

where miners must wear respirators have written standard operating procedures (SOPs) for their respiratory program, that such miners who must wear respirators are fit-tested in a medical evaluation to the respirators that they will use, and that mines perform emergency respirator inspections. Records are also required to be kept in connection with respirators, including revised written SOPs governing the selection and use of respirators; records relating to the respiratory programs according to ASTM requirements; medical evaluation/fit-test results; and records of emergency respirators inspection. Emergency respirator inspections are regular inspections of respirators reserved for use during emergencies; the inspections are used to ensure that respirators would properly function if needed during an emergency.

II. Desired Focus of Comments

MSHA is soliciting comments concerning the proposed information collection. MSHA is particularly interested in comments that:

- Evaluate whether the collection of information is necessary for the proper performance of the functions of the Agency, including whether the information has practical utility;
- Evaluate the accuracy of MSHA's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;
- Suggest methods to enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The information collection request will be available on <https://www.regulations.gov>. MSHA cautions the commenter against providing any information in the submission that should not be publicly disclosed. Full comments, including personal information provided, will be made available on <https://www.regulations.gov> and <https://www.reginfo.gov>.

The public may also examine publicly available documents at DOL-MSHA, Office of Standards, Regulations and Variances, 201 12th Street South, 4th Floor West, Arlington, VA 22202-5452. Sign in at the receptionist's desk on the 4th floor via the West elevator. Before visiting MSHA in person, call 202-693-

9455 to make an appointment, in keeping with the Department of Labor's COVID-19 policy. Special health precautions may be required.

Questions about the information collection requirements may be directed to the person listed in the **FOR FURTHER INFORMATION** section of this notice.

III. Current Actions

This information collection request contains provisions for Coal Respirator Program. MSHA has provided the data with respect to the number of respondents, responses, burden hours, and burden costs supporting this information collection request.

Type of Review: New collection.

Agency: Mine Safety and Health Administration.

OMB Number: 1219-0New.

Affected Public: Business or other for-profit.

Number of Annual Respondents: 1,106.

Frequency: Annual.

Number of Annual Responses: 19,908.

Annual Time Burden: 11,060 hours.

Annual Other Burden Cost: \$0.

Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval of the proposed new information collection request; they will also become a matter of public record and will be available at <https://www.reginfo.gov>.

Song-ae Aromie Noe,

Certifying Officer, Mine Safety and Health Administration.

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NUCLEAR REGULATORY COMMISSION

[NRC-2023-0181]

Final Revision to Branch Technical Position 7-19, Guidance for Evaluation of Defense in Depth and Diversity To Address Common-Cause Failure Due to Latent Design Defects in Digital Instrumentation and Control Systems

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-final section revision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final revision to the following section of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plans: LWR Edition": Branch Technical Position (BTP) 7-19, "Guidance for Evaluation of

Defense in Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Instrumentation and Control Systems."

DATES: The Standard Review Plan update is effective on May 31, 2024.

ADDRESSES: Please refer to Docket ID NRC-2023-0181 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods:

- *Federal Rulemaking Website:* Go to <https://www.regulations.gov> and search for Docket ID NRC-2023-0181. Address questions about Docket IDs in *Regulations.gov* to Stacy Schumann; telephone: 301-415-0624; email: Stacy.Schumann@nrc.gov. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, 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, at 301-415-4737, or by email to PDR.Resource@nrc.gov. The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR:* The PDR, where you may examine and order copies of publicly available documents, is open by appointment. To make an appointment to visit the PDR, please send an email to PDR.Resource@nrc.gov or call 1-800-397-4209 or 301-415-4737, between 8 a.m. and 4 p.m. eastern time (ET), Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Carla P. Roque-Cruz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, telephone: 301-415-1455; email: Carla.Roque-Cruz@nrc.gov.

- The NRC posts its issued staff guidance on the NRC's public website at <https://www.nrc.gov/reading-rm/doc-collections/nuregs/staff/sr0800>.

SUPPLEMENTARY INFORMATION:

I. Background

This BTP provides the NRC staff with guidance for evaluating an applicant's assessment of the adequacy of defense in depth and diversity (D3) for a proposed digital instrumentation and

control (DI&C) system. On October 24, 2023 (88 FR 73051), the NRC published for public comment a proposed revision to BTP 7–19, “Guidance for Evaluation of Defense in Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Instrumentation and Control Systems” of NUREG–0800, “Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition.” The public comment period closed on November 24, 2023. Thirty-five public comments were received regarding draft Revision 9 of BTP 7–19. The final Revision 9 to NUREG–0800, BTP 7–19, “Guidance for Evaluation of Defense in Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Instrumentation and Control Systems” is available in ADAMS under Accession No. ML24005A077.

A summary of the public comments and the NRC staff’s disposition of the comments are available in a separate document, “Response to Public Comments on Draft Standard Review Plan Branch Technical Position 7–19, ‘Guidance for Evaluation of Defense in Depth and Diversity to Address Common-Cause Failure Due to Latent Design Defects in Digital Instrumentation and Control Systems’” (ADAMS Accession No. ML24005A115).

