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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2015–0004]

RIN 0579–AE12

Importation of Fresh Pitahaya Fruit From Ecuador Into the Continental United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the fruits and vegetables regulations to allow the importation of fresh pitahaya fruit into the continental United States from Ecuador. As a condition of entry, the fruit will have to be produced in accordance with a systems approach that includes requirements for fruit fly trapping, pre-harvest inspections, approved production sites, and packinghouse procedures designed to exclude quarantine pests. The fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization of Ecuador stating that the consignment was produced and prepared for export in accordance with the requirements of the systems approach. This action will allow for the importation of fresh pitahaya fruit from Ecuador while continuing to provide protection against the introduction of plant pests into the United States.

DATES: Effective July 20, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Claudia Ferguson, M.S., Senior Regulatory Policy Specialist, Regulatory Coordination and Compliance, Imports, Regulations and Manuals, PPQ, APHIS, 4700 River Road Unit 133, Riverdale, MD 20737–1231; (301) 851–2352; email: *Claudia.Ferguson@aphis.usda.gov*.

SUPPLEMENTARY INFORMATION:

Background

Under the regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56–1 through 319.56–76, referred to below as the regulations), the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture prohibits or restricts the importation of fruits and vegetables into the United States from certain parts of the world to prevent plant pests from being introduced into and spread within the United States.

On April 8, 2016, we published in the **Federal Register** (81 FR 20575–20579, Docket No. APHIS–2015–0004) a proposal [1] to amend the regulations in order to allow fresh fruit of any color of pitahaya (*Hylocereus* spp., *Acanthocereus* spp., *Cereus* spp., *Echinocereus* spp., *Escontria* spp., *Myrtillocactus* spp., and *Stenocereus* spp.) to be imported into the continental United States. (Hereafter we refer to these species collectively as ''pitahaya.'') We also prepared a pest risk assessment (PRA) and a risk management document (RMD). The PRA evaluates the risks associated with the importation of fresh pitahaya fruit from Ecuador into the continental United States. The RMD relies upon the findings of the PRA to determine the phytosanitary measures necessary to ensure the safe importation into the continental United States of fresh pitahaya fruit from Ecuador.

In the proposed rule, we noted that the PRA identified one quarantine pest present in Ecuador that could be introduced into the continental United States through the importation of fresh pitahaya fruit: *Anastrepha fraterculus* (Wiedemann), South American fruit fly.

We determined in the PRA that measures beyond standard port of arrival inspection will mitigate the risks posed by this plant pest and proposed a systems approach that includes requirements for fruit fly trapping, pre-harvest inspections, approved production sites, and packinghouse procedures designed to exclude quarantine pests. The fresh pitahaya fruit will also be required to be imported in commercial consignments and accompanied by a phytosanitary certificate issued by the national plant protection organization (NPPO) of Ecuador stating that the consignment was produced and prepared for export in accordance with the requirements of the systems approach.

We solicited comments concerning our proposal for 60 days ending June 7, 2016. We received 12 comments during the comment period.

Eight commenters, consisting of shippers, growers, and consumers, stated general support for the proposed action. The remaining four commenters did not categorically oppose the rule but did raise questions about its provisions that we address below.

One commenter stated that the proposed rule indicates there is a lack of adequate data that would allow APHIS to determine the economic effects of the rule. The commenter added that additional analysis should be conducted to ensure that small entities, specifically the United States pitahaya growers, should not receive any adverse effects of this rule change.

We note in the final regulatory flexibility analysis prepared for this rule that we received no adverse comments with respect to the specific economic impacts on small entities. Therefore, in the absence of apparent significant economic impacts and based on our review of available information, APHIS does not expect the proposed rule to have a significant economic impact on small entities and that additional analysis is not necessary.

The same commenter asked why the operational workplan required in proposed § 319.56–77(a) [2] does not outline any specific requirements for the workplan itself, other than that it must be approved by APHIS.

Section 319.56–77(a) does in fact outline specific requirements that must be met by the operational workplan. The workplan provided to APHIS by the NPPO of Ecuador must detail activities that the NPPO of Ecuador will, subject to APHIS' approval of the workplan, carry out to meet the requirements of the section.

Four commenters communicated concerns about the risk of introducing

[1] To view the proposed rule, public comments, and supporting documents, go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2015-0004*.

[2] In the proposed rule, the section number we proposed to include in the Code of Federal Regulations was § 319.56–76. As another rulemaking was published between the proposed and final versions of this rule, we have adjusted the number for this rulemaking accordingly.

A. fraterculus into the continental United States via the pathway of fresh pitahaya imported from Ecuador.

One commenter representing the State of Florida stated that an introduction of *A. fraterculus* would severely impact Florida's $8.25 billion dollar agricultural industry. The commenter stated that fruit infested with internal *A. fraterculus* larvae are highly likely to escape detection during culling and recommended that shipments of pitahaya from Ecuador not be allowed into Florida. Another commenter representing an organization of State plant regulatory agencies was not opposed to the proposed systems approach as long as there is full adoption of the control measures identified in the RMD to manage *A. fraterculus* and strict monitoring and enforcement of the systems approach. The commenter noted Florida's recommendation to prohibit shipments of pitahaya from Ecuador into Florida but did not state a position on the recommendation.

We acknowledge the commenters' concerns over the risk of introducing *A. fraterculus* into the continental United States via the pathway of fresh pitahaya from Ecuador, particularly in areas of the southern United States that could sustain permanent *A. fraterculus* populations. However, we have determined that the production and inspection practices contained in the systems approach, which include requirements for fruit fly trapping, pre-harvest inspections, and packinghouse pest exclusion procedures, will sufficiently mitigate the risk of *A. fraterculus* in imports of fresh pitahayas from Ecuador.

Moreover, during a 2016 site visit to Ecuador conducted after publication of the proposed rule, we determined the host population of *A. fraterculus* in pitahaya areas of production to be negligible with respect to pest risk, rendering unnecessary the proposed requirement prohibiting other host crops of *A. fraterculus* to be grown within 100 meters of pitahaya fields. Therefore, we are removing the requirement by amending proposed § 319.56–77(c)(2) accordingly.

One commenter noted that proposed § 319.56–77(e)(2) states the action that must be taken if a single larva of *A. fraterculus* is found in a shipment. The commenter asked if more than a single larva is found, whether further action will be taken regarding the remaining shipment of pitahaya fruit on lots other than that in which the larva was discovered.

The requirement in § 319.56–77(e)(2) states that if a single larva of *A. fraterculus* is found in a shipment from a place of production (either by the NPPO in Ecuador or by inspectors at the continental United States port of entry), the entire lot of fruit will be prohibited from import into the United States and the place of production of that fruit will be suspended from the export program until appropriate measures agreed upon by the NPPO of Ecuador and APHIS have been taken. In other words, all lots comprising that shipment will be prohibited from import into the United States regardless of whether one or more larvae of *A. fraterculus* are found. Furthermore, suspension of the place of production from the export program will allow the NPPO and APHIS to take appropriate measures to mitigate the risk of future detections in shipments of pitahayas from that place of production.

Another commenter, concerned by the risk posed by *A. fraterculus,* stated that APHIS is over-relying on the NPPO of Ecuador to enforce pest control protocols and that measures should be adopted for additional review of the NPPO's enforcement actions.

We consider APHIS' oversight of the NPPO of Ecuador's enforcement of the systems approach to be adequate to mitigate the risk of *A. fraterculus* following the pathway of fresh pitahaya from Ecuador to the continental United States. Under § 319.56–77(a), the NPPO of Ecuador must provide an operational workplan to APHIS that details activities that the NPPO of Ecuador will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. In addition, each consignment of pitahaya fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Ecuador stating that the consignment was produced and prepared for export in accordance with the requirements of the systems approach in § 319.56–77. Therefore, for the reasons given in the proposed rule and in this document, we are adopting the proposed rule as a final rule with the change discussed in this document.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

This final rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. Further, because this rule is not significant, it does not trigger the requirements of Executive Order 13771.

In accordance with 5 U.S.C. 604, we have performed a final regulatory flexibility analysis, which is summarized below, regarding the economic effects of this rule on small entities. Copies of the full analysis are available on the *Regulations.gov* Web site (see footnote 1 in this document for a link to *Regulations.gov*) or by contacting the person listed under **FOR FURTHER INFORMATION CONTACT**.

This rule amends the regulations to allow the importation of fresh pitahaya fruit (of any color) (*Hylocereus* spp., *Acanthocereus* spp., *Cereus* spp., *Echinocereus* spp., *Escontria* spp., *Myrtillocactus* spp., and *Stenocereus* spp.) into the continental United States from Ecuador using a systems approach to pest risk mitigation. The systems approach will integrate prescribed mitigation measures that cumulatively achieve the appropriate level of phytosanitary protection. Entities potentially affected by the rule are U.S. pitahaya fruit growers, of which most, if not all, are small entities.

Pitahaya fruit, or dragon fruit, is produced in Hawaii, California, and Florida. It is estimated that these States produce over 11,000 metric tons of pitahaya fruit per year. The quantity of pitahaya fruit that will be imported from Ecuador is uncertain, but the entire pitahaya export volume of Ecuador is estimated to be 165 metric tons, which is 1.4 percent of U.S. production.

Farms producing pitahaya fruit are classified within the North American Industry Classification System under Other Noncitrus Fruit Farming (NAICS 111339). For this industry classification, a business is considered to be a small entity if its annual receipts are not more than $750,000. It is probable that most or all U.S. producers of pitahaya are small businesses by the U.S. Small Business Administration standard. We expect any impact of the rule for these entities will be minimal, given Ecuador's expected small share of the U.S. pitahaya market.

Based on our review of available information, APHIS does not expect the rule to have a significant economic impact on small entities. In the absence of significant economic impacts, we have not identified alternatives that will minimize such impacts.

Executive Order 12988

This final rule allows fresh pitahaya fruit to be imported into the continental United States from Ecuador. State and local laws and regulations regarding fresh pitahaya fruit imported under this rule will be preempted while the fruit is in foreign commerce. Fresh fruits are generally imported for immediate distribution and sale to the consuming public, and remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed

on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule, which were filed under 0579–0447, have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, if approval is denied, we will publish a document in the **Federal Register** providing notice of what action we plan to take.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the E-Government Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

Lists of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we are amending 7 CFR part 319 as follows:

PART 319—FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

■ 2. Section 319.56–77 is added to read as follows:

§ 319.56–77 Pitahaya from Ecuador.

Fresh pitahaya (*Hylocereus* spp., *Acanthocereus* spp., *Cereus* spp., *Echinocereus* spp., *Escontria* spp., *Myrtillocactus* spp., and *Stenocereus* spp.) from Ecuador may be imported into the continental United States only under the conditions described in this section. These conditions are designed to prevent the introduction of the following quarantine pest: *Anastrepha fraterculus* (Wiedemann), South American fruit fly.

(a) *General requirements.* The national plant protection organization (NPPO) of Ecuador must provide an operational workplan to APHIS that details activities that the NPPO of Ecuador will, subject to APHIS' approval of the workplan, carry out to meet the requirements of this section. The operational workplan must include and describe the specific requirements as set forth in this section.

(b) *Commercial consignments.* Pitahaya from Ecuador may be imported in commercial consignments only.

(c) *Production site requirements.* (1) All production sites that participate in the pitahaya export program must be approved by and registered with the NPPO of Ecuador in accordance with the operational workplan.

(2) Trees and other structures, other than the crop itself, must not shade the crop during the day. Pitahaya fruit that has fallen on the ground must be removed from the place of production at least once every 7 days and may not be included in field containers of fruit to be packed for export. Harvested pitahayas must be placed in field cartons or containers that are marked to show the place of production so that traceback is possible.

(3) The production sites must be inspected prior to each harvest by the NPPO of Ecuador or its approved designee in accordance with the operational workplan. An approved designee is an entity with which the NPPO creates a formal agreement that allows that entity to certify that the appropriate procedures have been followed. If APHIS or the NPPO of Ecuador finds that a place of production is not complying with the requirements of the systems approach, no fruit from the place of production will be eligible for export to the continental United States until APHIS and the NPPO of Ecuador conduct an investigation and appropriate remedial actions have been implemented.

(4) The registered production sites must conduct trapping for the fruit fly *A. fraterculus* at each production site in accordance with the operational workplan. Personnel conducting the trapping and pest surveys must be hired, trained, and supervised by the NPPO of Ecuador. The trapping must begin at least 1 year before harvest begins and continue through the completion of harvest.

(5) If more than an average of 0.07 *A. fraterculus* per trap per day is trapped for more than 2 consecutive weeks, the production site will be ineligible for export until the rate of capture drops to less than that average. If levels exceed that average per trap per day, from 2 months prior to harvest to the end of the shipping season, the production site will be prohibited from shipping under the systems approach until APHIS and the NPPO of Ecuador both agree that the pest risk has been mitigated. As conditions warrant, the average number of *A. fraterculus* per trap per day may be raised or lowered if jointly agreed to between APHIS and the NPPO of Ecuador in the operational workplan.

(6) The NPPO of Ecuador must maintain records of trap placement, checking of traps, and any quarantine pest captures in accordance with the operational workplan. Trapping records must be maintained for APHIS review for at least 1 year.

(d) *Packinghouse requirements.* (1) The NPPO of Ecuador must monitor packinghouse operations to verify that the packinghouses are complying with the requirements of the systems approach. If the NPPO of Ecuador finds that a packinghouse is not complying with the requirements of the systems approach, no pitahaya fruit from the packinghouse will be eligible for export to the continental United States until APHIS and the NPPO of Ecuador conduct an investigation and both agree that the pest risk has been mitigated.

(2) All packinghouses that participate in the pitahaya export program must be registered with the NPPO of Ecuador.

(3) The pitahaya fruit must be packed within 24 hours of harvest in a pest-exclusionary packinghouse. The pitahaya shipment must be safeguarded by an insect-proof mesh screen or plastic tarpaulin while in transit to the packinghouse and while awaiting packing. These safeguards must remain intact until arrival in the continental United States or the consignment will be denied entry.

(4) During the time the packinghouse is in use for exporting pitahaya fruit to the continental United States, the packinghouse may only accept pitahaya fruit from registered production sites.

(e) *Phytosanitary inspection.* (1) A biometric sample of pitahaya fruit (jointly agreed upon by APHIS and the NPPO) must be inspected in Ecuador by the NPPO of Ecuador following post-harvest processing. The biometric sample must be visually inspected for any quarantine pests, and a portion of the fruit will be cut open if signs of *A. fraterculus* are observed.

(2) Pitahaya fruit presented for inspection at the port of entry to the United States must be identified in the shipping documents accompanying each lot of fruit to specify the production site or sites, in which the fruit was produced, and the packinghouse or houses in which the

fruit was processed, in accordance with the requirements in the operational workplan. This identification must be maintained until the fruit is released for entry into the continental United States. The pitahaya fruit are subject to inspection at the port of entry for all quarantine pests of concern, including *A. fraterculus.* If a single larva of *A. fraterculus* is found in a shipment from a place of production (either by the NPPO in Ecuador or by inspectors at the continental United States port of entry), the entire lot of fruit will be prohibited from importation into the continental United States, and the place of production of that fruit will be suspended from the export program until appropriate measures agreed upon by the NPPO of Ecuador and APHIS have been taken.

(f) *Phytosanitary certificate.* Each consignment of pitahaya fruit must be accompanied by a phytosanitary certificate issued by the NPPO of Ecuador stating that the consignment was produced and prepared for export in accordance with the requirements of § 319.56–77.

(Approved by the Office of Management and Budget under control number 0579–0447.)

Done in Washington, DC, this 14th day of June 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–12802 Filed 6–19–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9502; Directorate Identifier 2016–NM–128–AD; Amendment 39–18929; AD 2017–12–14]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757–200 and –200PF series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain areas of the frame webs are subject to widespread fatigue damage (WFD). This AD requires inspections of the frame webs for any crack of any open coordinating holes, tooling holes, and insulation blanket attachment holes; repair if necessary; and modification of the frame webs at all open hole locations, which would terminate the repetitive inspections. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 25, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 25, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9502.

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–2016–9502; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Muoi Vuong, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5205; fax: 562–627–5210; email: *muoi.vuong@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757–200 and –200PF series airplanes. The NPRM published in the **Federal Register** on December 20, 2016 (81 FR 92742) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that certain areas of the frame webs are subject to WFD. The NPRM proposed to require high frequency eddy current (HFEC) inspections of the frame webs for any crack in any open coordinating holes, tooling holes, and insulation blanket attachment holes; repair if necessary; and modification of the frame webs at all open hole locations, which would terminate the repetitive inspections. We are issuing this AD to prevent fatigue cracking that could result in reduced structural integrity of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received. Boeing Commercial Airplanes, FedEx, and United Airlines supported the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01518SE does not affect the actions specified in the proposed AD.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01518SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Additional Change to Proposed AD

We have revised paragraph (g) of this AD to specify all compliance times, rather than referring to the service information because a certain compliance time specified in the service information is relative to the issue date of the service information. For this AD, that compliance time is relative to the effective date of this AD.

Conclusion

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

- Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 757–53A0103, dated June 22, 2016. The service information describes procedures for performing repetitive HFEC inspections of the frame webs for any crack of any open coordinating holes, tooling holes, and insulation blanket attachment holes; and modifying the frame webs between stringers S–20 and S–25. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 74 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
HFEC inspection	68 work-hours × $85 per hour = $5,780 per inspection cycle.	$0	$5,780 per inspection cycle.	$427,720 per inspection cycle.
Modification	1 work-hour × $85 per hour = $85	[1] 0	85	85.

[1] Parts supplied by the operator.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–14 The Boeing Company: Amendment 39–18929; Docket No. FAA–2016–9502; Directorate Identifier 2016–NM–128–AD.

(a) Effective Date

This AD is effective July 25, 2017.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 757–200 and –200PF series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 757–53A0103, dated June 22, 2016.

