cognizant Naval Legal Service Office (NLSO), (or Defense Services Office (DSO), effective October 1, 2012), Law Center, or Legal Service Support Section (LSSS); or

(ii) Requested by the covered attorney concerned, if such counsel is deemed reasonably available in accordance with the provisions regarding individual military counsel set forth in Chapter I of the JAGMAN. There is no right to detailed counsel if requested counsel is made available.

(d) If a hearing is requested, the IO will conduct the hearing after reasonable notice to the covered attorney concerned. The hearing will not be unreasonably delayed. The hearing is not adversarial in nature and there is no right to subpoena witnesses. Rules of evidence do not apply. The covered attorney concerned or his or her counsel may question witnesses that appear. The proceedings shall be recorded but no transcript of the hearing need be made. Evidence gathered during, or subsequent to, the preliminary inquiry and such additional evidence as may be offered by the covered attorney shall be considered.

(e) The IO may appoint and use such assistants as may be necessary to conduct the ethics investigation.

(f) The IO shall prepare a report which summarizes the evidence, to include information presented at any hearing.

(1) If the IO believes that no violation has occurred or, by clear and convincing evidence, that the violation has occurred but the violation is minor or technical in nature and warrants only corrective counseling, then he or she may recommend that the file be closed.

(2) If the IO believes by clear and convincing evidence that a violation did occur, and that corrective action greater than counseling is warranted, he or she shall:

(i) Modify, as necessary, the list of substantiated violations of this part or, in the case of a military trial or appellate judge, the Code of Judicial Conduct;

(ii) Recommend appropriate action; and

(iii) Forward the ethics investigation to the Rules Counsel with a copy to the attorney investigated.

(g) The Rules Counsel shall review all ethics investigations. If the report is determined by the Rules Counsel to be incomplete, the Rules Counsel shall return it to the IO, or to another inquiry officer, for further or supplemental inquiry. If the report is complete, then:

(1) If the Rules Counsel determines, either consistent with the IO recommendation or through the Rules Counsel's own review of the investigation, that a violation of subpart B of this part or Code of Judicial Conduct has not occurred and that further action is not warranted, the Rules Counsel shall close the file and notify the complainant, the covered attorney concerned, and all officials previously notified of the complaint. OJAG (Code 05), OJAG (Code 13) and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file.

(2) If the Rules Counsel determines, either consistent with the IO recommendation or through the Rules Counsel's own review of the investigation, that a violation of this part or Code of Judicial Conduct has occurred but that the violation is of a minor or technical nature, then the

Rules Counsel may determine that corrective counseling is appropriate and close the file. The Rules Counsel shall report any such decision, to include a brief summary of the case, to the JAG. (In cases relating to Marine judge advocates, including trial and appellate judges, in which the SJA to CMC is not the cognizant Rules Counsel, an information copy shall be forwarded to the SJA to CMC.) The Rules Counsel shall ensure that the covered attorney concerned receives appropriate counseling and shall notify the complainant, the covered attorney concerned, and all officials previously notified of the complaint that the file has been closed. OJAG (Code 05), OJAG (Code 13), and/or JAR, as appropriate, will maintain copies of all correspondence related to the closing of the file. The covered attorney concerned is responsible, under these circumstances, to determine if his or her Federal, state, or local licensing authority requires reporting such action.

(3) If the Rules Counsel believes, either consistent with the IO recommendation or through the Rules Counsel's own review of the inquiry report, that professional disciplinary action greater than corrective counseling is warranted, the Rules Counsel shall forward the investigation, with recommendations as to appropriate disposition, to the JAG. (In cases relating to Marine judge advocates, including trial and appellate judges, in which the SJA to CMC is not the cognizant Rules Counsel, an information copy shall be forwarded to the SJA to CMC.)

§ 776.85 Effect of separate proceeding.

(a) For purposes of this section, the term ''separate proceeding'' includes, but is not limited to, court-martial, non-judicial punishment, administrative board, or similar civilian or military proceeding.

(b) In cases in which a covered attorney is determined, at a separate proceeding determined by the Rules Counsel to afford procedural protection equal to that provided by a preliminary inquiry under this part, to have committed misconduct that forms the basis for ethics charges under this part, the Rules Counsel may dispense with the preliminary inquiry and proceed directly with an ethics investigation.