II. Backfitting, Forward Fitting, and Issue Finality

Chapter 7 of the SRP provides guidance to the staff for reviewing instrumentation and controls information provided in applications for licensing actions. Part of Chapter 7 provides guidance for the evaluation of defense-in-depth and diversity in digital computer-based instrumentation and control systems. Issuance of this BTP revision does not constitute backfitting as defined in section 50.109 of title 10 of the *Code of Federal Regulations* (10 CFR), “Backfitting” (the Backfit Rule), and as described in Management Directive (MD) 8.4, “Management of Backfitting, Forward Fitting, Issue Finality, and Information Requests”; does not constitute forward fitting as that term is defined and described in MD 8.4; and does not affect the issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants.” The NRC staff’s position is based upon the following considerations.

First, the SRP provides guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal guidance intended for use by only the staff are not matters that

constitute backfitting as that term is defined in 10 CFR 50.109(a)(1); does not constitute forward fitting as that term is defined and described in MD 8.4; and does not affect the issue finality of any approval issued under 10 CFR part 52, “Licenses, Certificates, and Approvals for Nuclear Power Plants.”

Second, the NRC staff does not intend to use the guidance in this SRP section to support NRC staff actions in a manner that would constitute backfitting or forward fitting. If, in the future, the NRC seeks to impose a position in this SRP section in a manner that constitutes backfitting, forward fitting, or affects the issue finality for a 10 CFR part 52 approval, then the NRC will address the Backfit Rule, the forward fitting provision of MD 8.4, or the applicable issue finality provision in 10 CFR part 52, respectively.

III. Congressional Review Act

This standard review plan section is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated: April 25, 2024.

For the Nuclear Regulatory Commission.

Undine Shoop,

Chief, Integrated Program Management and Beyond Design Basis Branch, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–100032; File No. SR–CboeBZX–2023–062]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Order Disapproving a Proposed Rule Change To Amend the Initial Period After Commencement of Trading of a Series of Exchange-Traded Fund Shares on the Exchange as It Relates to the Holders of Record and/or Beneficial Holders, as Provided in Exchange Rule 14.11(l)

April 25, 2024.

I. Introduction

On August 14, 2023, Cboe BZX Exchange, Inc. (“Exchange” or “BZX”) filed with the Securities and Exchange Commission (“Commission”), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Exchange

Act”)¹ and Rule 19b–4 thereunder,² a proposed rule change to amend the continued listing requirement applicable to Exchange-Traded Fund Shares (“ETF Shares”) relating to holders of record and/or beneficial holders pursuant to BZX Rule 14.11(l). The proposed rule change was published for comment in the **Federal Register** on September 1, 2023.³

On September 25, 2023, pursuant to Section 19(b)(2) of the Exchange Act, the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.⁴ On November 14, 2023, the Commission instituted proceedings pursuant to Section 19(b)(2)(B) of the Exchange Act⁵ to determine whether to approve or disapprove the proposed rule change.⁶ On February 13, 2024, the Commission designated a longer period for Commission action on the proposed rule change.⁷ The Commission has received no comments on the proposed rule change.

This order disapproves the proposed rule change because, as discussed below, BZX has not met its burden under the Exchange Act and the Commission’s Rules of Practice to demonstrate that its proposal is consistent with the requirements of Exchange Act Section 6(b)(5), and, in particular, the requirement that the rules of a national securities exchange be designed “to prevent fraudulent and manipulative acts and practices” and “to protect investors and the public interest.”⁸

II. Description of the Proposal⁹

As described in detail in the Notice and OIP, a continued listing

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

³ See Securities Exchange Act Release No. 98231 (August 28, 2023), 88 FR 60516 (“Notice”).

⁴ See Securities Exchange Act Release No. 98497, 88 FR 67397 (September 29, 2023).

⁵ 15 U.S.C. 78s(b)(2)(B).

⁶ See Securities Exchange Act Release No. 98933, 88 FR 80783 (November 20, 2023) (“OIP”).

⁷ See Securities Exchange Act Release No. 99530, 89 FR 12891 (February 20, 2024).

⁸ 15 U.S.C. 78f(b)(5).

⁹ On April 29, 2020, BZX filed a proposed rule change to extend the Non-Compliance Period (as defined herein) in the Beneficial Holders Rule (as defined herein) from 12 months after commencement of trading on the Exchange to 36 months after commencement of trading on the Exchange for certain exchange-traded products, including a series of ETF Shares. See Securities Exchange Act Release No. 88795 (May 1, 2020), 85 FR 27254 (SR–CboeBZX–2020–036) (“Prior PRC Notice” or “prior proposal”). The Commission disapproved the prior proposal, finding that the Exchange failed to satisfy its burden to demonstrate