(2) Installation of Supplemental Type Certificate (STC) ST01518SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgSTC.nsf/0/38B606833BBD98B386257FAA00602538?OpenDocument&Highlight=st01518se*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the frame webs between stringers S–20 and S–25 on the left side and right side, from station (STA) 440 to STA 820 and from STA 1300 to STA 1701, are subject to widespread fatigue damage (WFD). We are issuing this AD to prevent fatigue cracking that could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Repetitive High Frequency Eddy Current (HFEC) Inspections of the Frame Webs

Before the accumulation of 28,000 total flight cycles, or within 3,000 flight cycles after the effective date of this AD, whichever occurs later, do an HFEC inspection of the frame webs for any crack in any open coordinating holes, tooling holes, and insulation blanket attachment holes, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0103, dated June 22, 2016. If any cracking is found, repair before further flight

using a method approved in accordance with the procedures specified in paragraph (i) of this AD. Repeat the inspection at intervals not to exceed 12,000 flight cycles.

(h) Modification of the Frame Webs

Before the accumulation of 59,000 total flight cycles, modify the frame webs at all open hole locations, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0103, dated June 22, 2016. Accomplishment of this modification terminates the repetitive inspection requirements of paragraph (g) of this AD at the modified locations only.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

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

(j) Related Information

For more information about this AD, contact Muoi Vuong, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5205; fax: 562–627–5210; email: *muoi.vuong@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 757–53A0103, dated June 22, 2016.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on June 7, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12397 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9566; Directorate Identifier 2016–NM–191–AD; Amendment 39–18927; AD 2017–12–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 757–200, –200PF, and –200CB series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain fuselage circumferential splice plates are subject to widespread fatigue damage (WFD). This AD requires repetitive low frequency eddy current (LFEC) inspections for cracks of certain circumferential splice plates, and repairs if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 25, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 25, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; Internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9566.

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–2016–9566; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Eric Schrieber, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5348; fax: 562–627–5210; email: *eric.schrieber@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 757–200, –200PF, and –200CB series airplanes. The NPRM published in the **Federal Register** on January 5, 2017 (82

FR 1262). The NPRM was prompted by a report indicating that the fuselage circumferential splice plates along the center fastener rows, forward and aft of station 900 and station 1180 splice centerlines, are susceptible to WFD. The NPRM proposed to require repetitive LFEC inspections for cracks of certain circumferential splice plates, and repairs if necessary. We are issuing this AD to detect and correct any such cracks, which could lead to the failure of a principal structural element and could adversely affect the structural integrity of the airplane.

Comments

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

Support for the NPRM

Boeing and United Airlines stated that they support the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing (APB) stated that the installation of winglets per Supplemental Type Certificate (STC) ST01518SE does not affect the accomplishment of the manufacturer's service instructions.

We concur with the commenter's statement. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST01518SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Effects of Modification From Passenger to Freighter Configuration on the Proposed Actions

FedEx Express (FedEx) stated that VT Aerospace, which holds STC ST03562AT for modification of an airplane from a passenger to a freighter configuration, confirmed that STC ST03562AT does not affect the accomplishment of the manufacturer's service instructions. FedEx otherwise had no objection to the NPRM.

We agree with the commenter's statement that STC ST03562AT does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST03562AT does not affect the ability to accomplish the actions required by this AD. Because this STC is installed on a limited number of airplanes, we have determined that it is not necessary to revise this AD to include a provision that explicitly states the effect of this STC on compliance.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 757–53A0105, dated June 10, 2016. The service information describes procedures for repetitive LFEC inspections and repairs of the circumferential splice plates at station 900 and station 1180, from stringer S–6L to stringer S–6R, for any cracks. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 634 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
LFEC inspection	6 work-hours × $85 per hour = $510 per inspection cycle.	$0	$510 per inspection cycle.	$323,340 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–12 The Boeing Company: Amendment 39–18927; Docket No. FAA–2016–9566; Directorate Identifier 2016–NM–191–AD.

(a) Effective Date

This AD is effective July 25, 2017.

(b) Affected ADs

This AD affects AD 2006–11–11, Amendment 39–14615 (71 FR 30278, May 26, 2006) (''AD 2006–11–11'').

(c) Applicability

(1) This AD applies to all The Boeing Company Model 757–200, –200PF, and –200CB series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01518SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/48e13cdfbbc32cf4862576a4005d308b/$FILE/ST01518SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01518SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the fuselage circumferential splice plates along the center fastener rows, forward and aft of station 900 and station 1180 splice centerlines, are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct cracks of certain circumferential splice plates, which could lead to the failure of a principal structural element and could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Repetitive Low Frequency Eddy Current (LFEC) Inspections and Corrective Actions

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–53A0105, dated June 10, 2016, except as required by paragraph (h)(1) of this AD: Do an LFEC inspection for cracking of the circumferential splice plates at station 900 and station 1180, from stringer S–6L to stringer S–6R, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–53A0105, dated June 10, 2016, except as required by paragraph (h)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 757–53A0105, dated June 10, 2016. Accomplishing these inspections terminates the requirements of paragraph (h) of AD 2006–11–11 for the inspections of structurally significant item (SSI) 53–40–05, circumferential skin splice body station BS900 stringer S–6L to stringer S–6R and circumferential skin splice body station BS1180 stringer S–6L to stringer S–6R, as specified in Section 9 of Boeing Maintenance Planning Data (MPD) Document D622N001–9, May 2003 or June 2005 revisions. All other requirements of AD 2006–11–11 remain fully applicable and must be complied with.

(h) Service Information Exceptions

(1) Where Boeing Alert Service Bulletin 757–53A0105, dated June 10, 2016, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Where Boeing Alert Service Bulletin 757–53A0105, dated June 10, 2016, specifies to contact Boeing for repair instructions, and specifies that action as Required for Compliance (RC), this AD requires repair using a method approved in accordance with the procedures specified in paragraph (i) of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

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

(j) Related Information

For more information about this AD, contact Eric Schrieber, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5348; fax: 562–627–5210; email: *eric.schrieber@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 757–53A0105, dated June 10, 2016.

(ii) Reserved.

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

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

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

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12176 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0558; Directorate Identifier 2015–NM–133–AD; Amendment 39–18930; AD 2017–12–15]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Bombardier, Inc., Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This AD requires revising the airplane flight manual (AFM) to provide procedures to stabilize the airplane's airspeed and attitude. This AD was prompted by two in-service incidents of loss of all air data information in the flight deck. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective July 5, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 5, 2017.

We must receive comments on this AD by August 4, 2017.

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

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

For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0558.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0558; or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Assata Dessaline, Aerospace Engineer, Avionics and Services Branch, ANE–172, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone: 516–228–7301; fax: 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2015–11, dated June 9, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc., Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

> Two in-service incidents have been reported on CL–600–2C10 aeroplanes regarding a loss of all air data information in the cockpit. The air data information was recovered as the aeroplane descended to lower altitudes. An investigation determined that the root cause in both events was high altitude icing (ice crystal contamination). If not addressed, this condition may affect continued safe flight.
>
> Due to similarities in the air data systems, such events could happen on all Bombardier CRJ models, CL–600–2B19, CL–600–2C10, CL–600–2D15, CL–600–2D24 and CL–600–2E25. Therefore, the corrective actions for these models will be mandated once their respective Airplane Flight Manual (AFM) revisions become available.
>
> This [Canadian] AD mandates the incorporation of AFM procedures to guide the crew to stabilize the aeroplanes airspeed and attitude for continued safe flight.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0558.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued Section 03–19, ''Unreliable Airspeed,'' of Chapter 3, ''Emergency Procedures,'' in the Bombardier CRJ Series Regional Jet Model CL–600–2E25 (Series 1000) AFM, Revision 9, dated February 13, 2015. The service information describes procedures to stabilize the airplane's airspeed and attitude. 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.

FAA's Determination and Requirements of This AD

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

FAA's Determination of the Effective Date

Since there are currently no domestic operators of this product, notice and opportunity for public comment before issuing this AD are unnecessary.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0558; Directorate Identifier 2015–NM–133–AD'' at the beginning of your comments.

We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD based on those comments.

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

Costs of Compliance

Currently, there are no affected airplanes on the U.S. Register. However, if an affected airplane is imported and placed on the U.S. Register in the future, the required actions would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to be $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–15 Bombardier, Inc.: Amendment 39–18930; Docket No. FAA–2017–0558; Directorate Identifier 2015–NM–133–AD.

(a) Effective Date

This AD becomes effective July 5, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model CL–600–2E25 (Regional Jet Series 1000) airplanes, serial numbers 19001 and subsequent, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 34, Navigation.

(e) Reason

This AD was prompted by reports of two in-service incidents of loss of all air data information in the flight deck. We are issuing this AD to advise the flight crew of procedures to stabilize the airplane's airspeed and attitude in the event of loss of air data information. Loss of air data information may result in loss of continued flight safety.

(f) Compliance

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

(g) Airplane Flight Manual Revision

Within 30 days after the effective date of this AD, revise the Emergency Procedures section of the airplane flight manual (AFM) to include the information in Section 03–19, ''Unreliable Airspeed,'' of Chapter 3, ''Emergency Procedures,'' in the Bombardier CRJ Series Regional Jet Model CL–600–2E25 (Series 1000) AFM, Revision 9, dated February 13, 2015.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(i) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2015–11, dated June 9, 2015, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0558.

(j) Material Incorporated by Reference

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

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

(i) Section 03–19, ''Unreliable Airspeed,'' of Chapter 3, ''Emergency Procedures,'' in the Bombardier CRJ Series Regional Jet Model CL–600–2E25 (Series 1000) AFM, Revision 9, dated February 13, 2015.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.*

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

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

Issued in Renton, Washington, on June 7, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12396 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9188; Directorate Identifier 2016–NM–102–AD; Amendment 39–18920; AD 2017–12–05]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2007–26–04 for certain The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. AD 2007–26–04 required repetitive inspections for cracking of certain fasteners, and repair if necessary; and a preventive modification, which terminated the repetitive inspections. This AD removes the mandatory modification; adds repetitive inspections of the skin for cracking, a one-time inspection for defects of the production countersunk rivets, and corrective actions if necessary; and adds an optional skin trim-out repair, which will terminate certain inspections. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain skin panels are subject to widespread fatigue damage (WFD). We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 25, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 25, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9188.

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–2016–9188; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2007–26–04, Amendment 39–15306 (72 FR 71216, December 17, 2007) (''AD 2007–26–04''). AD 2007–26–04 applied to certain Boeing Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on October 20, 2016 (81 FR 72554) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that the forward skin panel at the station (STA) 259.5 circumferential butt splice between stringers 19L and 24L is subject to WFD. The NPRM proposed to continue to require repetitive inspections for cracking around the heads of the fasteners on the forward fastener row in certain areas of a certain circumferential butt splice, and repair if necessary. The NPRM also proposed to add repetitive inspections of the skin for cracking at the aft fastener column, and a one-time inspection for defects in the production countersunk rivets, and corrective actions if necessary; and add an optional skin trim-out repair, which would terminate certain inspections. We are issuing this AD to prevent cracking of the STA 259.5 circumferential butt splice, which could result in loss of structural integrity of the fuselage skin and possible loss of cabin pressure.

Comments

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

Request To Revise Terminating Action

Southwest Airlines (SWA) requested that we revise paragraph (i) of the proposed AD to specify that doing the optional repairs terminates the initial and repetitive inspections instead of just the repetitive inspections. SWA stated that if a terminating repair were installed prior to the initial inspection, there is no justification for either the initial or repetitive inspections.

We agree with SWA's request. We have revised paragraph (i) of this AD to specify that the terminating repairs are applicable to both the initial and repetitive inspections.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the supplemental type certificate (STC) ST01219SE does not affect the actions specified in the NPRM.

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

Conclusion

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

• Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1267, Revision 1, dated March 8, 2016 (''ASB 737–53A1267, R1''). The service information describes procedures for detailed inspections and high frequency eddy current (HFEC) surface inspections of the skin around the fastener heads for any crack on the forward and aft fastener columns, left and right sides, at STA 259.5 circumferential butt splice; a detailed inspection for any defect of the production countersunk rivet heads on both forward and aft fastener columns, left and right sides, at the STA 259.5 circumferential butt splice; and corrective actions, including a skin trim-out repair and other repairs. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 115 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	28 work-hours × $85 per hour = $2,380 per inspection cycle.	$0	$2,380 per inspection cycle.	$273,700 per inspection cycle.

We have received no definitive data that would enable us to provide cost estimates for the optional skin-trim-out repair specified in this AD.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2007–26–04, Amendment 39–15806 (72 FR 71216, December 17, 2007), and adding the following new AD:

2017–12–05 The Boeing Company: Amendment 39–18920; Docket No. FAA–2016–9188; Directorate Identifier 2016–NM–102–AD.

(a) Effective Date

This AD is effective July 25, 2017.

(b) Affected ADs

This AD replaces AD 2007–26–04, Amendment 39–15306 (72 FR 71216, December 17, 2007) (''AD 2007–26–04'').

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1267, Revision 1, dated March 8, 2016 (''ASB 737–53A1267, R1'').

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder indicating that the forward skin panel at the station (STA) 259.5 circumferential butt splice between stringers 19L and 24L is subject to widespread fatigue damage. We are issuing this AD to prevent cracking of the STA 259.5 circumferential butt splice, which could result in loss of structural integrity of the fuselage skin and possible loss of cabin pressure.

(f) Compliance

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

(g) Actions for Group 2 Airplanes

For airplanes identified as Group 2 in ASB 737–53A1267, R1: Within 120 days after the effective date of this AD, inspect the airplane and do all applicable corrective actions using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(h) Inspections for Group 1 Airplanes

For airplanes identified as Group 1 in ASB 737–53A1267, R1: Except as specified in paragraph (j)(1) of this AD, at the applicable time specified in paragraph 1.E. ''Compliance'' of ASB 737–53A1267, R1, do the applicable actions specified in paragraphs (h)(1) and (h)(2) of this AD; and do all applicable corrective actions; in accordance with the Accomplishment Instructions of ASB 737–53A1267, R1, except as specified in paragraph (j)(2) of this AD and as provided by paragraph (i) of this AD. Do all applicable corrective actions before further flight. Repeat the applicable inspections specified in paragraph (h)(1) of this AD thereafter at the applicable intervals specified paragraph 1.E., ''Compliance,'' of ASB 737–53A1267, R1, except as provided by paragraph (i) of this AD.

(1) Do detailed inspections and high frequency eddy current (HFEC) surface inspections of the skin around the fastener heads for any crack on the forward and aft fastener columns, left and right sides, at STA 259.5 circumferential butt splice, in accordance with Parts 1, 2, 6, 7, 8, and 9 of the Accomplishment Instructions of ASB 737–53A1267, R1, as applicable.

(2) Do a one-time detailed inspection for any defect of the production countersunk rivet heads on both forward and aft fastener columns, left and right sides, at STA 259.5 circumferential butt splice, in accordance with Part 3 of the Accomplishment Instructions of ASB 737–53A1267, R1.

(i) Repairs That Terminate Inspections in Repair Areas

(1) For airplanes identified as Group 1, Configuration 1, in ASB 737–53A1267, R1: Doing the skin trim-out repair specified in Part 5 of the Accomplishment Instructions of ASB 737–53A1267, R1, terminates the initial and repetitive inspections required by paragraph (h) of this AD that are specified in Part 1 of the Accomplishment Instructions of ASB 737–53A1267, R1, only; all other inspections required by paragraph (h) of this AD must be done, except as provided by paragraph (i)(2) of this AD.

(2) For airplanes identified as Group 1, Configuration 1 in ASB 737–53A1267, R1: Doing the skin repair specified in Part 4 of the Accomplishment Instructions of ASB 737–53A1267, R1, terminates the initial and repetitive inspections required by paragraph (h) of this AD that are specified in Part 1 and Part 2 of the Accomplishment Instructions of ASB 737–53A1267, R1, for the repaired area only; all other inspections required by paragraph (h) of this AD must be done, except as provided by paragraph (i)(1) of this AD.

(j) Exceptions to Service Information

(1) Where paragraph 1.E., ''Compliance,'' of ASB 737–53A1267, R1, specifies a compliance time ''after the Revision 1 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(2) Although ASB 737–53A1267, R1, specifies to contact Boeing for appropriate action, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair before further flight using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(k) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously for AD 2007–26–04 are approved as AMOCs for the corresponding provisions of this AD.

(5) Except as required by paragraph (j)(2) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (k)(5)(i) and (k)(5)(ii) of this AD apply.

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

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

(l) Related Information

For more information about this AD, contact Jennifer Tsakoumakis, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5264; fax: 562–627–5210; email: *jennifer.tsakoumakis@faa.gov.*

(m) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–53A1267, Revision 1, dated March 8, 2016.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on June 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12175 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9574; Directorate Identifier 2016–NM–063–AD; Amendment 39–18921; AD 2017–12–06]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Airbus Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. This AD is intended to complete certain mandated programs

intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This AD requires inspecting the forward passenger doors to identify the part number, and for affected doors, inspecting to identify existing repairs and doing corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective July 25, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of July 25, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9574.

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–2016–9574; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all Airbus Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The NPRM published in the **Federal Register** on February 17, 2017 (82 FR 10968) (''the NPRM''). The NPRM was intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. The NPRM proposed to require inspecting the forward passenger doors to identify the part number, and for affected doors, inspecting to identify existing repairs and doing corrective actions if necessary. We are issuing this AD to detect and correct widespread fatigue damage of the forward passenger doors, which could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0079, dated April 21, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A300 series airplanes; Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes); and Model A310 series airplanes. The MCAI states:

> In the frame of the ''Ageing Aeroplane Safety Rule Project'', a review of the A300, A300–600 and A310 Structural Repair Manuals (SRMs) was performed against Fatigue and Damage Tolerance criteria to satisfy the ageing aeroplane regulation.
>
> As a result of this review, some repairs concerning the forward passenger door flanges were identified as no longer applicable and had to be de-activated. Those repairs may however have been accomplished on some aeroplanes passenger door flanges prior to de-activation of the repair.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the aeroplane.
>
> To address this potential unsafe condition, Airbus issued Service Bulletin (SB) A300–52–0180, SB A300–52–6084 and SB A310–52–2076 to provide inspection instructions.
>
> For the reasons described above, this [EASA] AD requires identification of the forward passenger door part number (P/N) and a one-time Detailed Inspection (DET) of the forward passenger door frame segments inner flanges for SRM repair embodied and, depending on the results from the identification and inspection, accomplishment of corrective action(s) [*e.g.,* repair].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9574.