(c) In those cases in which a covered attorney is determined to have committed misconduct at a separate proceeding which the Rules Counsel determines has afforded procedural protection equal to that provided by an ethics investigation under this part, the previous determination regarding the underlying misconduct is res judicata with respect to that issue during an ethics investigation. A subsequent ethics investigation based on such misconduct shall afford the covered attorney a hearing into whether the underlying misconduct constitutes a violation of subpart B of this part, whether the violation affects his or her fitness to practice law, and what sanctions, if any, are appropriate.

(d) Notwithstanding paragraphs (b) and (c) in this section, the Rules Counsel may dispense with the preliminary inquiry and ethics investigation and, after affording the covered attorney concerned written notice and an opportunity to be heard in writing, recommend to the JAG that the covered attorney concerned be disciplined under this part when the covered attorney has been:

(1) Decertified or suspended from the practice of law or otherwise subjected to professional responsibility discipline by the JAG or Chief Counsel of another Military Department;

(2) Disbarred or suspended from the practice of law or otherwise subjected to professional responsibility discipline by the Court of Appeals for the Armed Forces or by any Federal, State, or local bar; or

(3) Convicted of a felony (or any offense punishable by one year or more of imprisonment) in a civilian or military court that, in the opinion of the Rules Counsel, renders the attorney unqualified or incapable of properly or ethically representing the DoN or a client when the Rules Counsel has determined that the attorney was afforded procedural protection equal to that provided by an ethics investigation under this part.

§ 776.86 Action by the Judge Advocate General.

(a) The JAG is not bound by the recommendation rendered by the Rules Counsel, IO, PIO, or any other interested party, but will base any action on the record as a whole. Nothing in this part limits the JAG's authority to suspend from the practice of law in DoN matters any covered attorney alleged or found to have committed professional misconduct or violated subpart B of this part, either in DoN or civilian proceedings, as detailed in this part.

(b) The JAG may, but is not required to, refer any case to the Professional Responsibility Committee for an advisory opinion on interpretation of subpart B of this part or its application to the facts of a particular case.

(c) Upon receipt of the ethics investigation, and any requested advisory opinion, the JAG will take such action as the JAG considers appropriate in the JAG's sole discretion. The JAG may, for example:

(1) Direct further inquiry into specified areas.

(2) Determine the allegations are unfounded, or that no further action is warranted, and direct the Rules Counsel to make appropriate file entries and notify the complainant, covered attorney concerned, and all officials previously notified of the complaint.

(3) Determine the allegations are supported by clear and convincing evidence, and take appropriate corrective action including, but not limited to:

(i) Limiting the covered attorney to practice under direct supervision of a supervisory attorney;

(ii) Limiting the covered attorney to practice in certain areas or forbidding him or her from practice in certain areas;

(iii) Suspending or revoking, for a specified or indefinite period, the covered attorney's authority to provide legal assistance;

(iv) Finding that the misconduct so adversely affects the covered attorney's ability to practice law in the naval service or so prejudices the reputation of the DoN legal community, the administration of military justice, the practice of law under the cognizance of the JAG, or the armed services as a whole, that certification under Article 27(b), UCMJ, or R.C.M. 502(d)(3), should be suspended or is no longer appropriate, and directing such certification to be suspended for a prescribed or indefinite period or permanently revoked;

(v) In the case of a judge, finding that the misconduct so prejudices the reputation of military trial and/or appellate judges that certification under Article 26(b), UCMJ (10 U.S.C. 826(b)), should be suspended or is no longer appropriate, and directing such certification to be suspended for a prescribed or indefinite period or to be permanently revoked; and

(vi) Directing the Rules Counsel to contact appropriate authorities such as the Chief of Naval Personnel or the Commandant of the Marine Corps so that pertinent entries in appropriate DoN records may be made; notifying the complainant, covered attorney concerned, and any officials previously provided copies of the complaint; and notifying appropriate tribunals and authorities of any action taken to suspend, decertify, or limit the practice of a covered attorney as counsel before courts-martial or the U.S. Navy-Marine Corps Court of Criminal Appeals, administrative boards, as a legal

assistance attorney, or in any other legal proceeding or matter conducted under JAG cognizance and supervision.

§ 776.87 Finality.

Any action taken by the JAG is final.

§ 776.88 Report to licensing authorities.

Upon determination by the JAG that a violation of subpart B of this part or the Code of Judicial Conduct has occurred, the JAG may cause the Rules Counsel to report that fact to the Federal, State, or local bar or other licensing authority of the covered attorney concerned. If so reported, notice to the covered attorney shall be provided by the Rules Counsel. This decision in no way diminishes a covered attorney's responsibility to report adverse professional disciplinary action as required by the attorney's Federal, State, and local bar or other licensing authority.

Subpart D—Outside Practice of Law by Covered USG Attorneys

§ 776.89 Background.

(a) A covered USG attorney's primary professional responsibility is to the DoN, and he or she is expected to devote the required level of time and effort to satisfactorily accomplish assigned duties. Covered USG attorneys engaged in the outside practice of law, including while on terminal leave, must comply with local bar rules governing professional responsibility and conduct and obtain proper authorization from the JAG as required by §§ 776.57 and 776.88 of this part.

(b) Outside employment of DoN personnel, both military and civilian, is limited by the UCMJ, MCM, and 10 U.S.C. 1044. A covered USG attorney may not provide compensated legal services, while working in a private capacity, to persons who are eligible for legal assistance, unless specifically authorized by the JAG. See § 776.24. Because of the appearance of misuse of public office for private gain, this prohibition is based upon the status of the proposed client and applies whether or not the services provided are actually available in a DoN/DoD legal assistance office.

(c) Additionally, DoN officers and employees are prohibited by 18 U.S.C. 209 from receiving pay or allowances from any source other than the United States for the performance of any official service or duty unless specifically authorized by law. Furthermore, 18 U.S.C. 203 and 205 prohibit Federal officers and employees from personally representing or receiving, directly or indirectly, compensation for representing any other person before any Federal agency or court on matters in which the United States is a party or has an interest.

(d) These limitations are particularly significant when applied to covered USG attorneys who intend to engage concurrently in a civilian law practice. In such a situation, the potential is high for actual or apparent conflict arising from the mere opportunity to obtain clients through contacts in the course of official business. Unique conflicts or adverse appearances may also develop because of a covered USG attorney's special ethical responsibilities and loyalties.

§ 776.90 Definition.

(a) Outside practice of law is defined as any provision of legal advice, counsel, assistance or representation, with or without compensation, that is not performed pursuant or incident to duties as a covered USG attorney (including while on terminal leave). Occasional uncompensated assistance rendered to relatives or friends is excluded from this definition (unless otherwise limited by statute or regulation). Teaching a law course as part of a program of education or training offered by an institution of higher education is not practicing law for purposes of this rule.

(b) The requirement to seek permission prior to engaging in the outside practice of law does not apply to non-USG attorneys, or to Reserve or Retired judge advocates unless serving on active duty for more than 30 consecutive days.

§ 776.91 Policy.

(a) As a general rule, the JAG will not approve requests by covered USG attorneys to practice law in association with attorneys or firms which represent clients with interests adverse to the DoN.

(b) The JAG's approval of a particular request does not constitute DoN certification of the requesting attorney's qualifications to engage in the proposed practice or DoN endorsement of activities undertaken after such practice begins. Moreover, because any outside law practice is necessarily beyond the scope of a covered USG attorney's official duties, the requesting attorney should consider obtaining personal malpractice insurance coverage.

§ 776.92 Action.

(a) Covered USG attorneys, who contemplate engaging in the outside practice of law, including while on terminal leave, must first obtain approval from the JAG. Requests should be forwarded in the form prescribed in § 776.94 of this part to OJAG (Code 05), JAG (Code 13), or JAR, as appropriate, via the attorney's chain of command.

(b) The requesting attorney's commanding officer may:

(1) Disapprove and return the request if he or she perceives actual or apparent conflicts of interests;

(2) Recommend disapproval of the request and forward it, along with his or her rationale for such a recommendation; or

(3) Forward the request recommending approval and providing such other information as may be relevant.

(c) The JAG will review the request and advise applicants in writing of the decision, and of any conditions and limitations under which a particular practice may be undertaken. Until permission is granted, applicants will not commence any outside law practice.

§ 776.93 Revalidation.

(a) Covered USG attorneys to whom permission is given to engage in the outside practice of law will notify the JAG in writing, via their chain of command, within 30 days of any material change in:

(1) The nature or scope of the outside practice described in their requests, including termination, or

(2) Their DoN assignment or responsibilities.

(b) Covered USG attorneys to whom permission is given to engage in the outside practice of law will annually resubmit an application to continue the practice, with current information, by October 1 each year.