Comments

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

Support for the NPRM

FedEx agrees that the inspection is necessary and supports the intent of the NPRM.

Request To Change the Reporting Requirement

FedEx stated that it does not have a process in place to report the inspection results specified by paragraph (i) of the proposed AD using the on-line Airbus reporting tool. FedEx asked that it be allowed to use the older method of reporting identified in Airbus Service Bulletins A310–52–2076, Revision 01, dated October 14, 2014; and A300–52–6084, Revision 01, dated October 16, 2014. FedEx added that the new on-line application would be used when a method and adequate personnel are in place to utilize that application.

We agree with the commenter. We recognize that operators may not have a method in place or adequate personnel available to utilize the online Airbus reporting tool. Using the reporting sheet provided in Airbus Service Bulletins A310–52–2076, Revision 01, dated October 14, 2014; and A300–52–6084, Revision 01, dated October 16, 2014; is an acceptable method for reporting. We have revised paragraph (i) of this AD to include this option for reporting.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information:

- Airbus Service Bulletin A300–52–0180, Revision 01, dated October 14, 2014.
- Airbus Service Bulletin A310–52–2076, Revision 01, dated October 14, 2014.
- Airbus Service Bulletin A300–52–6084, Revision 01, dated October 16, 2014.

The service information describes procedures for inspecting the forward passenger doors on the left- and right-hand sides to identify the part number, and for affected doors, inspecting to identify existing repairs and doing corrective actions. These documents are distinct since they apply to different airplane models. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 128 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Part number inspection	1 work-hour × $85 per hour = $85	$0	$85	$10,880.
Reporting for forward passenger door having P/N A521-71851-000 or P/N A521-71851-001.	1 work-hour × $85 per hour = $85	0	85	Up to $10,880.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Detailed inspection	7 work-hours × $85 per hour = $595	$0	$595

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

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591, ATTN: Information Collection Clearance Officer, AES–200.

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–06 Airbus: Amendment 39–18921; Docket No. FAA–2016–9574; Directorate Identifier 2016–NM–063–AD.

(a) Effective Date

This AD is effective July 25, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Airbus airplanes identified in paragraphs (c)(1) through (c)(6) of this AD, certificated in any category, all manufacturer serial numbers.

(1) Model A300 B2–1A, B2–1C, B2K–3C, B2–203, B4–2C, B4–103, and B4–203 airplanes.

(2) Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes.

(3) Model A300 B4–605R and B4–622R airplanes.

(4) Model A300 F4–605R and F4–622R airplanes.

(5) Model A300 C4–605R Variant F airplanes.

(6) Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Reason

This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to detect and correct widespread fatigue damage of the forward passenger doors, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Parts Identification

Within 36 months after the effective date of this AD, or before exceeding the applicable airplane design service goal specified in table 1 to paragraph (g) of this AD, whichever occurs later: Identify the part number on the forward passenger doors on the left-hand and right-hand sides, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(1) Airbus Service Bulletin A300–52–0180, Revision 01, dated October 14, 2014 (for Model A300 airplanes).

(2) Airbus Service Bulletin A300–52–6084, Revision 01, dated October 16, 2014 (for Model A300–600 series airplanes).

(3) Airbus Service Bulletin A310–52–2076, Revision 01, dated October 14, 2014.

TABLE 1 TO PARAGRAPH (g) OF THIS AD—DESIGN SERVICE GOAL

Airplane model/series	Design service goal flight cycles or flight hours
A300 B2–100, B2–200, B2–320	Before the accumulation of 48,000 total flight cycles.
A300 B4–100	Before the accumulation of 40,000 total flight cycles.
A300 B4–200	Before the accumulation of 34,000 total flight cycles.
A300 B4–600, B4–600R, F4-600R, C4-600R	Before the accumulation of 30,000 total flight cycles or 67,500 total flight hours, whichever occurs first.
A310–200	Before the accumulation of 40,000 total flight cycles or 60,000 total flight hours, whichever occurs first.
A310–300	Before the accumulation of 35,000 total flight cycles or 60,000 total flight hours, whichever occurs first.

(h) Corrective Actions

(1) For airplanes on which no forward passenger door having part number (P/N) A521–71851–000 or P/N A521–71851–001 is found to be installed, after identifying the part number as specified in paragraph (g) of this AD: No further action is required for these airplanes.

(2) For airplanes on which any forward passenger door having P/N A521–71851–000 or P/N A521–71851–001 is found to be installed, after identifying the part number as specified in paragraph (g) of this AD: Before further flight, do a detailed inspection of all frame segment inner flanges of the forward passenger doors with the affected part numbers for installed repairs, in accordance with the Accomplishment Instructions of the applicable service information identified in paragraph (g)(1), (g)(2), or (g)(3) of this AD.

(i) For Airbus Model A300 airplanes: Before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–52–0180, Revision 01, dated October 14, 2014. Where Airbus Service Bulletin A300–52–0180, Revision 01, dated October 14, 2014, specifies to contact Airbus for appropriate action, and specifies that action as ''RC'' (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

(ii) For Airbus Model A310 and A300–600 series airplanes on which the repair principle A310 Structural Repair Manual (SRM) 52–10–00, page block (PB) 201, Figure 209, or A300–600 SRM 52–10–00, PB 201, Figure 206, as applicable, is not embodied on any inner flange, no further action is required for these airplanes.

(iii) For Airbus Model A310 and A300–600 series airplanes on which the repair principle A310 SRM 52–10–00, PB 201, Figure 209, or A300–600 SRM 52–10–00, PB 201, Figure 206, as applicable, is embodied on at least one inner flange: Before further flight, do all applicable corrective actions, in accordance with the Accomplishment Instructions of Airbus Service Bulletin A300–52–6084, Revision 01, dated October 16, 2014; or Airbus Service Bulletin A310–52–2076, Revision 01, dated October 14, 2014; as applicable. Where Airbus Service Bulletins A300–52–6084, Revision 01, dated October 16, 2014; and A310–52–2076, Revision 01, dated October 14, 2014; specify to contact Airbus for appropriate action, and specify that action as ''RC'': Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

(i) Reporting Requirement

At the applicable time specified in paragraph (i)(1) or (i)(2) of this AD, report the results of the inspection required by paragraph (h)(2) of this AD to Airbus Service Bulletin Reporting Online Application on Airbus World (*https://w3.airbus.com/*), or submit the results to Airbus using the reporting sheet provided in the service information identified in paragraphs (g)(2) or (g)(3) of this AD, as applicable.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(j) Parts Installation Limitations

As of the effective date of this AD, no person may replace a forward passenger door on any airplane, unless the replacement door has been inspected in accordance with the requirements of this AD.

(k) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (g) and (h) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraph (k)(1), (k)(2), or (k)(3) of this AD.

(1) Airbus Service Bulletin A300–52–0180, dated September 23, 2014.

(2) Airbus Service Bulletin A300–52–6084, dated September 23, 2014.

(3) Airbus Service Bulletin A310–52–2076, dated September 23, 2014.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(3) *Reporting Requirements:* A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0079, dated April 21, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9574.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

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

(n) Material Incorporated by Reference

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

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

(i) Airbus Service Bulletin A300–52–0180, Revision 01, dated October 14, 2014.

(ii) Airbus Service Bulletin A300–52–6084, Revision 01, dated October 16, 2014.

(iii) Airbus Service Bulletin A310–52–2076, Revision 01, dated October 14, 2014.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.*

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

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

Issued in Renton, Washington, on June 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12286 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2015–3148; Directorate Identifier 2014–NM–254–AD; Amendment 39–18928; AD 2017–12–13]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Airbus Model A320–212, –214, –232, and –233 airplanes. This AD was prompted by a report of a crack found during an inspection of the pocket radius of the fuselage frame. This AD requires repetitive low frequency eddy current inspections or repetitive high frequency eddy current inspections of this area, and repair if necessary. The repair terminates the repetitive inspections. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD becomes effective July 25, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of July 25, 2017.

ADDRESSES: For service information identified in this final rule, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3148.

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–2015–3148; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory

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

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to Airbus Model A320–212, –214, –232, and –233 airplanes. The NPRM published in the **Federal Register** on August 27, 2015 (80 FR 51968) (''the NPRM'').

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2014–0278, dated December 19, 2014 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Airbus Model A320–212, –214, –232, and –233 airplanes. The MCAI states:

> An operator reported finding a crack during an inspection in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A53N007–14. What was found, a 170 mm through-thickness crack in the pocket radius between frame 36 and 37 above stringer 6 on left hand (LH) side lap joint, was not the aim of the AOT inspection. Prior to this finding, the operator reported noise in the affected area during several weeks.
>
> This condition, if not detected and corrected, could lead to in-flight decompression of the aeroplane, possibly resulting in injury to occupants.
>
> To address this unsafe condition, Airbus published AOT A53N009–14 to provide inspection and repair instructions to detect and prevent crack propagation.
>
> EASA decided to agree on a sampling inspection to determine whether additional aeroplanes need to be inspected.
>
> For the reasons described above, this [EASA] AD requires, for the selected aeroplanes, repetitive Low Frequency Eddy Current (LFEC) or High Frequency Eddy Current (HFEC) inspections of the pocket radii [for cracks] located between fuselage frames 35 and 40, above stringer 6 on both LH and right hand (RH) sides and, depending on findings, accomplishment of repair instructions.
>
> This [EASA] AD is considered an interim action and further [EASA] AD action may follow.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3148.

Comments

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

Request To Withdraw the Proposed Rule

Delta (DAL) requested that we withdraw the proposed rule. DAL commented that a review of the manufacturing records for the cracked skin panel noted rework in the discrepant area, which could have contributed to cracking. DAL also stated that the effectivity specified in Airbus AOT A53N009–14, dated December 17, 2014, was limited to airplanes fitted with reworked panels and manufactured with the same chemical milling process. DAL commented that, in addition, there were scratch-like indications near the cracked area which may have been due to the manufacturing process. DAL stated that further research is in work with nothing confirmed.

DAL stated since the issuance of Airbus AOT A53N009–14, dated December 17, 2014, all 7 applicable airplanes mentioned in the proposed rule have completed the initial inspections with no findings. DAL stated that over half the airplanes were inspected from the inside using the HFEC inspection, which is capable of detecting very small cracks. DAL also commented that the inspection results have been provided to Airbus for review. DAL also stated that Airbus conducted a study that showed an undetected crack would not result in an explosive decompression but rather a partial opening of the skin causing flapping with a slow loss of cabin pressure. DAL noted that further testing is in work to determine what final action, if any, is required.

DAL also stated that EASA is considering cancellation of AD 2014–0278, dated December 19, 2014, pending the outcome of the investigations.

DAL stated that the proposed rule is premature and should be cancelled based on the available data and recent inspection results.

We disagree with the commenter's request. The EASA, as the State of Design Authority for Airbus products, has determined an unsafe conditions exists after conducting a risk analysis. We agree with the EASA's risk assessment and their decision to mitigate the risk by mandating the actions required in this AD. EASA has not determined that cancellation of AD 2014–0278, dated December 19, 2014, is warranted. However, if new information becomes available to justify revising or removing this AD, we will consider further rulemaking. We have not changed this AD in this regard.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Airbus AOT A53N009–14, Rev 00, dated December 17, 2014. The service information describes procedures for repetitive inspections of the pocket radii located between fuselage frames 35 and 40, above stringer 6 on both the left- and right-hand sides, and repair if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 1 airplane of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–12–13 Airbus: Amendment 39–18928; Docket No. FAA–2015–3148; Directorate Identifier 2014–NM–254–AD.

(a) Effective Date

This AD becomes effective July 25, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the Airbus Model A320–212 airplane having manufacturer serial number (MSN) 1011; Airbus Model A320–214 airplanes having MSNs 1009, 1026 and 1030; the Airbus Model A320–232 airplane having MSN 0977; and Airbus Model A320–233 airplanes having MSNs 1007 and 1013; certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a report of a crack found during an inspection of the pocket radius of the fuselage frame. We are issuing this AD to detect and correct any cracking of the pocket radius, which could lead to in-flight decompression of the airplane and possible injury to the passengers.

(f) Compliance

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

(g) Repetitive Inspections

Within 750 flight cycles or 4 months, whichever occurs first after the effective date of this AD: Do a low frequency eddy current (LFEC) inspection or a high frequency eddy current (HFEC) inspection for cracking of the pocket radii located between fuselage frames 35 and 40, above stringer 6 on both the left- and right-hand sides, in accordance with the instructions of Airbus Alert Operators Transmission (AOT) A53N009–14, Rev 00, dated December 17, 2014. Repeat the inspection, thereafter, at intervals not to exceed the times specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) For the LFEC inspection performed on the outside: Repeat the inspection at intervals not to exceed 1,000 flight cycles.

(2) For the HFEC inspection performed on the inside: Repeat the inspection at intervals not to exceed 2,000 flight cycles.

(h) Corrective Action

If, during any inspection required by paragraph (g) of this AD, any crack is found, before further flight, accomplish the repair in accordance with the instructions of Airbus AOT A53N009–14, Rev 00, dated December 17, 2014; except if the crack is beyond the structural repair manual limits as specified in Airbus AOT A53N009–14, Rev 00, dated December 17, 2014, before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA).

(i) Terminating Action

Repair of an airplane as required by paragraph (h) of this AD terminates the repetitive inspections required by paragraph (g) of this AD for the repaired area only.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the EASA; or Airbus's EASA DOA. If approved by the DOA, the approval must include the DOA-authorized signature.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2014–0278, dated December 19, 2014, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2015–3148.

(2) For more information about this AD, contact Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

(l) Material Incorporated by Reference

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

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

(i) Airbus Alert Operators Transmission A53N009–14, Rev 00, dated December 17, 2014.

(ii) Reserved.

(3) For service information identified in this AD, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

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

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

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12289 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–8944; Airspace Docket No. 16–AGL–21]

Amendment of and Establishment of Air Traffic Service (ATS) Routes; Northcentral United States

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies one jet route (J–25) and five VHF Omnidirectional Range (VOR) Federal airways (V–55, V–82, V–161, V–218, and V–413), and establishes three Area Navigation (RNAV) T-routes (T–330, T–354, and T–383) in the northcentral United States. The FAA is taking this action due to the planned decommissioning of the Brainerd, MN (BRD), VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) navigation aid (NAVAID), which provides navigation guidance for portions of the ATS routes amended by this action. The RNAV T-routes established by this action mitigate potential issues to the National Airspace System (NAS) route structure caused by the Jet route and VOR Federal airway amendments. This action enhances the safe and efficient management of aircraft operating within the NAS.

DATES: Effective date 0901 UTC, August 17, 2017.

The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Colby Abbott, Airspace Policy Group, Office of Airspace Services, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it modifies the NAS route structure as necessary to preserve the safe and efficient flow of air traffic within the NAS.

History

On January 19, 2017, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) (82 FR 6353), Docket No. FAA–2016–8944, to amend Jet route J–25; amend VOR Federal airways V–55, V–82, V–161, V–218, and V–413; and establish RNAV T-routes T–330, T–354, and T–383 due to the planned decommissioning of the Brainerd VORTAC. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. One comment was received.

Discussion of Comments

The commenter stated that the NPRM listed only the regulatory body [aeronautical] changes in the proposal and that an additional study to be conducted was an environmental impact study. The commenter stated the only environmental concerns would be any potential for aircraft noise changes in the affected areas, due to the changing routes, and the associated impact to the local populace and/or wildlife, depending on the degree of the changes. The FAA completed an environmental review of the ATS route amendments and RNAV route establishments in this action and determined that this action qualifies for categorical exclusion from further environmental impact review actions under the National Environmental Policy Act in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts and no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

Jet routes are published in paragraph 2004, VOR Federal airways are published in paragraph 6010(a), and

United States Area Navigation Routes (low altitude T-routes) are published in paragraph 6011, of FAA Order 7400.11A dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Jet routes, VOR Federal airways, and RNAV T-routes listed in this document will be subsequently published in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14, Code of Federal Regulations (14 CFR) part 71 to modify Jet route J–25 and VOR Federal airways V–55, V–82, V–161, V–218, and V–413, and to establish RNAV T-Routes T–330, T–354, and T–383. These actions are necessary due to the planned decommissioning of the Brainerd VORTAC.

The Jet route and VOR Federal airway changes are outlined below.

J–25: J–25 extends between the intersection of the United States/Mexico border and Brownsville, TX, VORTAC 221° radial and the Winnipeg, MB, Canada, VORTAC. The route segment between the Gopher, MN, VORTAC and the Winnipeg, MB, Canada, VORTAC is removed. The unaffected portions of the route remain as charted.

V–55: V–55 extends between the Dayton, OH, VOR and the Bismarck, ND, VOR. The airway segment between the Siren, WI, VOR and the Park Rapids, MN, VOR is removed. The unaffected portions of the airway remain as charted.

V–82: V–82 extends between the Baudette, MN, VOR and the Dells, WI, VORTAC. The airway segment between the intersection of the Baudette, MN, VOR 194° and Brainerd, MN, VORTAC 331° radials (the BLUOX fix) and the Gopher, MN, VORTAC is removed. Additionally, the BLUOX fix is redefined in its existing location using radials from the Baudette, MN, VOR and the Park Rapids, MN, VOR. The unaffected portions of the airway remain as charted.

V–161: V–161 extends between the Three Rivers, TX, VOR and the Winnipeg, MB, Canada, VORTAC. The airway segment between the Gopher, MN, VORTAC and the Grand Rapids, MN, VOR is removed. Additionally, the airway segment between the Grand Rapids, MN, VOR and the International Falls, MN, VORTAC is re-designated as part of V–218. The unaffected portions of the airway remain as charted.

V–218: V–218 extends between the Grand Rapids, MN, VOR and the Lansing, MI, VORTAC. The V–161 airway segment noted previously between the Grand Rapids, MN, VOR and the International Falls, MN, VORTAC is added to V–218.