§ 776.94 Outside Law Practice Questionnaire and Request.

DATE
From: (Attorney Requesting Outside Practice of Law)
To: Deputy Chief Judge, Navy-Marine Corps Trial Judiciary/Deputy Assistant Judge Advocate General (Administrative Law)/Head, Judge Advocate Research and Civil Law Branch, Judge Advocate Division
Via: (Chain of Command)
Subj: OUTSIDE PRACTICE OF LAW REQUEST ICO (Name of attorney)

1. Background Data

a. Name, rank/pay grade:

b. Current command and position:

c. Description of duties and responsibilities (including collateral duty assignments):

d. Describe any DoN responsibilities that require you to act officially in any way with respect to any matters in which your anticipated outside employer or clients have interests:

e. Normal DoN working hours:

2. Proposed Outside Practice of Law Information

a. Mailing address and phone number:
b. Working hours:
c. Number of hours per month:
d. Description of proposed practice (indicate the type of clientele you anticipate serving, as well as the type of work that you will perform):
e. Describe whether you will be a sole practitioner, or collocated, renting from, or otherwise affiliated or associated in any matter with other attorneys:
f. Describe, in detail, any anticipated representation of any client before the United States or in any matter in which the United States has an interest:
g. Describe the manner in which you will be compensated (hourly, by case, fixed salary, and how much of your fees will be related in any way to any representational services before the Federal Government by yourself or by another):
h. Provide a description of any military-related work to which your proposed practice may be applied including, but not limited to, courts-martial, administrative discharge boards, claims against the Department of the Navy, and so forth:

3. Attorneys With Whom Outside Practice Is/Will Be Affiliated, Collocated, or Otherwise Associated

a. Identify the type of organization with which you will be affiliated (sole practitioner, partnership, and so forth), the number of attorneys in the firm, and the names of the attorneys with whom you will be working:
b. Identify the attorneys in the firm who are associated in any way with the military legal community (*e.g.,* active, Reserve, or retired judge advocate), and specify their relationship to any of the military services:
c. Identify the nature of your affiliation with the organization with which you intend to be associated (staff attorney, partner, associate, space-sharing, rental arrangement, other):
d. Provide a brief description of the type of legal practice engaged in by the organization with which you intend to affiliate, including a general description of the practice, as well as the clientele:
e. Describe the clientele who are military personnel or their dependents, and the number and type of cases handled:
f. Describe whether your affiliates will refer clients to you, and the anticipated frequency of referral:
g. Describe
(1) Whether your associates will assist or represent clients with interests adverse to the United States or in matters in which the United States has an interest:
(2) Those clients, matters, and interests in detail:
(3) What support will you provide in such cases:
(4) What compensation, in any form, you will receive related to such cases:

4. Desired Date of Commencement of Outside Practice

a. Identify if this is your first request or an annual submission for re-approval:
b. If this is an annual submission, indicate when your outside practice began:
c. If this is your first request, indicate when you wish to begin your practice:

5. Conflicts of Interest and Professional Conduct (Include the following statement in your request)

''I certify that I have read and understand my obligations under enclosure (3) to JAGINST 5803.1 (series), DOD 5500.7–R, Joint Ethics Regulation, JAGMAN Chapter VII, the Legal Assistance Manual, and Title 18, U.S.C. 203, 205, and 209. I certify that no apparent or actual conflict of interests or professional improprieties are presented by my proposed initiation/continuation of an outside law practice. I also certify that if an apparent conflict of interest or impropriety arises during such outside practice, I will report the circumstances to my supervisory attorney immediately.''

6. Privacy Act Statement. I understand that the preceding information is gathered per the Privacy Act as follows:
Authority: Information is solicited per Executive Order 12731 and DOD 5500.7–R.
Primary purpose: To determine whether outside employment presents conflicts of interest with official duties.
Routine use: Information will be treated as sensitive and used to determine propriety of outside employment.
Disclosure: Disclosure is voluntary. Failure to provide the requested information will preclude the Judge Advocate General from approving your outside practice of law request.

Signature

Subpart E—Relations With Non-USG Counsel

§ 776.95 Relations with Non-USG Counsel.

(a) This part applies to non-USG attorneys representing individuals in any matter for which the JAG is charged with supervising the provision of legal services, including but not limited to, courts-martial, administrative separation boards or hearings, boards of inquiry, and disability evaluation proceedings. Employment of a non-USG attorney by an individual client does not alter the responsibilities of a covered USG attorney to that client. Although a non-USG attorney is individually responsible for adhering to the contents of this part, the covered USG attorney detailed or otherwise assigned to that client shall take reasonable steps to inform the non-USG attorney:

(1) Of the contents of this part;

(2) That subpart B of this part apply to civilian counsel practicing before military tribunals, courts, boards, or in any legal matter under the supervision of the JAG as a condition of such practice; and

(3) That subpart B of this part take precedence over other rules of professional conduct that might otherwise apply, but that the attorney may still be subject to rules and discipline established by the attorney's Federal, state, or local bar association or other licensing authority.

(b) If an individual client designates a non-USG attorney as chief counsel, the detailed USG attorney must defer to civilian counsel in any conflict over trial tactics. If, however, the attorneys have ''co-counsel'' status, then conflict in proposed trial tactics requires the client to be consulted to resolve the conflict.

(c) If the non-USG attorney has, in the opinion of the involved covered USG attorney, acted or failed to act in a manner which is contrary to subpart B of this part, the matter should be brought to the attention of the civilian attorney. If the matter is not resolved with the civilian counsel, the covered USG attorney should discuss the situation with the supervisory attorney. If not resolved between counsel, the client must be informed of the matter by the covered USG attorney. If, after being apprised of possible misconduct, the client approves of the questioned conduct, the covered USG attorney shall attempt to withdraw from the case in accordance with § 776.35 of this part. The client shall be informed of such intent to withdraw prior to action by the covered USG attorney.

Subpart F—[Reserved]

Dated: October 16, 2015.

N.A. Hagerty-Ford,

Commander, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2015–26982 Filed 11–3–15; 8:45 am]

BILLING CODE 3810–FF–P

FEDERAL REGISTER

Vol. 80 Wednesday,

No. 213 November 4, 2015

Part III

The President

Proclamation 9360—National Diabetes Month, 2015
Proclamation 9361—National Family Caregivers Month, 2015
Proclamation 9362—National Native American Heritage Month, 2015
Proclamation 9363—National Apprenticeship Week, 2015

Federal Register
Vol. 80, No. 213
Wednesday, November 4, 2015

Presidential Documents

Title 3—

The President

Proclamation 9360 of October 30, 2015

National Diabetes Month, 2015

By the President of the United States of America

A Proclamation

Approximately 1 out of every 11 Americans lives with diabetes. The seventh leading cause of death in the United States, diabetes is a serious condition that can lead to critical health issues such as heart disease, blindness, and kidney failure, and can sometimes require amputations of lower limbs. During National Diabetes Month, we recognize the impact diabetes has on people's lives, and we rededicate our talents, skills, and knowledge to preventing, treating, and curing it.

Type 1 diabetes often develops in youth and is a result of the body not producing enough insulin. Insulin treatment and keeping blood glucose levels as close to normal as possible can help people manage this disease. Type 2 diabetes—the most common form—affects people of all ages, though most frequently it is diagnosed in adults. However, type 2 diabetes has become increasingly prevalent among young people, largely due to increasing obesity rates. African Americans, Hispanic Americans, American Indians, and Asian Americans and Pacific Islanders are at particularly high risk of developing type 2 diabetes, as are people who are overweight and those who do not participate in regular physical activity. Taking diabetes medications as prescribed, getting plenty of regular exercise, eating healthily, and controlling blood pressure and cholesterol levels can help manage type 2 diabetes.

Some people may experience higher than normal glucose levels, though not at levels high enough to be called diabetes. Roughly 86 million Americans have this condition, known as prediabetes—and for these individuals the risk of developing type 2 diabetes can be mitigated with exercise, healthy eating, and weight loss. Gestational diabetes is another form of the disease, which can develop when a woman is pregnant. Women with a history of gestational diabetes are at greater risk of developing type 2 diabetes in the future. More information on diabetes, as well as actions people can take to prevent, treat, and manage it, can be found at www.NDEP.NIH.gov.

My Administration remains committed to supporting people living with diabetes and to finding a cure for all types of the disease. The Affordable Care Act now requires coverage of preventive services—such as diabetes screenings for those who have high blood pressure or are pregnant—at no additional cost. The law also ensures that individuals are not denied health coverage based on pre-existing conditions. Additionally, earlier this year I launched the Precision Medicine Initiative, an effort aimed at bringing us closer to a cure for diseases like diabetes by accelerating biomedical discoveries and providing clinicians with new tools and knowledge to select which treatments will work best for individual patients. In addition, through a comprehensive and sustained effort, the First Lady's *Let's Move!* initiative is working to put kids on a path to a healthier future by ensuring every family has access to healthy, affordable food, and by helping kids maintain an active lifestyle.