V–413: V–413 extends between the Ironwood, MI, VORTAC and Brainerd, MN, VORTAC. The airway segment between the Gopher, MN, VORTAC and the Brainerd, MN, VORTAC is removed. The unaffected portion of the airway remains as charted. Additionally, the airway description for the amended airway is reversed to reflect the airway segments in a south to north order consistent with odd numbered ATS route criteria.

The RNAV T-routes being established are outlined below.

T–330: T–330 is established between the Grand Forks, MN, VOR and the Gopher, MN, VORTAC. This T-route mitigates the loss of the V–55 and V–413 airway segments addressed previously, and provides RNAV T-route capability and connectivity with a more direct routing between the Grand Forks, ND, and Minneapolis, MN, terminal areas.

T–354: T–354 is established between the Park Rapids, MN, VOR and the Siren, WI, VOR. This T-route mitigates the loss of the V–55 airway segment addressed previously.

T–383: T–383 is established between the Gopher, MN, VORTAC and the BLUOX fix that is being redefined in its existing location using radials from the Baudette, MN, VOR and the Park Rapids, MN, VOR. This T-route mitigates the loss of the V–82 and V–413 airway segments addressed previously.

All radials listed in the route descriptions below are stated relative to True north.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action of modifying one Jet route and five VOR Federal airways, and establishing three RNAV T-routes qualifies for categorical exclusion under the National Environmental Policy Act and its implementing regulations at 40 CFR part 1500, and in accordance with FAA Order 1050.1F, Environmental Impacts: Policies and Procedures, Paragraph 5–6.5a categorically excludes from further environmental impact review rulemaking actions that designate or modify classes of airspace areas, airways, routes, and reporting points (see 14 CFR part 71, Designation of Class A, B, C, D, and E Airspace Areas; Air Traffic Service Routes; and Reporting Points). Therefore, this action is not expected to cause any significant environmental impacts. In accordance with FAA Order 1050.1F, paragraph 5–2 regarding Extraordinary Circumstances, the FAA has reviewed this action for factors and circumstances in which a normally categorically excluded action may have a significant environmental impact requiring further analysis. The FAA determined that no extraordinary circumstances exist that warrant preparation of an environmental assessment or environmental impact study.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016 and effective September 15, 2016, is amended as follows:

Paragraph 2004 Jet Routes.

* * * * *

J–25 [Amended]

From INT United States/Mexico border and Brownsville, TX, 221° radial; Brownsville; INT Brownsville 358° and Corpus Christi, TX, 178° radials; Corpus Christi; INT Corpus Christi 311° and San Antonio, TX, 174° radials; San Antonio; Centex, TX; Waco, TX; Ranger, TX; Tulsa, OK; Kansas City, MO; Des Moines, IA; Mason City, IA; to Gopher, MN.

* * * * *

Paragraph 6010 Domestic VOR Federal Airways.

* * * * *

V–55 [Amended]

From Dayton, OH; Fort Wayne, IN; Goshen, IN; Gipper, MI; Keeler, MI; Pullman, MI; Muskegon, MI; INT Muskegon 327° and Green Bay, WI, 116° radials; Green Bay; Stevens Point, WI; INT Stevens Point 281° and Eau Claire, WI, 107° radials; Eau Claire; to Siren, WI. From Park Rapids, MN; Grand Forks, ND; INT Grand Forks 239° and Bismarck, ND, 067° radials; to Bismarck.

* * * * *

V–82 [Amended]

From Baudette, MN; to INT Baudette 194° and Park Rapids, MN, 003° radials. From Gopher, MN; Farmington, MN; Rochester, MN; Nodine, MN; to Dells, WI.

* * * * *

V–161 [Amended]

From Three Rivers, TX; Center Point, TX; Llano, TX; INT Llano 026° and Millsap, TX, 193° radials; Millsap; Bowie, TX; Ardmore, OK; Okmulgee, OK; Tulsa, OK; Oswego, KS; Butler, MO; Napoleon, MO; Lamoni, IA; Des Moines, IA; Mason City, IA; Rochester, MN; Farmington, MN; to Gopher, MN. From International Falls, MN; to Winnipeg, MB, Canada, excluding the airspace within Canada.

* * * * *

V–218 [Amended]

From International Falls, MN; Grand Rapids, MN; Gopher, MN; Waukon, IA; to Rockford, IL. From Keeler, MI; to Lansing, MI.

* * * * *

V–413 [Amended]

From Gopher, MN; INT Gopher 109° and Eau Claire, WI, 269° radials; Eau Claire; to Ironwood, MI.

* * * * *

Paragraph 6011 United States Area Navigation Routes.

* * * * *

T–330 Grand Forks, ND (GFK) to Gopher, MN (GEP) [New]

Grand Forks, ND (GFK)	VOR/DME	(Lat. 47°57′17.39″ N., long. 097°11′07.33″ W.)
BYZIN, ND	WP	(Lat. 47°29′03.97″ N., long. 096°13′28.09″ W.)
TAMMR, MN	WP	(Lat. 46°53′33.48″ N., long. 095°42′56.42″ W.)
WATAM, MN	FIX	(Lat. 46°25′52.91″ N., long. 095°09′06.92″ W.)
MAFLN, MN	WP	(Lat. 46°02′22.73″ N., long. 094°37′21.86″ W.)
DAYLE, MN	FIX	(Lat. 45°37′24.75″ N., long. 093°55′34.20″ W.)
Gopher, MN (GEP)	VORTAC	(Lat. 45°08′44.47″ N., long. 093°22′23.45″ W.)

* * * * * *

T–354 Park Rapids, MN (PKD) to Siren, WI (RZN) [New]

Park Rapids, MN (PKD)	VOR/DME	(Lat. 46°53′53.34″ N., long. 095°04′15.21″ W.)
BRNRD, MN	WP	(Lat. 46°20′53.81″ N., long. 094°01′33.54″ W.)
Siren, WI (RZN)	VOR/DME	(Lat. 45°49′13.60″ N., long. 092°22′28.26″ W.)

* * * * * *

T–383 Gopher, MN (GEP) to BLUOX, MN [New]

Gopher, MN (GEP)	VORTAC	(Lat. 45°08′44.47″ N., long. 093°22′23.45″ W.)
BRNRD, MN	WP	(Lat. 46°20′53.81″ N., long. 094°01′33.54″ W.)
BLUOX, MN	FIX	(Lat. 47°34′33.13″ N., long. 095°01′29.11″ W.)

* * * * * *

Issued in Washington, DC, on June 13, 2017.

Rodger A. Dean Jr.,

Manager, Airspace Policy Group.

[FR Doc. 2017–12713 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9476; Airspace Docket No. 16–AWP–28]

Establishment of Class E Airspace, Sacramento, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E en route airspace extending upward from 1,200 feet above the surface to accommodate instrument flight rules (IFR) aircraft under control of the Oakland Air Route Traffic Control Center (ARTCC), centered near Sacramento, CA. Establishment of this airspace area is necessary to ensure controlled airspace exists in those areas where the Federal airway structure is inadequate.

DATES: Effective 0901 UTC, August 17, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further

information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC, 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA, 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E en route airspace at the Oakland ARTCC, centered near Sacramento, CA, to ensure controlled airspace exists in those areas where the Federal airway structure is inadequate.

History

On March 13, 2017, the FAA published a notice of proposed rulemaking in the **Federal Register** (82 FR 13407) Docket No. FAA–2016–9476 to establish Class E en route airspace extending upward from 1,200 feet above the surface at Oakland Air Route Traffic Control Center, near Sacramento, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Three comments were received supporting the proposal; one from an anonymous commenter and two from Wally Roberts on behalf of the National Business Aviation Association (NBAA).

Discussion of Comments

Two comments were received supporting the proposed action. One commenter, in a separate comment, noted a small portion of Class E airspace upward from 5,000 feet mean sea level near the Hunter MOA was excluded from the proposed area. The FAA discovered a typographical error on one geographic coordinate in the proposed airspace legal description caused this exclusion (lat. 36°45′00″ N., instead of lat. 35°45′00″ N.). Also, the FAA determined the western edge of the proposed airspace required slight adjustments to ensure it captured that airspace within 12 miles of the shoreline. This action makes these corrections.

Class E airspace designations are published in paragraph 6006 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E en route airspace extending upward from 1,200 feet above the surface centered near Sacramento, CA, extending from the southern border of the Rogue Valley en route airspace area near Redding, CA, west to include that airspace within 12 miles of the shoreline, south to the southern boundary of the Oakland Air Route Traffic Control Center near Monterey, CA, east to the western boundary of the Coaldale en route airspace area, and northeast to near Reno, NV. This airspace is established to allow the most efficient routing between airports without reducing margins of safety or requiring additional coordination and pilot/controller workload. This action ensures the safety and management of controlled airspace within the national airspace system as it transitions from ground based navigation aids to satellite-based Global Navigation Satellite System for navigation.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6006 En Route Domestic Airspace Areas.

* * * * *

AWP CA E6 Sacramento, CA [New]

That airspace extending upward from 1,200 feet above the surface within an area bounded by a line beginning at lat. 39°05′16″ N., long. 124°05′00″ W.; to lat. 38°50′52″ N., long. 123°58′27″ to lat. 37°41′35″ N., long. 123°23′24″ W.; to lat. 37°05′15″ N., long. 122°43′32″ W.; to lat. 36°12′53″ N., long. 122°09′02″ W.; to lat. 36°06′41″ N., long. 122°02′23″ W.; to lat. 35°36′08″ N., long. 121°31′31″ W.; to lat. 35°31′48″ N., long. 121°29′41″ W.; to lat. 35°21′58″ N., long. 121°13′57″ W.; to lat. 35°32′00″ N., long. 120°51′00″ W.; to lat. 35°45′00″ N., long. 120°07′00″ W.; to lat. 35°38′00″ N., long. 119°30′00″ W.; to lat. 36°08′00″ N., long. 119°10′00″ W.; to lat. 36°08′00″ N., long. 118°52′00″ W.; to lat. 37°47′57″ N., long. 120°22′00″ W.; to lat. 38°53′30″ N., long. 119°49′00″ W.; to lat. 39°39′28″ N., long. 117°59′55″ W.; to lat. 40°27′51″ N., long. 119°37′10″ W.; to lat. 39°33′53″ N., long. 120°19′02″ W.; thence to the point of beginning, excluding that airspace offshore beyond 12 miles from the shoreline.

Issued in Seattle, Washington, on June 8, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–12550 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0224; Airspace Docket No. 17–ANM–10]

Amendment of Class E Airspace; Eugene, OR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the legal description of Class E surface area airspace at Mahlon Sweet Field Airport, Eugene, OR, adding the Notice to Airmen (NOTAM) part-time status. This action does not affect the charted boundaries or operating requirements of the airspace.

DATES: Effective 0901 UTC, August 17, 2017. The Director of the Federal Register approves this incorporation by reference action under title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed on line at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Tom Clark, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4511.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends Class E airspace at Mahlon Sweet Field Airport, Eugene, OR, to ensure the safety and management of aircraft within the National Airspace System.

History

The FAA Aeronautical Information Services branch found the Class E surface area airspace at Mahlon Sweet Field Airport, Eugene, OR, as published in FAA Order 7400.11A, Airspace Designations and Reporting Points, requires NOTAM part-time status to avoid overlap with the part-time Class D surface area airspace at the same airport. The FAA inadvertently removed the NOTAM language from the regulatory text of the Class E surface area airspace.

Class E airspace designations are published in paragraph 6002 of FAA Order 7400.11A dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14, Code of Federal Regulations (14 CFR) part 71 by adding the following language to the legal description of Class E surface area airspace at Mahlon Sweet Field Airport, Eugene, OR that reads, ''This Class E airspace is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.''. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, therefore, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, does not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially

significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, effective September 15, 2016, is amended as follows:

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM OR E2 Eugene, OR [Amended]

Mahlon Sweet Field Airport, OR
(Lat. 44°07′29″ N., long. 123°12′43″ W.)

That airspace extending upward from the surface within a 4.6-mile radius of Mahlon Sweet Field Airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Issued in Seattle, Washington, on June 13, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–12708 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2016–9333; Airspace Docket No. 16–AAL–4]

Establishment of Class E Airspace; Grayling, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace extending upward from 700 feet above the surface at Grayling Airport, AK, to support the development of instrument flight rules (IFR) operations under standard instrument approach and departure procedures at the airport, and for the safety and management of aircraft within the National Airspace System.

DATES: Effective 0901 UTC, August 17, 2017. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

ADDRESSES: FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/*. For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783.

The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html*.

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Robert LaPlante, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4566.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes Class E airspace at Grayling Airport, Grayling, AK to support the development of instrument flight rules (IFR) operations under standard instrument approach and departure procedures at the airport, and for the safety and management of aircraft within the National Airspace System.

History

On March 06, 2017, the FAA published in the **Federal Register** (82 FR 12525) Docket FAA–2016–9333 a notice of proposed rulemaking to establish Class E airspace extending upward from 700 feet above the surface at Grayling Airport, Grayling, AK. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments supporting the proposed rule were received from Taylor Emmerich and H T.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 establishes Class E airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grayling Airport, Grayling, AK, and that airspace 2 miles on each side of the 024° bearing from the airport extending from the 6.5-mile radius to 8 miles northeast of the airport and that airspace 2 miles on each side of 182° bearing from the airport extending from the 6.5-mile radius to 11.2 miles south of the airport.

This airspace is necessary to support IFR operations in new standard instrument approach and departure procedures at the airport.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established

body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a Regulatory Evaluation as the anticipated impact is so minimal. Since this is a routine matter that only affects air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures,'' paragraph 5–6.5a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

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

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AAL AK E5 Grayling, AK [New]

Grayling Airport, Alaska

(Lat. 62°53′31″ N., long. 160°03′59″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Grayling Airport, and that airspace 2 miles each side of the 024° bearing from the airport extending from the 6.5-mile radius to 8 miles northeast of the airport, and that airspace 2 miles each side of 182° bearing from the airport extending from the 6.5-mile radius to 11.2 miles south of the airport.

Issued in Seattle, Washington, on June 13, 2017.

Sam S.L. Shrimpton,

Acting Group Manager, Operations Support Group, Western Service Center.

[FR Doc. 2017–12706 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31135; Amdt. No. 3748]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 20, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2017.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops–M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA).

For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs

and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866;(2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979) ; and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on May 5, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22–Jun–17	TX	Mineola	Mineola Wisener Field	7/0020	4/13/17	Takeoff Minimums and Obstacle DP, Orig
22–Jun–17	NC	Mount Olive	Mount Olive Muni	7/0025	4/13/17	RNAV (GPS) RWY 5, Orig-A
22–Jun–17	PA	Connellsville	Joseph A Hardy Connellsville	7/0029	4/13/17	LOC RWY 5, Amdt 4
22–Jun–17	TN	Dayton	Mark Anton	7/0663	4/11/17	RNAV (GPS) RWY 3, Orig
22–Jun–17	TN	Dayton	Mark Anton	7/0664	4/11/17	RNAV (GPS) RWY 21, Amdt 1
22–Jun–17	SC	Rock Hill	Rock Hill/York Co/Bryant Field	7/0681	4/11/17	RNAV (GPS) RWY 20, Amdt 1
22–Jun–17	TN	Tazewell	New Tazewell Muni	7/0697	4/11/17	RNAV (GPS) RWY 7, Orig
22–Jun–17	NJ	Princeton/Rocky Hill	Princeton	7/0698	4/13/17	RNAV (GPS) RWY 10, Amdt 1A
22–Jun–17	NC	Williamston	Martin County	7/0966	4/13/17	RNAV (GPS) RWY 21, Amdt 1
22–Jun–17	GA	Monroe	Monroe-Walton County	7/0969	4/13/17	RNAV (GPS) RWY 3, Amdt 2A
22–Jun–17	NC	Mooresville	Lake Norman Airpark	7/0992	4/11/17	RNAV (GPS) RWY 14, Amdt 1
22–Jun–17	GA	Cornelia	Habersham County	7/0993	4/13/17	RNAV (GPS) RWY 6, Amdt 1
22–Jun–17	GA	Cornelia	Habersham County	7/0994	4/13/17	RNAV (GPS) RWY 24, Amdt 1
22–Jun–17	GA	Cornelia	Habersham County	7/0995	4/13/17	VOR/DME RWY 6, Amdt 6A
22–Jun–17	VA	Blackstone	Allen C Perkinson Blackstone AAF	7/1009	4/13/17	RNAV (GPS) RWY 4, Amdt 1
22–Jun–17	VA	Blackstone	Allen C Perkinson Blackstone AAF	7/1010	4/13/17	RNAV (GPS) RWY 22, Amdt 1
22–Jun–17	MS	Cleveland	Cleveland Muni	7/1011	4/11/17	RNAV (GPS) RWY 18, Amdt 1
22–Jun–17	MS	Cleveland	Cleveland Muni	7/1012	4/11/17	RNAV (GPS) RWY 36, Orig-B
22–Jun–17	NC	Morganton	Foothills Regional	7/1013	4/13/17	LOC RWY 3, Amdt 2
22–Jun–17	NC	Morganton	Foothills Regional	7/1014	4/13/17	RNAV (GPS) RWY 21, Amdt 1
22–Jun–17	NC	Greensboro	Piedmont Triad Intl	7/1015	4/13/17	RNAV (GPS) RWY 32, Amdt 3
22–Jun–17	CQ	Rota Island	Benjamin Taisacan Manglona Intl	7/1016	4/11/17	NDB RWY 9, Amdt 4
22–Jun–17	RI	Pawtucket	North Central State	7/1018	4/13/17	LOC RWY 5, Amdt 7A
22–Jun–17	RI	Pawtucket	North Central State	7/1019	4/13/17	RNAV (GPS) RWY 5, Amdt 1
22–Jun–17	RI	Pawtucket	North Central State	7/1020	4/13/17	RNAV (GPS) RWY 23, Amdt 1
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/1198	4/28/17	RNAV (GPS) Z RWY 24, Orig
22–Jun–17	SC	Union	Union County, Troy Shelton Field	7/1436	4/11/17	RNAV (GPS) RWY 5, Orig-A
22–Jun–17	NC	Star	Montgomery County	7/1457	4/11/17	RNAV (GPS) RWY 3, Orig
22–Jun–17	NC	Star	Montgomery County	7/1458	4/11/17	RNAV (GPS) RWY 21, Orig
22–Jun–17	PA	Altoona	Altoona-Blair County	7/1473	4/13/17	ILS OR LOC RWY 21, Amdt 8A
22–Jun–17	PA	Altoona	Altoona-Blair County	7/1474	4/13/17	RNAV (GPS) RWY 21, Amdt 1B
22–Jun–17	NY	Millbrook	Sky Acres	7/1489	4/13/17	RNAV (GPS) RWY 17, Amdt 2

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22–Jun–17	NC	Chapel Hill	Horace Williams	7/2521	4/26/17	RNAV (GPS) RWY 9, Orig-A
22–Jun–17	NC	Chapel Hill	Horace Williams	7/2522	4/26/17	RNAV (GPS) RWY 27, Orig-A
22–Jun–17	NC	Chapel Hill	Horace Williams	7/2523	4/26/17	VOR/DME RWY 27, Amdt 1B
22–Jun–17	NJ	Pittstown	Sky Manor	7/3434	4/13/17	VOR RWY 7, Amdt 3
22–Jun–17	NY	Ogdensburg	Ogdensburg Intl	7/3574	2/21/17	RNAV (GPS) RWY 9, Orig
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3770	4/28/17	ILS Y OR LOC RWY 28R, Amdt 23
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3771	4/28/17	ILS Z OR LOC/DME RWY 28R, Amdt 4
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3772	4/28/17	NDB RWY 28R, Amdt 17
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3773	4/28/17	RNAV (GPS) RWY 28R, Orig
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3774	4/28/17	TACAN RWY 28R, Orig
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3775	4/28/17	RNAV (GPS) RWY 10L, Orig
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3776	4/28/17	RNAV (GPS) RWY 6, Orig
22–Jun–17	NY	Niagara Falls	Niagara Falls Intl	7/3777	4/28/17	RNAV (GPS) Y RWY 24, Orig
22–Jun–17	NC	New Bern	Coastal Carolina Regional	7/3780	4/26/17	VOR RWY 22, Amdt 3A
22–Jun–17	NC	New Bern	Coastal Carolina Regional	7/3781	4/26/17	RNAV (GPS) RWY 22, Amdt 1
22–Jun–17	MD	Hagerstown	Hagerstown Rgnl-Richard A Henson Fld.	7/3782	4/28/17	ILS OR LOC RWY 9, Amdt 1
22–Jun–17	MD	Hagerstown	Hagerstown Rgnl-Richard A Henson Fld.	7/3783	4/28/17	ILS OR LOC RWY 27, Amdt 11
22–Jun–17	MD	Hagerstown	Hagerstown Rgnl-Richard A Henson Fld.	7/3784	4/28/17	RNAV (GPS) RWY 27, Amdt 1
22–Jun–17	MD	Hagerstown	Hagerstown Rgnl-Richard A Henson Fld.	7/3785	4/28/17	RNAV (GPS) RWY 9, Amdt 1
22–Jun–17	MD	Hagerstown	Hagerstown Rgnl-Richard A Henson Fld.	7/3786	4/28/17	COPTER RNAV (GPS) RWY 9, Orig
22–Jun–17	MD	Hagerstown	Hagerstown Rgnl-Richard A Henson Fld.	7/3787	4/28/17	COPTER RNAV (GPS) RWY 27, Orig
22–Jun–17	NC	Rocky Mount	Rocky Mount-Wilson Rgnl	7/3788	4/26/17	RNAV (GPS) RWY 4, Amdt 2
22–Jun–17	NC	Rocky Mount	Rocky Mount-Wilson Rgnl	7/3789	4/26/17	RNAV (GPS) RWY 22, Amdt 2
22–Jun–17	FL	Titusville	Space Coast Rgnl	7/3805	4/11/17	ILS OR LOC RWY 36, Amdt 12A
22–Jun–17	NC	Siler City	Siler City Muni	7/3807	4/26/17	RNAV (GPS) RWY 4, Orig
22–Jun–17	TN	Bolivar	William L Whitehurst Field	7/3808	4/11/17	RNAV (GPS) RWY 1, Amdt 1
22–Jun–17	TN	Bolivar	William L Whitehurst Field	7/3809	4/11/17	RNAV (GPS) RWY 19, Amdt 1
22–Jun–17	NC	Siler City	Siler City Muni	7/3810	4/26/17	RNAV (GPS) RWY 22, Amdt 1
22–Jun–17	NY	Middletown	Randall	7/3811	4/26/17	RNAV (GPS) RWY 26, Amdt 1
22–Jun–17	NY	Middletown	Randall	7/3812	4/26/17	RNAV (GPS) RWY 8, Amdt 1
22–Jun–17	NY	Middletown	Randall	7/3813	4/26/17	VOR RWY 8, Amdt 7
22–Jun–17	NY	Sidney	Sidney Muni	7/3815	4/26/17	RNAV (GPS) RWY 7, Orig-C
22–Jun–17	NY	Sidney	Sidney Muni	7/3816	4/26/17	RNAV (GPS) RWY 25, Amdt 1
22–Jun–17	NJ	Manville	Central Jersey Rgnl	7/3817	4/26/17	RNAV (GPS) RWY 7, Amdt 1A
22–Jun–17	NJ	Manville	Central Jersey Rgnl	7/3818	4/26/17	RNAV (GPS) RWY 25, Amdt 1C
22–Jun–17	NC	Beaufort	Michael J Smith Field	7/3822	4/26/17	RNAV (GPS) RWY 14, Amdt 1
22–Jun–17	NC	Beaufort	Michael J Smith Field	7/3823	4/26/17	RNAV (GPS) RWY 21, Amdt 2
22–Jun–17	NC	Beaufort	Michael J Smith Field	7/3824	4/26/17	RNAV (GPS) RWY 3, Amdt 2
22–Jun–17	NC	Beaufort	Michael J Smith Field	7/3825	4/26/17	RNAV (GPS) RWY 32, Amdt 1
22–Jun–17	NC	Beaufort	Michael J Smith Field	7/3826	4/26/17	RNAV (GPS) RWY 8, Amdt 2
22–Jun–17	NY	Binghamton	Greater Binghamton/Edwin A Link Field.	7/3828	4/26/17	RNAV (GPS) RWY 10, Orig
22–Jun–17	NY	Binghamton	Greater Binghamton/Edwin A Link Field.	7/3829	4/28/17	RNAV (GPS) RWY 28, Amdt 2
22–Jun–17	VA	Brookneal	Brookneal/Campbell County	7/3832	4/13/17	RNAV (GPS) RWY 6, Orig-A
22–Jun–17	VA	Brookneal	Brookneal/Campbell County	7/3833	4/13/17	RNAV (GPS) RWY 24, Amdt 1
22–Jun–17	SC	North Myrtle Beach	Grand Strand	7/3837	4/26/17	RNAV (GPS) RWY 23, Amdt 1
22–Jun–17	SC	North Myrtle Beach	Grand Strand	7/3840	4/26/17	ILS OR LOC/DME RWY 23, Amdt 12
22–Jun–17	PA	Pittsburgh	Pittsburgh Intl	7/3882	4/28/17	ILS OR LOC RWY 28R, ILS RWY 28R (CAT II), Amdt 9A
22–Jun–17	NC	Hickory	Hickory Rgnl	7/3913	4/13/17	RNAV (GPS) RWY 1, Amdt 1
22–Jun–17	NC	Hickory	Hickory Rgnl	7/3914	4/13/17	RNAV (GPS) RWY 6, Amdt 1
22–Jun–17	NC	Fayetteville	Fayetteville Rgnl/Grannis Field	7/4178	4/13/17	ILS OR LOC/DME RWY 4, Amdt 17
22–Jun–17	NC	Clinton	Clinton-Sampson County	7/4368	4/26/17	RNAV (GPS) RWY 6, Amdt 2A
22–Jun–17	NC	Clinton	Clinton-Sampson County	7/4369	4/26/17	RNAV (GPS) Y RWY 24, Amdt 1A
22–Jun–17	NC	Clinton	Clinton-Sampson County	7/4370	4/26/17	RNAV (GPS) Z RWY 24, Orig-A
22–Jun–17	NC	Clinton	Clinton-Sampson County	7/4371	4/26/17	LOC RWY 6, Amdt 3A
22–Jun–17	NC	Pinehurst/Southern Pines	Moore County	7/4749	4/26/17	RNAV (GPS) RWY 23, Amdt 2
22–Jun–17	NC	Pinehurst/Southern Pines	Moore County	7/4769	4/26/17	RNAV (GPS) RWY 5, Amdt 1
22–Jun–17	NC	Pinehurst/Southern Pines	Moore County	7/4783	4/26/17	ILS Y OR LOC/DME Y RWY 5, Orig-A
22–Jun–17	NC	Pinehurst/Southern Pines	Moore County	7/4785	4/26/17	ILS Z OR LOC/DME Z RWY 5, Amdt 2A
22–Jun–17	NC	Rutherfordton	Rutherford Co—Marchman Field	7/4924	4/13/17	RNAV (GPS) RWY 19, Amdt 1
22–Jun–17	NC	Rutherfordton	Rutherford Co—Marchman Field	7/4925	4/13/17	RNAV (GPS) RWY 1, Amdt 2
22–Jun–17	NC	Rutherfordton	Rutherford Co—Marchman Field	7/4926	4/13/17	LOC RWY 1, Amdt 3
22–Jun–17	NH	Claremont	Claremont Muni	7/5161	4/13/17	RNAV (GPS) RWY 29, Orig-A
22–Jun–17	PA	Danville	Danville	7/5191	4/13/17	RNAV (GPS) RWY 27, Orig
22–Jun–17	PA	Danville	Danville	7/5192	4/13/17	RNAV (GPS) RWY 9, Orig
22–Jun–17	TN	Millington	Charles W Baker	7/5260	4/11/17	RNAV (GPS) RWY 18, Orig
22–Jun–17	TN	Millington	Charles W Baker	7/5262	4/11/17	RNAV (GPS) RWY 36, Orig
22–Jun–17	TN	Hohenwald	John A Baker Fld	7/5268	4/11/17	RNAV (GPS) RWY 2, Amdt 1
22–Jun–17	OK	Mc Alester	Mc Alester Rgnl	7/5295	4/13/17	VOR/DME RWY 20, Amdt 2F
22–Jun–17	VT	Rutland	Rutland—Southern Vermont Rgnl	7/5299	4/13/17	RNAV (GPS) Y RWY 19, Amdt 2
22–Jun–17	VT	Rutland	Rutland—Southern Vermont Rgnl	7/5300	4/13/17	ILS OR LOC/DME Y RWY 19, Orig
22–Jun–17	VT	Rutland	Rutland—Southern Vermont Rgnl	7/5301	4/13/17	ILS OR LOC/DME Z RWY 19, Orig

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22–Jun–17	VT	Rutland	Rutland—Southern Vermont Rgnl	7/5302	4/13/17	RNAV (GPS) Z RWY 19, Orig
22–Jun–17	NY	Syracuse	Syracuse Hancock Intl	7/5308	4/11/17	ILS OR LOC RWY 10, Amdt 13A
22–Jun–17	NC	Edenton	Northeastern Rgnl	7/6384	4/11/17	RNAV (GPS) RWY 19, Amdt 2A
22–Jun–17	PA	Monongahela	Rostraver	7/6400	4/13/17	RNAV (GPS) RWY 26, Orig-B
22–Jun–17	PA	Monongahela	Rostraver	7/6401	4/13/17	RNAV (GPS) RWY 8, Amdt 1
22–Jun–17	GA	Valdosta	Valdosta Rgnl	7/6415	4/13/17	RNAV (GPS) RWY 4, Amdt 1A
22–Jun–17	VA	Orange	Orange County	7/6485	4/26/17	RNAV (GPS) RWY 8, Orig
22–Jun–17	VA	Orange	Orange County	7/6486	4/26/17	RNAV (GPS) RWY 26, Orig
22–Jun–17	TN	Lewisburg	Ellington	7/6855	4/11/17	RNAV (GPS) RWY 2, Amdt 1
22–Jun–17	FL	Homestead	Homestead General Aviation	7/7094	4/28/17	Takeoff Minimums and Obstacle DP, Orig-A
22–Jun–17	FL	Homestead	Homestead General Aviation	7/7095	4/28/17	RNAV (GPS) RWY 10, Orig
22–Jun–17	FL	Homestead	Homestead General Aviation	7/7096	4/28/17	RNAV (GPS) RWY 28, Orig
22–Jun–17	NY	Dansville	Dansville Muni	7/7123	4/28/17	Takeoff Minimums and Obstacle DP, Amdt 2
22–Jun–17	IL	Monmouth	Monmouth Muni	7/7242	4/28/17	Takeoff Minimums and Obstacle DP, Amdt 2A
22–Jun–17	NC	Maxton	Laurinburg-Maxton	7/7550	4/13/17	ILS OR LOC RWY 5, Amdt 2
22–Jun–17	NC	Maxton	Laurinburg-Maxton	7/7551	4/13/17	RNAV (GPS) RWY 5, Amdt 1A
22–Jun–17	KY	Glasgow	Glasgow Muni	7/7554	4/13/17	RNAV (GPS) RWY 8, Amdt 2
22–Jun–17	TN	Greeneville	Greeneville-Greene County Muni	7/7555	4/11/17	RNAV (GPS) RWY 5, Orig
22–Jun–17	TN	Greeneville	Greeneville-Greene County Muni	7/7556	4/11/17	NDB RWY 5, Amdt 5
22–Jun–17	TN	Lewisburg	Ellington	7/8083	4/11/17	RNAV (GPS) RWY 20, Amdt 1
22–Jun–17	NC	Williamston	Martin County	7/8621	4/13/17	RNAV (GPS) RWY 3, Amdt 1
22–Jun–17	GA	Adel	Cook County	7/8628	4/13/17	RNAV (GPS) RWY 5, Amdt 1
22–Jun–17	GA	Adel	Cook County	7/8629	4/13/17	RNAV (GPS) RWY 23, Amdt 1
22–Jun–17	TN	Millington	Charles W Baker	7/9621	4/11/17	VOR/DME RWY 18, Amdt 2
22–Jun–17	PA	Lebanon	Keller Brothers	7/9993	4/13/17	RNAV (GPS) RWY 7, Orig
22–Jun–17	PA	Lebanon	Keller Brothers	7/9994	4/13/17	RNAV (GPS) RWY 25, Orig

[FR Doc. 2017–12463 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31136; Amdt. No. 3749]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 20, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2017.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops—M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized

and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26,1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on May 19, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instrument Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 22 June 2017

Bethel, AK, Bethel, ILS Y OR LOC Y RWY 19R, Orig-D
Bethel, AK, Bethel, ILS Z OR LOC Z RWY 19R, Amdt 7E
Bethel, AK, Bethel, RNAV (GPS) RWY 1L, Amdt 1C
Bethel, AK, Bethel, RNAV (GPS) RWY 1R, Amdt 1
Bethel, AK, Bethel, RNAV (GPS) RWY 19L, Amdt 1
Bethel, AK, Bethel, RNAV (GPS) RWY 19R, Amdt 2D
Bethel, AK, Bethel, RNAV (GPS)-A, Amdt 1B
Bethel, AK, Bethel, Takeoff Minimums and Obstacle DP, Amdt 4
Bethel, AK, Bethel, VOR RWY 1L, Amdt 2C
Bishop, CA, Bishop, Takeoff Minimums and Obstacle DP, Amdt 4
Concord, CA, Buchanan Field, LDA RWY 19R, Amdt 8
Concord, CA, Buchanan Field, RNAV (GPS) RWY 19R, Amdt 1
Concord, CA, Buchanan Field, RNAV (GPS) Y RWY 19R, Amdt 1A, CANCELED
Concord, CA, Buchanan Field, VOR RWY 19R, Amdt 14
El Monte, CA, San Gabriel Valley, Takeoff Minimums and Obstacle DP, Amdt 6
Livermore, CA, Livermore Muni, LIVERMORE TWO, Graphic DP
Livermore, CA, Livermore Muni, Takeoff Minimums and Obstacle DP, Amdt 4
Oakdale, CA, Oakdale, RNAV (GPS) RWY 10, Amdt 2
Oakdale, CA, Oakdale, RNAV (GPS) RWY 28, Amdt 2
Oakdale, CA, Oakdale, VOR–A, Amdt 1
Willows, CA, Willows-Glenn County, RNAV (GPS) RWY 34, Orig-B
Willows, CA, Willows-Glenn County, Takeoff Minimums and Obstacle DP, Amdt 2
Willows, CA, Willows-Glenn County, VOR RWY 34, Orig
Willows, CA, Willows-Glenn County, VOR/DME RWY 34, Amdt 5A, CANCELED
Kremmling, CO, Mc Elroy Airfield, RNAV (GPS) RWY 27, Orig
Thomasville, GA, Thomasville Rgnl, ILS OR LOC RWY 22, Amdt 1
Thomasville, GA, Thomasville Rgnl, NDB RWY 22, Amdt 7
Thomasville, GA, Thomasville Rgnl, RNAV (GPS) RWY 22, Amdt 1
Thomasville, GA, Thomasville Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2
Clarinda, IA, Schenck Field, Takeoff Minimums and Obstacle DP, Amdt 1A
Sheldon, IA, Sheldon Rgnl, RNAV (GPS) RWY 15, Amdt 1B
Sheldon, IA, Sheldon Rgnl, RNAV (GPS) RWY 33, Amdt 1B
Sheldon, IA, Sheldon Rgnl, Takeoff Minimums and Obstacle DP, Amdt 1
Mountain Home, ID, Mountain Home Muni, NDB RWY 28, Amdt 3A, CANCELED
Mountain Home, ID, Mountain Home Muni, RNAV (GPS) RWY 28, Amdt 1
Mountain Home, ID, Mountain Home Muni, Takeoff Minimums and Obstacle DP, Amdt 5
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 4R, Amdt 7
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 9L, ILS RWY 9L (SA CAT I), ILS RWY 9L (CAT II), ILS RWY 9L (CAT III), Amdt 4
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 9R, Amdt 12
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 10C, ILS RWY 10C (SA CAT I), ILS RWY 10C (CAT II), ILS RWY 10C (CAT III), Amdt 2
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 10L, ILS RWY 10L (SA CAT I), ILS RWY 10L (CAT II), ILS RWY 10L (CAT III), Amdt 19
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 22L, Amdt 6
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 27L, ILS RWY 27L (SA CAT I), ILS RWY 27L (CAT II), ILS RWY 27L (CAT III), Amdt 31
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 27R, ILS RWY 27R (SA CAT I), ILS RWY 27R (CAT II), ILS RWY 27R (CAT III), Amdt 4
Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 28C, ILS RWY 28C (SA CAT I), ILS RWY 28C (CAT II), ILS RWY 28C (CAT III), Amdt 2