During National Diabetes Month, let us honor those we have lost to diabetes by pledging our full support for those currently living with it, and let us reinvigorate our resolve to find a cure. Together, by drawing on the inherent ingenuity and innovation of our people, we can advance the cause

of treating this disease and safeguard the gift of a long, happy, and healthy life for all of America's daughters and sons.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2015 as National Diabetes Month. I call upon all Americans, school systems, government agencies, nonprofit organizations, health care providers, research institutions, and other interested groups to join in activities that raise diabetes awareness and help prevent, treat, and manage the disease.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–28305
Filed 11–3–15; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9361 of October 30, 2015

National Family Caregivers Month, 2015

By the President of the United States of America

A Proclamation

Day in and day out, selfless and loving Americans provide care and support to family members and friends in need. They are parents, spouses, children, siblings, relatives, and neighbors who uphold their unwavering commitment to ensure the lives of their loved ones shine bright with health, safety, and dignity. During National Family Caregivers Month, we rededicate ourselves to making sure our selfless caregivers have the support they need to maintain their own well-being and that of those they love.

One of the best measures of a country is how it treats its older citizens and people living with disabilities, and my Administration is dedicated to lifting up their lives and ensuring those who care for them get the support and recognition they deserve. Earlier this year, older Americans and caregivers, as well as their advocates, came together at the White House Conference on Aging, which provided an opportunity to discuss ways to identify and advance actions to improve quality of life for our Nation's elderly. Through the Affordable Care Act, we are providing more options to help older Americans remain in their homes as they age, and the law is giving caregivers the peace of mind of having access to quality, affordable health insurance. Additionally, I will keep pushing to make paid family leave available for every American, regardless of where they work—because no one should have to sacrifice a paycheck to care for a loved one.

When our men and women in uniform come home with wounds of war—seen or unseen—it is our solemn responsibility to ensure they get the benefits and attentive care they have earned and deserve. Caregivers in every corner of our country uphold this sacred promise with incredible devotion to their loved ones, and my Administration is committed to supporting them. We have extended military caregiver leave to family members of eligible veterans dealing with serious illness or injury for up to 5 years after their service has ended, and we remain dedicated to providing greater flexibility for our military families and for the members of our Armed Forces as they return home and handle the transition to civilian life.

For centuries, we have been driven by the belief that we all have certain obligations to one another. Every day, caregivers across our country answer this call and lift up the lives of loved ones who need additional support. During National Family Caregivers Month, let us honor their contributions and pledge to continue working toward a future where all caregivers know the same support and understanding they show for those they look after.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2015 as National Family Caregivers Month. I encourage all Americans to pay tribute to those who provide for the health and well-being of their family members, friends, and neighbors.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–28306
Filed 11–3–15; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9362 of October 30, 2015

National Native American Heritage Month, 2015

By the President of the United States of America

A Proclamation

American Indians and Alaska Natives enrich every aspect of our country. As the first to live on this land, Native Americans and their traditions and values inspired—and continue to inspire—the ideals of self-governance and determination that are the framework of our Nation. This month, we recognize the contributions made by Native Americans since long before our founding, and we resolve to continue the work of strengthening government-to-government ties with tribal nations and expanding possibility for all.

Native Americans have helped make America what it is today. As we reflect on our history, we must acknowledge the unfortunate chapters of violence, discrimination, and deprivation that went on for far too long, as well as the effects of injustices that continue to be felt. While we cannot undo the pain and tragedy of the past, we can set out together to forge a brighter future of progress and hope across Indian Country and the entire American landscape.

Since I took office, I have worked with tribal leaders to write a new chapter in our nation-to-nation relationship. Ensuring young people have every opportunity to succeed is a critical aspect of our work together, and this year my Administration hosted the inaugural White House Tribal Youth Gathering following the launch of Generation Indigenous—an initiative aimed at improving the lives of Native youth and empowering the next generation of Native leaders. We will also host the seventh White House Tribal Nations Conference later this year, bringing together leaders of 567 tribes to explore opportunities for progress, with a particular focus on young people. As part of our agenda for providing Native youth the chance to realize their fullest potential, I have engaged tribal communities in a range of critical areas, and we have worked together to boost high school graduation rates and afford young people more chances to pursue higher education, employment, and professional development opportunities. We're also working to expand access to health and counseling services essential to ensuring youth feel safe and heard.