Chicago, IL, Chicago O'Hare Intl, ILS OR LOC RWY 28R, ILS RWY 28R (SA CAT I), ILS RWY 28R (CAT II), ILS RWY 28R (CAT III), Amdt 18
Chicago, IL, Chicago O'Hare Intl, ILS PRM RWY 10C, ILS PRM RWY 10C (SA CAT I), ILS PRM RWY 10C (CAT II), ILS PRM RWY 10C (CAT III), (CLOSE PARALLEL), Amdt 1
Chicago, IL, Chicago O'Hare Intl, ILS PRM RWY 28C, ILS PRM RWY 28C (SA CAT I), ILS PRM RWY 28C (CAT II), ILS PRM RWY 28C (CAT III), (CLOSE PARALLEL), Amdt 1
Chicago, IL, Chicago O'Hare Intl, ILS PRM Y RWY 10R, (CLOSE PARALLEL), Orig-A
Chicago, IL, Chicago O'Hare Intl, ILS Y OR LOC Y RWY 10R, Orig-A
Chicago, IL, Chicago O'Hare Intl, ILS Z OR LOC Z RWY 10R, ILS Z RWY 10R (SA CAT I), ILS Z RWY 10R (CAT II), ILS Z RWY 10R (CAT III), Orig
Chicago, IL, Chicago O'Hare Intl, RNAV (GPS) RWY 22L, Amdt 2
Chicago, IL, Chicago O'Hare Intl, RNAV (GPS) PRM Y RWY 10R, (CLOSE PARALLEL), Orig-A
Chicago, IL, Chicago O'Hare Intl, RNAV (GPS) Y RWY 10R, Orig-A
Chicago, IL, Chicago O'Hare Intl, RNAV (GPS) Z RWY 10R, Orig
Fort Wayne, IN, Fort Wayne Intl, RADAR–1, Amdt 26A
Jackson, KY, Julian Carroll, Takeoff Minimums and Obstacle DP, Amdt 2
Bowie, MD, Freeway, Takeoff Minimums and Obstacle DP, Amdt 3
Rockland, ME, Knox County Rgnl, ILS OR LOC RWY 13, Amdt 2
Rockland, ME, Knox County Rgnl, RNAV (GPS) RWY 13, Orig
Charlotte, MI, Fitch H Beach, RNAV (GPS) RWY 21, Amdt 1
Charlotte, MI, Fitch H Beach, Takeoff Minimums and Obstacle DP, Amdt 3
Charlotte, MI, Fitch H Beach, VOR RWY 20, Amdt 11A, CANCELED
Winona, MN, Winona Muni-Max Conrad Fld, ILS Y OR LOC Y RWY 30, Orig-A
Winona, MN, Winona Muni-Max Conrad Fld, ILS Z OR LOC Z RWY 30, Orig-A
Winona, MN, Winona Muni-Max Conrad Fld, RNAV (GPS) RWY 12, Orig
Winona, MN, Winona Muni-Max Conrad Fld, RNAV (GPS) RWY 30, Amdt 2A
Winona, MN, Winona Muni-Max Conrad Fld, Takeoff Minimums and Obstacle DP, Amdt 5A
Asheboro, NC, Asheboro Rgnl, RNAV (GPS) RWY 3, Amdt 1
Asheboro, NC, Asheboro Rgnl, RNAV (GPS) RWY 21, Amdt 1
Gothenburg, NE., Gothenburg Muni, RNAV (GPS) RWY 3, Orig-B
Gothenburg, NE., Gothenburg Muni, RNAV (GPS) RWY 21, Orig-B
Gothenburg, NE., Gothenburg Muni, VOR–A, Amdt 3A
Santa Teresa, NM, Dona Ana County Intl Jetport, RNAV (GPS) RWY 10, Orig-B
Santa Teresa, NM, Dona Ana County Intl Jetport, Takeoff Minimums and Obstacle DP, Orig-B
Poughkeepsie, NY, Hudson Valley Rgnl, ILS OR LOC RWY 6, Amdt 6D
Poughkeepsie, NY, Hudson Valley Rgnl, RNAV (GPS) RWY 24, Orig-E
Poughkeepsie, NY, Hudson Valley Rgnl, VOR RWY 24, Amdt 4F
Poughkeepsie, NY, Hudson Valley Rgnl, VOR–A, Amdt 11E
Columbus, OH, John Glenn Columbus Intl Airport, ILS OR LOC RWY 10L, Amdt 19B
Columbus, OH, John Glenn Columbus Intl Airport, ILS OR LOC RWY 10R, ILS RWY 10R (SA CAT I), ILS RWY 10R (SA CAT II), Amdt 9C
Columbus, OH, John Glenn Columbus Intl Airport, ILS OR LOC RWY 28L, ILS RWY 28L (SA CAT I), ILS RWY 28L (CAT II), Amdt 30A
Columbus, OH, John Glenn Columbus Intl Airport, ILS OR LOC RWY 28R, Amdt 4B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (GPS) Y RWY 10L, Amdt 3B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (GPS) Y RWY 10R, Amdt 3B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (GPS) Y RWY 28L, Amdt 3B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (GPS) Y RWY 28R, Amdt 2B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (RNP) Z RWY 10L, Amdt 1B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (RNP) Z RWY 10R, Amdt 1B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (RNP) Z RWY 28L, Amdt 1B
Columbus, OH, John Glenn Columbus Intl Airport, RNAV (RNP) Z RWY 28R, Amdt 1B
Perry, OK, Perry Muni, RNAV (GPS) RWY 35, Orig
Williamsport, PA, Williamsport Rgnl, ILS OR LOC RWY 27, Amdt 17
Williamsport, PA, Williamsport Rgnl, RNAV (GPS) RWY 27, Orig
Williamsport, PA, Williamsport Rgnl, Takeoff Minimums and Obstacle DP, Amdt 6
Bay City, TX, Bay City Rgnl, RNAV (GPS) RWY 13, Orig-B
Bay City, TX, Bay City Rgnl, RNAV (GPS) RWY 31, Orig-B
Bay City, TX, Bay City Rgnl, VOR–A, Amdt 4C
Midland, TX, Midland Intl Air and Space Port, RADAR–1, Amdt 7
Nacogdoches, TX, Nacogdoches A L Mangham Jr Rgnl, ILS OR LOC RWY 36, Amdt 3E
Nacogdoches, TX, Nacogdoches A L Mangham Jr Rgnl, NDB RWY 18, Amdt 1C
Nacogdoches, TX, Nacogdoches A L Mangham Jr Rgnl, RNAV (GPS) RWY 18, Orig-A
Nacogdoches, TX, Nacogdoches A L Mangham Jr Rgnl, RNAV (GPS) RWY 36, Orig-B
Nacogdoches, TX, Nacogdoches A L Mangham Jr Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2A Emporia, VA, Emporia-Greensville Rgnl, RNAV (GPS) RWY 16, Amdt 2
Emporia, VA, Emporia-Greensville Rgnl, RNAV (GPS) RWY 34, Amdt 2
Morrisville, VT, Morrisville-Stowe State, RNAV (GPS) Y RWY 19, Amdt 2
Morrisville, VT, Morrisville-Stowe State, RNAV (GPS) Z RWY 19, Amdt 2
Marshfield, WI, Marshfield Muni, NDB RWY 16, Amdt 11
Marshfield, WI, Marshfield Muni, RNAV (GPS) RWY 16, Amdt 1
Marshfield, WI, Marshfield Muni, SDF RWY 34, Amdt 7
Wisconsin Rapids, WI, Alexander Field South Wood County, NDB RWY 2, Amdt 6A, CANCELED
Wisconsin Rapids, WI, Alexander Field South Wood County, RNAV (GPS) RWY 20, Amdt 1
Wisconsin Rapids, WI, Alexander Field South Wood County, SDF RWY 2, Amdt 5A, CANCELED

Rescinded: On May 5, 2017 (82 FR 21114), the FAA published an Amendment in Docket No. 31130, Amdt No. 3743 to Part 97 of the Federal Aviation Regulations under section 97.27 and 97.33, the following entries for Colorado City, AZ and Mosinee, WI, effective June 22, 2017, and are hereby rescinded in their entirety:

Colorado City, AZ, Colorado City Muni, NDB–A, Amdt 1
Colorado City, AZ, Colorado City Muni, RNAV (GPS) RWY 11, Orig
Colorado City, AZ, Colorado City Muni, RNAV (GPS) RWY 29, Orig
Mosinee, WI, Central Wisconsin, RNAV (GPS) RWY 8, Amdt 1C
Mosinee, WI, Central Wisconsin, RNAV (GPS) RWY 26, Amdt 1C
Mosinee, WI, Central Wisconsin, RNAV (GPS) RWY 35, Amdt 2

[FR Doc. 2017–12462 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31137; Amdt. No. 3750]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide for the safe and efficient use of the navigable airspace and to promote safe flight

operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 20, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2017.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops—M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001;

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center online at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420) Flight Technologies and Procedures Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) by amending the referenced SIAPs. The complete regulatory description of each SIAP is listed on the appropriate FAA Form 8260, as modified by the National Flight Data Center (NFDC)/Permanent Notice to Airmen (P–NOTAM), and is incorporated by reference under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20. The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained on FAA form documents is unnecessary.

This amendment provides the affected CFR sections, and specifies the SIAPs and Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPs, Takeoff Minimums and ODPs as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP and Takeoff Minimums and ODP as amended in the transmittal. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained for each SIAP and Takeoff Minimums and ODP as modified by FDC permanent NOTAMs.

The SIAPs and Takeoff Minimums and ODPs, as modified by FDC permanent NOTAM, and contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these changes to SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied only to specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a FDC NOTAM as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for these SIAP and Takeoff Minimums and ODP amendments require making them effective in less than 30 days.

Because of the close and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on May 19, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal regulations, Part 97, (14 CFR part 97), is amended by amending Standard Instrument Approach Procedures and Takeoff Minimums and ODPs, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, Identified as follows:

** * * Effective Upon Publication*

AIRAC date	State	City	Airport	FDC No.	FDC date	Subject
22-Jun-17	TX	Mineola	Mineola Wisener Field	7/1174	5/8/17	VOR–A, Amdt 6A.
22-Jun-17	NJ	Readington	Solberg-Hunterdon	7/6466	5/4/17	RNAV (GPS) RWY 22, Orig-B.
22-Jun-17	NJ	Readington	Solberg-Hunterdon	7/6467	5/4/17	RNAV (GPS) RWY 4, Orig-B.
22-Jun-17	NJ	Readington	Solberg-Hunterdon	7/6468	5/4/17	VOR RWY 4, Amdt 1B.

[FR Doc. 2017–12465 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 31134; Amdt. No. 3747]

Standard Instrument Approach Procedures, and Takeoff Minimums and Obstacle Departure Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule establishes, amends, suspends, or removes Standard Instrument Approach Procedures (SIAPs) and associated Takeoff Minimums and Obstacle Departure Procedures (ODPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, adding new obstacles, or changing air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: This rule is effective June 20, 2017. The compliance date for each SIAP, associated Takeoff Minimums, and ODP is specified in the amendatory provisions.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of June 20, 2017.

ADDRESSES: Availability of matters incorporated by reference the amendment is as follows:

For Examination

1. U.S. Department of Transportation, Docket Ops—M30, 1200 New Jersey Avenue SE., West Bldg., Ground Floor, Washington, DC 20590–0001.

2. The FAA Air Traffic Organization Service Area in which the affected airport is located;

3. The office of Aeronautical Navigation Products, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 or,

4. The National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202–741–6030, or go to: *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Availability

All SIAPs and Takeoff Minimums and ODPs are available online free of charge. Visit the National Flight Data Center at *nfdc.faa.gov* to register. Additionally, individual SIAP and Takeoff Minimums and ODP copies may be obtained from the FAA Air Traffic Organization Service Area in which the affected airport is located.

FOR FURTHER INFORMATION CONTACT: Thomas J. Nichols, Flight Procedure Standards Branch (AFS–420), Flight Technologies and Programs Divisions, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082, Oklahoma City, OK 73125) Telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This rule amends Title 14 of the Code of Federal Regulations, Part 97 (14 CFR part 97), by establishing, amending, suspending, or removes SIAPS, Takeoff Minimums and/or ODPS. The complete regulatory description of each SIAP and its associated Takeoff Minimums or ODP for an identified airport is listed on FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR part § 97.20. The applicable FAA forms are FAA Forms 8260–3, 8260–4, 8260–5, 8260–15A, and 8260–15B when required by an entry on 8260–15A.

The large number of SIAPs, Takeoff Minimums and ODPs, their complex nature, and the need for a special format make publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, Takeoff Minimums or ODPs, but instead refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP, Takeoff Minimums and ODP listed on FAA form documents is unnecessary. This amendment provides the affected CFR sections and specifies the types of SIAPs, Takeoff Minimums and ODPs with their applicable effective dates. This amendment also identifies the airport and its location, the procedure, and the amendment number.

Availability and Summary of Material Incorporated by Reference

The material incorporated by reference is publicly available as listed in the **ADDRESSES** section.

The material incorporated by reference describes SIAPS, Takeoff Minimums and/or ODPS as identified in the amendatory language for part 97 of this final rule.

The Rule

This amendment to 14 CFR part 97 is effective upon publication of each separate SIAP, Takeoff Minimums and ODP as Amended in the transmittal. Some SIAP and Takeoff Minimums and textual ODP amendments may have been issued previously by the FAA in a Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts.

The circumstances that created the need for some SIAP and Takeoff Minimums and ODP amendments may require making them effective in less than 30 days. For the remaining SIAPs and Takeoff Minimums and ODPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs and Takeoff Minimums and ODPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs and Takeoff Minimums and ODPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close

and immediate relationship between these SIAPs, Takeoff Minimums and ODPs, and safety in air commerce, I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest and, where applicable, under 5 U.S.C. 553(d), good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air).

Issued in Washington, DC, on May 5, 2017.

John S. Duncan,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Title 14, Code of Federal Regulations, Part 97 (14 CFR part 97) is amended by establishing, amending, suspending, or removing Standard Instruction Approach Procedures and/or Takeoff Minimums and Obstacle Departure Procedures effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

■ 1. The authority citation for Part 97 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

■ 2. Part 97 is amended to read as follows:

Effective 22 June 2017

Manokotak, AK, Manokotak, RNAV (GPS) RWY 3, Orig-A
Manokotak, AK, Manokotak, RNAV (GPS) RWY 21, Orig-A
Scottsboro, AL, Scottsboro Muni-Word Field, RNAV (GPS) RWY 4, Orig-A
Scottsboro, AL, Scottsboro Muni-Word Field, RNAV (GPS) RWY 22, Orig-A
Stuttgart, AR, Stuttgart Municipal Carl Humphrey Field, ILS OR LOC RWY 36, Orig-C
Stuttgart, AR, Stuttgart Municipal Carl Humphrey Field, RNAV (GPS) RWY 9, Orig-C
Stuttgart, AR, Stuttgart Municipal Carl Humphrey Field, RNAV (GPS) RWY 18, Amdt 1B
Stuttgart, AR, Stuttgart Municipal Carl Humphrey Field, RNAV (GPS) RWY 27, Amdt 1C
Stuttgart, AR, Stuttgart Municipal Carl Humphrey Field, RNAV (GPS) RWY 36, Amdt 1C
Stuttgart, AR, Stuttgart Municipal Carl Humphrey Field, Takeoff Minimums and Obstacle DP, Orig-A
Concord, CA, Buchanan Field, Takeoff Minimums and Obstacle DP, Amdt 3
Grass Valley, CA, Nevada County Air Park, GPS RWY 7, Orig-A, CANCELED
Oroville, CA, Oroville Muni, RNAV (GPS) RWY 2, Amdt 1
Oroville, CA, Oroville Muni, Takeoff Minimums and Obstacle DP, Amdt 4
Oroville, CA, Oroville Muni, VOR–A, Amdt 8
Rio Vista, CA, Rio Vista Muni, RNAV (GPS) RWY 25, Amdt 3D
San Diego, CA, San Diego Intl, RNAV (GPS) RWY 9, Amdt 1A
Weed, CA, Weed, FOBRO ONE, Graphic DP
Weed, CA, Weed, RNAV (GPS) RWY 14, Orig
Weed, CA, Weed, Takeoff Minimums and Obstacle DP, Orig
Bridgeport, CT, Igor I Sikorsky Memorial, ILS OR LOC RWY 6, Amdt 10
Bridgeport, CT, Igor I Sikorsky Memorial, RNAV (GPS) RWY 6, Amdt 1
Bridgeport, CT, Igor I Sikorsky Memorial, RNAV (GPS) RWY 24, Amdt 1
Bridgeport, CT, Igor I Sikorsky Memorial, RNAV (GPS) RWY 29, Amdt 1
Bridgeport, CT, Igor I Sikorsky Memorial, VOR RWY 24, Amdt 17
Fort Pierce, FL, Treasure Coast Intl, ILS OR LOC RWY 10R, Amdt 4D
Milledgeville, GA, Baldwin County, RNAV (GPS) RWY 10, Amdt 1A
Milledgeville, GA, Baldwin County, RNAV (GPS) RWY 28, Amdt 1A
Chanute, KS, Chanute Martin Johnson, RNAV (GPS) RWY 36, Orig-A
Independence, KS, Independence Muni, ILS OR LOC RWY 35, Amdt 1D
Shreveport, LA, Shreveport Downtown, RNAV (GPS) RWY 32, Orig
Troy, MI, Oakland/Troy, RNAV (GPS) RWY 9, Amdt 3
Kill Devil Hills, NC, First Flight, RNAV (GPS) RWY 3, Orig
Kill Devil Hills, NC, First Flight, RNAV (GPS) RWY 21, Orig
Kill Devil Hills, NC, First Flight, Takeoff Minimums and Obstacle DP, Orig
Linton, ND, Linton Muni, RNAV (GPS) RWY 9, Orig-B
Linton, ND, Linton Muni, RNAV (GPS) RWY 27, Orig-B
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 6, Orig-A, CANCELED
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 15, Amdt 1
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 24, Orig-A, CANCELED
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS) RWY 33, Orig-B
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS)-A, Orig
Dunkirk, NY, Chautauqua County/Dunkirk, RNAV (GPS)-B, Orig
Dunkirk, NY, Chautauqua County/Dunkirk, VOR RWY 24, Amdt 8A, CANCELED
Poughkeepsie, NY, Hudson Valley Rgnl, Takeoff Minimums and Obstacle DP, Amdt 2A
Watertown, NY, Watertown Intl, RNAV (GPS) RWY 28, Amdt 1
Watertown, NY, Watertown Intl, Takeoff Minimums and Obstacle DP, Amdt 2
Batavia, OH, Clermont County, RNAV (GPS) RWY 4, Amdt 1C
Batavia, OH, Clermont County, RNAV (GPS) RWY 22, Amdt 1D
Batavia, OH, Clermont County, VOR–B, Amdt 7C
Enid, OK, Enid Woodring Rgnl, ILS OR LOC RWY 35, Amdt 7
Enid, OK, Enid Woodring Rgnl, RNAV (GPS) RWY 17, Amdt 1
Enid, OK, Enid Woodring Rgnl, RNAV (GPS) RWY 35, Amdt 2
Jackson, TN, Mc Kellar-Sipes Rgnl, ILS OR LOC RWY 2, Amdt 9
Jackson, TN, Mc Kellar-Sipes Rgnl, VOR RWY 2, Amdt 13, CANCELED
Jamestown, TN, Jamestown Muni, RNAV (GPS)-B, Orig
Jamestown, TN, Jamestown Muni, RNAV (GPS)-C, Orig
Midland, TX, Midland Intl Air and Space Port, ILS OR LOC RWY 10, Amdt 16C
Midland, TX, Midland Intl Air and Space Port, RNAV (GPS) RWY 4, Amdt 1C
Midland, TX, Midland Intl Air and Space Port, RNAV (GPS) RWY 10, Amdt 2B
Midland, TX, Midland Intl Air and Space Port, RNAV (GPS) RWY 16R, Amdt 1B
Midland, TX, Midland Intl Air and Space Port, RNAV (GPS) RWY 22, Amdt 1B
Midland, TX, Midland Intl Air and Space Port, RNAV (GPS) RWY 28, Amdt 2B
Midland, TX, Midland Intl Air and Space Port, RNAV (GPS) RWY 34L, Amdt 1B
Midland, TX, Midland Intl Air and Space Port, Takeoff Minimums and Obstacle DP, Amdt 1A
Midland, TX, Midland Intl Air and Space Port, VOR OR TACAN RWY 16R, Amdt 23B
Midland, TX, Midland Intl Air and Space Port, VOR OR TACAN RWY 34L, Amdt 10B
Robstown, TX, Nueces County, RNAV (GPS) RWY 13, Amdt 1
Robstown, TX, Nueces County, RNAV (GPS) RWY 31, Orig
Newport News, VA, Newport News/Williamsburg Intl, ILS OR LOC RWY 7, Amdt 34
Newport News, VA, Newport News/Williamsburg Intl, ILS OR LOC RWY 25, Amdt 2
Newport News, VA, Newport News/Williamsburg Intl, LOC RWY 20, Amdt 1C
Newport News, VA, Newport News/Williamsburg Intl, RNAV (GPS) RWY 2, Amdt 1B
Newport News, VA, Newport News/Williamsburg Intl, RNAV (GPS) RWY 7, Amdt 4

Newport News, VA, Newport News/Williamsburg Intl, RNAV (GPS) RWY 20, Amdt 2B
Newport News, VA, Newport News/Williamsburg Intl, RNAV (GPS) RWY 25, Amdt 3

[FR Doc. 2017–12464 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 145

RIN 3038–AE57

Revisions to Freedom of Information Act Regulations

AGENCY: Commodity Futures Trading Commission.

ACTION: Interim final rule with request for comments.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'') is revising certain provisions of its regulations for disclosing records under the Freedom of Information Act (''FOIA'') to comply with the FOIA Improvement Act of 2016. In addition, the regulations would streamline the language of procedural provisions concerning initial determinations and administrative appeals. The regulations have also been updated to incorporate changes in the Commission's administrative structure, remove superfluous verbiage, and correct inaccurate text.

DATES: Effective Date: This rule is effective July 20, 2017.

Comment Date: Comments must be received on or before August 21, 2017.

Comments submitted by mail will be accepted as timely if they are postmarked on or before that date.

ADDRESSES: You may submit comments, identified by RIN 3038–AE57, by one of the following methods:

- *CFTC Web site: https://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

Instructions: All submissions received must include the agency name and RIN number for this rulemaking. For additional details on submitting comments, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Candace Ambrose, Counsel, Office of the General Counsel, (202) 418–5192.

SUPPLEMENTARY INFORMATION: This rule revises the Commission's FOIA regulations to incorporate certain changes codified by the FOIA Improvement Act of 2016, Public Law 114–185, 130 Stat. 538 (June 30, 2016) (''Act''). The Act requires each agency to review its regulations and issue new regulations in accordance with the Act's provisions. The Act requires agencies to notify requesters of the availability of dispute resolution services from the agency's FOIA Public Liaison and the National Archives and Records Administration's Office of Government Information Services (''OGIS''). The Act also incorporates the Department of Justice's foreseeable harm standard, specifying that an agency shall withhold information only if the agency reasonably foresees that disclosure would harm an interest protected by an exemption. 5 U.S.C. 552(a)(8)(A)(i)(I). This provision requires agencies to consider whether partial disclosure is possible and to take reasonable steps to segregate and release nonexempt information. In accordance with the Act, this rule incorporates the sunset provision for the deliberative process privilege. The Act also increases the time limit for requesters to file an administrative appeal to 90 days. This rule updates the Commission's regulations in 17 CFR part 145 to incorporate those statutory changes. This rule also contains several technical amendments to reflect the Commission's current organizational structure, eliminate unnecessary text, and correct erroneous citations.

Section 145.0 (Definitions) is revised to (1) eliminate the term Assistant Secretary because the position referred to—Assistant Secretary of the Commission for FOI, Privacy, and Sunshine Acts Compliance—is defunct; (2) update the definition of Compliance Staff to reflect the current organizational structure; and (3) add paragraph letters before each defined term for easier cross-reference throughout part 145.

Section 145.4 (Public records available with identifying details deleted; nonpublic records available in abridged or summary form) is revised to update cross-references with the paragraph letters corresponding to the defined terms.

Section 145.5 (Disclosure of nonpublic records) is revised to incorporate the foreseeable harm standard codified by the Act, which provides that an agency shall withhold information under FOIA only if the agency reasonably foresees that disclosure would harm an interest protected by an exemption, or disclosure is prohibited by law. This section is also revised to reflect the requirement in the Act that agencies consider whether partial disclosure of information is possible whenever agencies determine that full disclosure of a requested record is not possible.

Paragraph (e) of § 145.5 is revised to include the three traditional privileges incorporated into Exemption 5 of FOIA and to conform to the requirement of the Act which states that the deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested. This paragraph is also revised to remove superfluous text concerning Exemption 5.

Section 145.6 (Commission offices to contact for assistance; registration records available) is revised to reflect the current addressee for requests for non-public records and to reflect the current addresses for the regional offices.

Paragraph (b) of § 145.7 (Requests for Commission records and copies thereof) is revised to indicate to whom requests for nonpublic records should be addressed and to delete references to Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance since that position is defunct, as noted above.

Paragraph (c) of § 145.7 is revised to remove oral requests for records because requests for records should be submitted in a written format for record keeping purposes and to eliminate unnecessary text concerning misdirected requests.

Paragraph (f) of § 145.7 is revised to replace the term Assistant Secretary with Office of General Counsel because the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance position is defunct.

Paragraph (g) of § 145.7 is revised to correct erroneous text and to replace the term Assistant Secretary with Office of General Counsel because the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance position is defunct.

Paragraph (h) of § 145.7 is revised to replace references to Assistant Secretary with the term Compliance Staff or Office of General Counsel where appropriate. This paragraph is also revised to incorporate the Act's requirement that

an affirmative determination informs the requester of the availability of assistance from the FOIA Public Liaison. Additionally, this paragraph is revised to incorporate the Act's requirement that an adverse determination informs the requester of the right to seek dispute resolution services from the FOIA Public Liaison and from OGIS. Further, this paragraph is revised to provide requesters an opportunity to modify the request and to seek assistance from the FOIA Public Liaison if the request involves unusual circumstances. This paragraph is also revised to conform to the requirement under the Act that agencies inform requesters of the right to seek dispute resolution services from OGIS if the request involves unusual circumstances.

Paragraph (i) of § 145.7 is revised to extend the time to file an administrative appeal to 90 days in conformity with the Act. Further, this paragraph is revised to include the requirement under the Act to inform the requester of mediation services offered by OGIS. This paragraph is also revised to streamline the process for administrative reviews and to replace the term Assistant Secretary with the term Compliance Staff because the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance position is defunct. Moreover, this paragraph corrects typographical errors.

Paragraph (j) of § 145.7 is revised to replace the term Assistant Secretary with the term Compliance Staff because the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance position is defunct.

Section 145.8 (Fees for records services) is revised to replace the term Assistant Secretary with the term Compliance Staff because the Assistant Secretary of the Commission for FOI, Privacy and Sunshine Acts Compliance position is defunct.

Public Participation

The Commission is issuing an interim rule to revise its FOIA regulations because these changes merely reflect the statutory amendments to FOIA that are contained in the Act. This approach enables these regulatory changes to take effect sooner than would be possible with the publication of a Notice of Proposed Rulemaking in advance. Nonetheless, the Commission welcomes public comments from interested persons regarding any aspect of the changes made by this interim final rule. Please refer to the **ADDRESSES** section above. The Commission will consider all public comments in drafting the final rule.

All comments must be submitted in English, or if not, accompanied by an English translation. Except as described below regarding confidential business information, all comments are considered part of the public record and will be posted as received to *http://comments.cftc.gov* for public inspection. The information made available online includes personal identifying information (such as name and address) which is voluntarily submitted by the commenter. You should submit only information that you wish to make available publicly.

If you want to submit material that you consider to be confidential business information as part of your comment, but do not want it to be posted online, you must submit your comment by mail or hand delivery/courier and include a petition for confidential treatment as described in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://comments.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the rulemaking will be retained in the rulemaking record and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the FOIA.

Regulatory Certifications

Administrative Procedure Act. The Administrative Procedure Act (''APA''), 5 U.S.C. 553 *et seq.,* requires federal agencies to publish a notice of proposed rulemaking and provide an opportunity for public comment before issuing a new rule. Rules are exempt from notice and comment if they are interpretive rules, general statements of policy, or rules of agency organization, procedure, or practice. 5 U.S.C. 553(b)(3)(A). The Commission has determined that this exception applies. The subject rules do not change the substantive standards the agency applies in implementing FOIA to the extent they conform to the changes codified in the Act. Also, the Commission has determined that the rules concern its organization, procedure, and practice because they make updates to accurately reflect the organizational structure of the agency. Furthermore, an agency may also issue a new rule without a pre-publication public comment period when it for ''good cause'' finds that prior notice and comment is ''impracticable, unnecessary, or contrary to the public interest.'' 5 U.S.C. 553(b)(3)(B). The Commission has determined that there is good cause to find that a pre-publication comment period is unnecessary. These revisions to the existing regulations in 17 CFR part 145 codify statutory changes and are technical-administrative in nature. For these reasons, the Commission's implementation of this rule as an interim final rule, with provision for post-promulgation public comment, is in accordance with section 553(b) of the APA.

Regulatory Flexibility Act. The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* requires federal agencies to consider whether the rules they propose will have a significant economic impact on a substantial number of small entities and, if so, to provide a regulatory flexibility analysis regarding the economic impact on those entities. This rule amends the Commission's FOIA regulations to incorporate certain statutory changes required by the Act, and to reflect updates to the Commission's internal administrative structure and to make editorial changes to the regulations. Because the Commission is not required to publish a notice of proposed rulemaking for this rule, a regulatory flexibility analysis is not required. 5 U.S.C. 603(a).

Paperwork Reduction Act. The Paperwork Reduction Act (''PRA''), 5 U.S.C. 3501 *et seq.,* imposes certain requirements on federal agencies in connection with their conducting or sponsoring any collection of information. This rule does not contain any new collection of information requirements within the meaning of the PRA. Thus, the PRA is inapplicable to this rule.

List of Subjects in 17 CFR Part 145

Administrative practice and procedure, Freedom of information.

For the reasons stated in the preamble, the Commodity Futures Trading Commission amends 17 CFR part 145 as set forth below:

PART 145—COMMISSION RECORDS AND INFORMATION

■ 1. The authority citation for part 145 is revised to read as follows:

Authority: Pub. L. 99–570, 100 Stat. 3207; Pub. L. 89–554, 80 Stat. 383; Pub. L. 90–23, 81 Stat. 54; Pub. L. 98–502, 88 Stat. 1561–1564 (5 U.S.C. 552); Sec. 101(a), Pub. L. 93–463, 88 Stat. 1389 (5 U.S.C. 4a(j)); Pub. L. 114–185, 130 Stat. 538; unless otherwise noted.

Section 145.5 is also issued under 5 U.S.C. 552, 5 U.S.C. 552b, and secs. 2(a)(11), 4b, 4f,

4g, 5a, 8a, and 17 of the Commodity Exchange Act, 7 U.S.C. 2, 4a(j), 6b, 6f, 6g, 7a, 12a, and 21, as amended, 92 Stat. 865 *et seq.;* secs. 2(a)(1), 4c(a)–(d), 4d, 4f, 4g, 4k, 4m, 4n, 8a, 15 and 17, Commodity Exchange Act (7 U.S.C. 2, 4, 6c(a)–(d), 6f, 6g, 6k, 6m, 6n, 12a, 19 and 21; 5 U.S.C. 552 and 552b); secs. 2(a)(11) and 8 of the Commodity Exchange Act, 7 U.S.C. 4(j) and 12 (1983); secs. 8a(5) and 19 of the Commodity Exchange Act, as amended, 7 U.S.C. 12a(5) and 23 (1982); 5 U.S.C. 552 and 552b.

Section 145.6 is also issued under 7 U.S.C. 2, 4, 6, and 12; secs. 2(a)(1), 4c, 4d, 4e, 4f, 4k, 4m, 4n, 4p, 8, 8a and 19 of the Commodity Exchange Act (7 U.S.C. 2 and 4, 6c, 6d, 6e, 6f, 6k, 6m, 6n, 6p, 12, 12a and 23 (1982)); 5 U.S.C. 552 and 552b.

Section 145.8 is also issued under 7 U.S.C. 4a(j) and 16a as amended by Pub. L. 97–444, 96 Stat. 2294 (1983), and 5 U.S.C. 552, 552a and 552b.

■ 2. Revise § 145.0 to read as follows:

§ 145.0 Definitions.

For the purposes of part 145 the following definitions are applicable:

(a) *Compliance staff*—refers to the FOI Compliance Staff of the Office of General Counsel at the Commission's principal office in Washington, DC assigned to respond to requests for information and to handle various other matters under the Freedom of Information Act.

(b) *Public records*—in addition to the records described in § 145.1 (material published in the **Federal Register**) and in § 145.2 (records required to be made publicly available under the Freedom of Information Act), includes those records that have been determined by the Commission to be generally available to the public directly upon oral or written request from the Commission office or division responsible for the maintenance of such records. A compilation of Commission records routinely available to the public upon request appears in appendix A to this part 145.

(c) *Nonpublic records*—are records not identified in § 145.1, § 145.2, or appendix A of this part 145. Nonpublic records must be requested, in writing, in accordance with the provisions of § 145.7.

(d) *Record*—is any information or agency record maintained by the Commission in any format, including an electronic format. It includes any document, writing, photograph, sound or magnetic recording, videotape, microfiche, drawing, or computer-stored information or output in the possession of the Commission. The term ''record'' does not include personal convenience materials over which the Commission has no control, such as appointment calendars and handwritten notes, which may be retained or destroyed at an employee's discretion.

■ 3. Amend § 145.4 by revising the first sentence of paragraph (a) and by revising paragraph (b) to read as follows:

§ 145.4 Public records available with identifying details deleted; nonpublic records available in abridged or summary form.

(a) To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Commission may delete identifying details when it makes available ''public records'' as defined in § 145.0(b). * * *

(b) Certain ''nonpublic records,'' as defined in § 145.0(c), may, as authorized by the Commission, be made available for public inspection and copying in an abridged or summary form, with identifying details deleted.

■ 4. In § 145.5, revise the introductory text and paragraph (e) to read as follows:

§ 145.5 Disclosure of nonpublic records.

The Commission shall withhold information in ''nonpublic records,'' as defined in § 145.0(c), only if the Commission reasonably foresees that disclosure would harm an interest protected by an exemption described in paragraphs (a) through (i) of this section, or if disclosure is prohibited by law. The Commission shall consider whether partial disclosure of information is possible whenever the Commission determines that a full disclosure of the requested record is not possible. The Commission shall take reasonable steps necessary to segregate and release nonexempt information in ''nonpublic records'' subject to a request under § 145.7 if those portions do not fall within an exemption described in paragraphs (a) through (i) of this section.