My Administration has continued to partner with tribes to address vital gaps in resources for Indian Country, including equipping communities with broadband, rebuilding infrastructure, spurring economic growth, and increasing renewable energy. To confront the peril of a changing climate, we are also working with tribal leaders across America to develop effective approaches to protecting our communities from this grave threat. And because we know that fostering pride in the languages, traditions, and practices that make up the extraordinary richness of Native American culture is central to our shared progress, my Administration remains committed to ensuring every community feels connected to the extraordinary legacies they are a part of.

This month, let us reaffirm our responsibility to ensure each generation is defined by a greater sense of opportunity than the last, and let us pledge to maintain our strong relationship with tribal nations across America. By keeping this commitment, and by endeavoring to shape a future in which

every citizen has the chance to build a life worthy of their hopes and dreams, we can ensure that ours is a country that is true to our spirit and to our enduring promise as a land where all things are possible for all people.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 2015 as National Native American Heritage Month. I call upon all Americans to commemorate this month with appropriate programs and activities, and to celebrate November 27, 2015, as Native American Heritage Day.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–28307
Filed 11–3–15; 11:15 am]
Billing code 3295–F6–P

Presidential Documents

Proclamation 9363 of October 30, 2015

National Apprenticeship Week, 2015

By the President of the United States of America

A Proclamation

At the heart of our Nation's promise lies a simple truth: If you work hard you can get ahead, earn a decent-paying job, and secure a brighter future for yourself and your family. To make this promise real, our economy has to work for everyone, and that begins with providing all our people with the tools and resources they need to utilize their unique talents to contribute to our country's success. Apprenticeships offer this opportunity, and over 430,000 Americans participate in these programs today. During National Apprenticeship Week, we recognize the ways apprenticeships foster innovation and prosperity, and we recommit to encouraging and supporting those who offer and partake in them.

Without the skills to get new, higher-wage jobs, and without the knowledge to adapt to new machinery, systems, technology, and techniques, the American worker could fall behind. Apprenticeships help people upgrade their skills and keep pace with the demands of the 21st century. Today, in part thanks to strong cooperation between labor and management, 87 percent of apprentices find employment after completing their program, and their average starting wage is above $50,000. And over the course of their lifetimes, workers who complete an apprenticeship on the job may earn hundreds of thousands of dollars more than their peers who do not. According to multiple studies, the payout is good for employers, too—they see significant returns in the form of increased productivity, reduced waste, and greater innovation.

Across America, employers, educators, labor leaders, and elected officials are joining together to encourage and support apprenticeships. Businesses are preparing workers for jobs in advanced manufacturing, information technology, health care, and other industries, while unions are helping their members secure new and more gainful employment. Hundreds of our Nation's colleges are awarding credit toward a degree for completing an apprenticeship program. And State and local governments in every corner of our country have been working to help America succeed by investing in programs to train our workers for the jobs of tomorrow.

At the Federal level, my Administration is committed to enabling hard-working people to earn and learn at the same time by supporting job-driven training initiatives like apprenticeships. Today, 55,000 more apprenticeship positions are available than there were at the start of 2014. To build on this progress, we awarded $175 million in grants to 46 apprenticeship programs around America. This investment will provide training opportunities for 34,000 new apprentices over the next 5 years, ensure apprenticeships are available to diverse and historically underrepresented populations, and provide a framework for apprenticeship opportunities to grow. Earlier this year, we hosted the White House Summit on ApprenticeshipUSA, bringing together over 140 employers, labor and education organizations, community-based groups, and others to recognize their commitment and to generate the best ideas on how to expand these programs. Additionally, I urged the Congress to create a $2 billion Apprenticeship Training Fund to double the number of apprentices in America, and I have called on businesses

to offer more educational benefits and paid apprenticeships to their employees regardless of their level of education.

Our country thrives when all our citizens play a role in driving it forward. If we create good jobs and help workers get the skills they need to succeed in those jobs, we can restore the link between hard work and growing opportunity for every American. During National Apprenticeship Week, let us support and encourage apprenticeship programs that will help rebuild our middle class, and let us rededicate ourselves to educating more of our people, retraining our workforce, and renewing our Nation's promise to put the American dream within the reach of the determined.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of the authority vested in me by the Constitution and the laws of the United States, do hereby proclaim November 1 through November 7, 2015, as National Apprenticeship Week. I urge the Congress, State and local governments, educational institutions, industry and labor leaders, and all Americans to support apprenticeship programs in the United States and to raise awareness of their contributions to our country.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of October, in the year of our Lord two thousand fifteen, and of the Independence of the United States of America the two hundred and fortieth.

[FR Doc. 2015–28308
Filed 11–3–15; 11:15 am]
Billing code 3295–F6–P

Reader Aids

Federal Register

Vol. 80, No. 213

Wednesday, November 4, 2015

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations	
General Information, indexes and other finding aids	**202–741–6000**
Laws	**741–6000**
Presidential Documents	
Executive orders and proclamations	**741–6000**
The United States Government Manual	**741–6000**
Other Services	
Electronic and on-line services (voice)	**741–6020**
Privacy Act Compilation	**741–6064**
Public Laws Update Service (numbers, dates, etc.)	**741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC-L (Federal Register Table of Contents LISTSERV) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **http://listserv.access.gpo.gov** and select *Online mailing list archives, FEDREGTOC-L, Join or leave the list (or change settings);* then follow the instructions.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC-L and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

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/.**

FEDERAL REGISTER PAGES AND DATE, NOVEMBER

67261–67620 2
67621–68242 3
68243–68420 4

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

2 CFR

3474 67261

Proposed Rules:

3474 67672

3 CFR

Proclamations:

9354 67615
9355 67617
9356 67619
9357 68237
9358 68239
9359 68241
9360 68413
9361 68415
9362 68417
9363 68419

10 CFR

73 67264

Proposed Rules:

170 68268
171 68268
429 68274
430 68274

12 CFR

Ch. VI 67277
611 67277

14 CFR

25 ..... 67621, 67623

Proposed Rules:

23 68281
39 ..... 67348, 68284

16 CFR

305 67285

Proposed Rules:

305 67351

17 CFR

Proposed Rules:

300 68286

18 CFR

157 67302
260 67302
284 67302

21 CFR

866 67313

22 CFR

41 67315

24 CFR

570 ..... 67626, 67634

26 CFR

1 ..... 68243, 68244
602 68244

Proposed Rules:

1 68288

32 CFR

273 68158
776 68388

33 CFR

100 67635
117 67316
165 ..... 67317, 67638

Proposed Rules:

117 67677

34 CFR

74 67261
75 67261
76 67261
77 67261
80 67261
101 67261
206 67261
222 67261
225 67261
226 67261
270 67261
280 67261
299 67261
300 67261
303 67261
350 67261
361 67261
363 67261
364 67261
365 67261
367 67261
369 67261
370 67261
373 67261
377 67261
380 67261
381 67261
385 67261
396 67261
400 67261
426 67261
460 67261
491 67261
535 67261
606 67261
607 67261
608 67261
609 67261
611 67261
614 67261
628 67261
636 67261
637 67261
642 67261
643 67261
644 67261
645 67261

646 67261
647 67261
648 67261
650 67261
654 67261
655 67261
661 67261
662 67261
663 67261
664 67261
682 67261
692 67261
694 67261
1100 67261

36 CFR

242 ....68245, 68249

37 CFR

Proposed Rules:
42 67680

40 CFR

52 ....67319, 67335, 67642, 67645, 67647, 67652, 68253
81 ....67652, 68253
170 67496
180 ....68257, 68261
423 67838

Proposed Rules:
52 ....67681, 67682
180 68289

42 CFR

447 67576

Proposed Rules:
447 67377
482 68126
484 68126
485 68126

45 CFR

Proposed Rules:
95 68290
1355 68290
1356 68290

47 CFR

1 67337
73 ....67337, 67344

Proposed Rules:
1 67689
4 67689

50 CFR

100 ....68245, 68249
635 68265
648 67664
660 67664
679 ....67346, 68267

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at *http://www.archives.gov/federal-register/laws*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO's Federal Digital System (FDsys) at *http://www.gpo.gov/fdsys*. Some laws may not yet be available.

H.R. 1314/P.L. 114–74
Bipartisan Budget Act of 2015
(Nov. 2, 2015; 129 Stat. 584)
Last List November 2, 2015

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.