* * * * *

(e) Inter-agency or intra-agency memoranda or letters, except those which by law would routinely be made available to a party other than an agency in litigation with the Commission. Exemption 5 (5 U.S.C. 552(b)(5)) protects inter-agency or intra-agency communications that are protected by legal privileges, such as the attorney-client privilege, the attorney work-product privilege, and the deliberative process privilege. The deliberative process privilege shall not apply to records created 25 years or more before the date on which the records were requested.

* * * * *

■ 5. In § 145.6, revise paragraph (a) to read as follows:

§ 145.6 Commission offices to contact for assistance; registration records available.

(a) All requests for non-public records shall be made in writing and shall be addressed or otherwise directed to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581. Requests for public records directed to a regional office of the Commission pursuant to § 145.2 should be sent to:

Commodity Futures Trading Commission, 140 Broadway, 19th Floor, New York, New York 10005, Telephone: (646) 746–9700.

Commodity Futures Trading Commission, 525 West Monroe Street, Suite 1100, Chicago, Illinois 60661, Telephone: (312) 596–0700.

Commodity Futures Trading Commission, 4900 Main Street, Suite 500, Kansas City, Missouri 64112, Telephone: (816) 960–7700.

* * * * *

■ 6. Amend § 145.7 as follows:

■ a. Revise paragraphs (b), (c), (f), and (g);

■ b. Revise paragraphs (h)(1) and (2) and paragraph (h)(3) introductory text;

■ c. Revise paragraphs (i)(2) and (5), (i)(6) introductory text, and (i)(6)(iii) and (i)(7); and

■ d. Revise paragraph (j).

The revisions read as follows:

§ 145.7 Requests for Commission records and copies thereof.

* * * * *

(b) *Requests for nonpublic records.* Except as provided in paragraph (a) of this section with respect to public records, all requests for records maintained by the Commission shall be in writing, shall be addressed to the Office of General Counsel of the Commission and shall be clearly marked ''Freedom of Information Act Request.''

(c) *Misdirected written requests.* The Commission cannot ensure that a timely or satisfactory response will be given to requests for records that are directed to the Commission other than in the manner prescribed in paragraph (b) of this section. Any misdirected written request for nonpublic records should be promptly forwarded to the Office of General Counsel of the Commission. Misdirected requests for nonpublic records will be considered to have been received for purposes of this section only when they actually have been received by the Office of General Counsel.

* * * * *

(f) *Request for existing records.* The Commission's response to a request for nonpublic records will encompass all

nonpublic records identifiable as responsive to the request that are in existence on the date that the written request is received by the Office of General Counsel. The Commission need not create a new record in response to a FOIA request.

(g) *Fee agreement.* A request for copies of records pursuant to paragraph (b) of this section must indicate the requester's agreement to pay all fees that are associated with the processing of the request, in accordance with the rates set forth in appendix B to this part, or the requester's intention to limit the fees incurred to a stated amount. If the requester states a fee limitation, no work will be done that will result in fees beyond the stated amount. A requester who seeks a waiver or reduction of fees pursuant to paragraph (b) of appendix B of this part must show that such a waiver or reduction would be in the public interest. If the Office of General Counsel receives a request for records under paragraph (b) of this section from a requester who has not paid fees from a previous request in accordance with appendix B of this part, the staff will decline to process the request until such fees have been paid.

(h) *Initial determination, denials.* (1) With respect to any request for nonpublic records as defined in § 145.0(c), the Compliance Staff of the Commission will forward the request to the Commission divisions or offices likely to maintain records that are responsive to the request. If a responsive record is located, the Compliance Staff will, in consultation with the Commission office in which the record was located, determine whether to comply with such request. The Compliance Staff may, in their discretion, determine whether to comply with any portion of a request for nonpublic records before considering the remainder of the request. The Compliance Staff will inform the requester of the availability of the Commission's FOIA Public Liaison to offer assistance.

(2) Where it is determined to deny, in whole or in part, a request for nonpublic records, the Compliance Staff will notify the requester of the denial, citing applicable exemptions of the Freedom of Information Act or other provisions of law that require or allow the records to be withheld. The Compliance Staff's response to the FOIA request should describe in general terms what categories of documents are being withheld under which applicable FOIA exemption or exemptions. The Compliance Staff's response will include a statement notifying the requester of the right to seek dispute resolution services from the Commission's FOIA Public Liaison and the National Archives and Records Administration's Office of Government Information Services. The Compliance Staff, in denying an initial request for records, is not required to provide the requester with an inventory of those documents determined to be exempt from disclosure.

(3) The Compliance Staff will issue an initial determination with respect to a FOIA request within twenty business days after receipt by the Office of General Counsel. In unusual circumstances, as defined in this paragraph, the prescribed time limit may be extended by written notice to the person making a request for a record or a copy. The notice shall set forth the reasons for the extension and the date on which a determination is expected to be dispatched. Where the extension exceeds ten business days, the Compliance Staff will provide the requester with an opportunity to modify the request or arrange an alternative time period for processing the original or modified request. The Compliance Staff or the FOIA Public Liaison is available to assist the requester in unusual circumstances. The Compliance Staff will notify the requester of the right to seek dispute resolution services from the Office of Government Information Services. As used in this paragraph, ''unusual circumstances'' means, but only to the extent reasonably necessary to the proper processing of a particular request:

* * * * *

(i) * * *

(2) An application for review must be received by the Office of General Counsel within 90 days of the date of the denial by the Compliance Staff. This 90-day period shall not begin to run until the Compliance Staff has issued an initial determination with respect to all portions of the request for nonpublic records. An application for review shall be in writing and shall be marked ''Freedom of Information Act Appeal'' and be sent to the Commission's Office of General Counsel. If the appeal involves information as to which the FOIA requester has received a detailed written justification of a request for confidential treatment pursuant to § 145.9(e), the requester must also serve a copy of the appeal on the submitter of the information.

* * * * *

(5) If the appeal involves information that is subject to a petition for confidential treatment filed under § 145.9, the submitter of the information shall have an opportunity to respond in writing to the appeal within 10 business days of the date of filing the appeal. Any response shall be sent to the Commission's Office of General Counsel. Copies shall be sent to the person requesting the information.

(6) The General Counsel, or his or her designee, shall have the authority to consider all appeals under this section from initial determinations of the Compliance Staff of the Commission. The General Counsel, or his or her designee, may:

* * * * *

(iii) Remand the matter to the Compliance Staff—

(A) To correct a deficiency in the initial processing of the request, or

(B) When an investigation as to which the staff originally claimed exemption from mandatory disclosure on the basis of 5 U.S.C. 555(b)(7)(A) or 7 U.S.C. 12(a) is subsequently closed; or

* * * * *

(7) If the initial denial of the request for nonpublic records is reversed, the Office of General Counsel shall, in writing, advise the requester that the records will be available on or after a specified date. If, on appeal, the denial of access to a record is affirmed in whole or in part, the person who requested the information shall be notified in writing of:

(i) The reasons for the denial,

(ii) The mediation services offered by the Office of Government Information Services as a non-exclusive alternative to litigation, and

(iii) The provisions of 5 U.S.C. 552(a)(4) providing for judicial review of a determination to withhold records.

(j) *Expedited processing.* A request may be given expedited processing if the requester demonstrates a compelling need for the requested records. For purposes of this provision, the term ''compelling need'' means: That a failure to obtain requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or with respect to a request made by a person primarily engaged in disseminating information, urgency to inform the public concerning actual or alleged federal government activity. A requester who seeks expedited processing must demonstrate a compelling need by submitting a statement that is certified by the requester to be true and correct to the best of that person's knowledge and belief. The Compliance Staff will determine whether to provide expedited processing, and notice of the determination will be provided to requester, within ten days after the date

of the request. If the request for expedited processing is denied, the requester may file an appeal with the Office of General Counsel within ten days of the date of the denial by the Compliance Staff. The Office of General Counsel will respond to the appeal within ten days after the date of the appeal.

■ 7. Revise § 145.8 to read as follows:

§ 145.8 Fees for records services.

A schedule of fees for record services, including locating, and making records available, and copying, appears in appendix B to this part. Copies of the schedule of fees may also be obtained upon request made in person, by telephone or by mail from the Compliance Staff or at any regional office of the Commission.

Issued in Washington, DC, on June 14, 2017, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

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

Appendix to Revisions to Freedom of Information Act Regulations—Commission Voting Summary

On this matter, Acting Chairman Giancarlo and Commissioner Bowen voted in the affirmative. No Commissioner voted in the negative.

[FR Doc. 2017–12775 Filed 6–19–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[Docket No. USCG–2012–1036]

Special Local Regulations; Recurring Marine Events in the Captain of the Port Long Island Sound Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce eight special local regulations for marine events in the Sector Long Island Sound area of responsibility on the dates and times listed in the table below. This action is necessary to provide for the safety of life on navigable waterways during the event. During the enforcement period, no person or vessel may enter the regulated area without permission of the Captain of the Port (COTP) Sector Long Island Sound or designated representative.

DATES: The regulations in 33 CFR 100.100 Table 1 will be enforced during the following dates and times listed in the table in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Katherine Linnick, Waterways Management Division, U.S. Coast Guard Sector Long Island Sound; telephone 203–468–4565, email *Katherine.E.Linnick@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce these special local regulations listed in 33 CFR 100.100 Table 1 on the specified dates and times as indicated below.

Under the provisions of 33 CFR 100, the events listed below are established as special local regulations. During the enforcement periods, persons and vessels are prohibited from entering into, transiting through, mooring, or anchoring within the regulated area unless they receive permission from the COTP or designated representative.

This notice is issued under authority of 33 CFR 100.100(a) and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of these enforcement periods via the Local Notice to Mariners or Marine Information Broadcasts. If the COTP determines that this special local regulation need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

6.1 Swim Across America Greenwich	• Date: July 24, 2017. • Time: 4:30 a.m. to 11:30 p.m. • Location: All navigable waters of Stamford Harbor within an area starting at a point in position 41°01′32.03″ N., 073°33′8.93″ W., then southeast to a point in position 41°01′15.01″ N., 073°32′55.58″ W.; then southwest to a point in position 41°0′49.25″ N., 073°33′20.36″ W.; then northwest to a point in position 41°0′58″ N., 073°33′27″ W.; then northeast to a point in position 41°1′15.8″ N., 073°33′9.85″ W., then heading north and ending at point of origin (NAD 83). All positions are approximate.
7.2 Dolan Family Fourth Fireworks	• Date: July 4, 2017. • Rain Date: July 5, 2017. • Time: 8:30 a.m. to 10:30 p.m. • Location: ''No Entry Area'': All waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY within a 1000 foot radius of the launch platform in approximate position 40°53′42.50″ N., 073°30′04.30″ W. (NAD 83). • Additional Stipulations: ''Slow/No Wake Area'': All waters of Oyster Bay Harbor in Long Island Sound off Oyster Bay, NY contained within the following area; beginning at a point on land in position at 40°53′12.43″ N., 073°31′13.05″ W. near Moses Point; then east across Oyster Bay Harbor to a point on land in position at 40°53′15.12″ N., 073°30′38.45″ W.; then north along the shoreline to a point on land in position at 40°53′34.43″ N., 073°30′33.42″ W. near Cove Point; then east along the shoreline to a point on land in position at 40°53′41.67″ N., 073°29′40.74″ W. near Cooper Bluff; then south along the shoreline to a point on land in position 40°53′05.09″ N., 073°29′23.32″ W. near Eel Creek; then east across Cold Spring Harbor to a point on land in position 40°53′06.69″ N., 073°28′19.9″ W.; then north along the shoreline to a point on land in position 40°55′24.09″ N., 073°29′49.09″ W. near Whitewood Point; then west across Oyster Bay to a point on land in position 40°55′5.29″ N., 073°31′19.47″ W. near Rocky Point; then south along the shoreline to a point on land in position 40°54′04.11″ N., 073°30′29.18″ W. near Plum Point; then northwest along the shoreline to a point on land in position 40°54′09.06″ N., 073°30′45.71″ W.; then southwest along the shoreline to a point on land in position 40°54′03.2″ N., 073°31′01.29″ W.; and then south along the shoreline back to point of origin (NAD 83). All positions are approximate.

7.4 Jones Beach State Park Fireworks	• Date: July 4, 2017. • Rain Date: July 5, 2017. • Time: 8:30 p.m. to 10:30 p.m. • Location: ''No Entry Area'': All waters off of Jones Beach State Park, Wantagh, NY within a 1000 foot radius of the launch platform in approximate position 40°34′56.68″ N., 073°30′31.19″ W. (NAD 83). • Additional Stipulations: ''Slow/No Wake Area'': All navigable waters between Meadowbrook State Parkway and Wantagh State Parkway and contained within the following area. Beginning in position at 40°35′49.01″ N., 073°32′33.63″ W.; then north along the Meadowbrook State Parkway to its intersection with Merrick Road in position at 40°39′14″ N., 073°34′0.76″ W.; then east along Merrick Road to its intersection with Wantagh State Parkway in position at 40°39′51.32″ N., 073°30′43.36″ W.; then south along the Wantagh State Parkway to its intersection with Ocean Parkway in position at 40°35′47.30″ N., 073°30′29.17″ W.; then west along Ocean Parkway to its intersection with Meadowbrook State Parkway at the point of origin (NAD 83). All positions are approximate. ''No Southbound Traffic Area'': All navigable waters of Zach's Bay south of the line connecting a point near the western entrance to Zach's Bay in position at 40°36′29.20″ N., 073°29′22.88″ W. and a point near the eastern entrance of Zach's Bay in position at 40°36′16.53″ N., 073°28′57.26″ W. (NAD 83). All positions are approximate.
8.1 Riverfront Dragon Boat and Asian Festival	• Date: August 19, 2017. • Time: 7:30 a.m. to 5:00 p.m. • Location: All waters of the Connecticut River in Hartford, CT between the Bulkeley Bridge at 41°46′10.10″ N., 072°39′56.13″ W. and the Wilbur Cross Bridge at 41°45′11.67″ N., 072°39′13.64″ W. (NAD 83). All positions are approximate.
8.4 Island Beach Two Mile Swim	• Date: August 5, 2017. • Time: 7:30 a.m. to 11:00 a.m. • Location: All waters of Captain Harbor between Little Captain's Island and Bower's Island that are located within the box formed by connecting four points in the following positions. Beginning at 40°59′23.35″ N. 073°36′42.05″ W.; then northwest to 40°59′51.04″ N. 073°37′57.32″ W.; then southwest to 40°59′45.17″ N. 073°38′01.18″ W.; then southeast to 40°59′17.38″ N. 073°36′45.9″ W.; then northeast to the point of origin (NAD 83). All positions are approximate.
8.6 Smith Point Triathlon	• Date: August 13, 2017. • Time: 6:30 a.m. to 9:30 a.m. • Location: All waters of Narrow Bay near Smith Point Park in Mastic Beach, NY within the area bounded by land along its southern edge and points in position at 40°44′14.28″ N., 072°51′40.68″ W.; then north to a point at position 40°44′20.83″ N., 072°51′40.68″ W.; then east to a point at position 40°44′20.83″ N., 072°51′19.73″ W.; then south to a point at position 40°44′14.85″ N., 072°51′19.73″ W.; and then southwest along the shoreline back to the point of origin (NAD 83). All positions are approximate.

Dated: May 18, 2017.

A.E. Tucci,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2017–12742 Filed 6–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0532]

Drawbridge Operation Regulation; Back River, Barter's Island, ME

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Maine Department of Transportation (Barter's Island) Highway Bridge over the Back River, mile 4.6, between Barter's Island and Hodgdon Island, Maine. This deviation is necessary to conduct geotechnical borings needed to design a new bridge. This deviation allows the bridge to be closed to vessel traffic for three days.

DATES: This deviation is effective without actual notice from June 20, 2017 through 5:30 p.m. on June 14, 2017. For the purposes of enforcement, actual notice will be used from June 15, 2017, until June 20, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0532, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Jeffrey Stieb; Bridge Management Specialist, First Coast Guard District, telephone 617–223–8364, email *Jeffrey.D.Stieb@uscg.mil.*

SUPPLEMENTARY INFORMATION:

The bridge owner, State of Maine Department of Transportation (Maine DOT), requested a temporary deviation from the normal operating schedule of the Maine Department of Transportation (Barter's Island) Highway Bridge, mile 4.6, across the Back River between Barter's Island and Hodgdon Island, Maine. The drawbridge navigation span has a vertical clearance of six feet at mean high water in the closed position. The existing bridge operating regulations are found at 33 CFR 117.523. The approved temporary deviation allows the bridge to remain closed for vessel traffic between the hours of 7 a.m. through 5:30 p.m. from June 12 through June 14.

The waterway is transited by fishing and sailing vessels of various sizes. For the last three years, the bridge averaged less than three openings a day during the month of June. Maine DOT contacted the primary stakeholders, none of which objected to the deviation. Vessels able to pass through the bridge

in the closed position may continue to do so at any time. Vessels have the option of going around the North Side of Barter's Island to reach the Sheepscot River. During the hours of deviation the bridge will not be able to open for emergencies.

The Coast Guard will inform the users of the waterway through our Local Notice and Broadcast Notice to Mariners of the change in operating schedule so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: June 15, 2017.

C.J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2017–12780 Filed 6–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2016–1048]

RIN 1625–AA00

Safety Zone; Kosciuszko Bridge Construction, Newtown Creek, Brooklyn and Queens, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing two safety zones on the navigable waters of Newtown Creek, NY. The first safety zone is within 500 feet of the two barges and assist vessels to be used for the removal and loading of the existing center span from the Kosciuszko Bridge at mile 2.1. The second is from approximately 370 yards south (upstream) of the Kosciuszko Bridge at mile 2.1 and Newtown Creek's confluence with the East River at mile 0.0 during transport of the existing center span to an offsite location. This action is necessary to provide for the safety of life on these navigable waters during the lowering and securing of the existing bridge's center span onto two barges within the Federal navigation channel and during the barge's outbound transit through Newtown Creek to the East River, tentatively scheduled on June 21–22, 2017. This rulemaking prohibits persons and vessels from being in the safety zones unless authorized by the Captain of the Port New York or a designated representative.

DATES: This rule is effective from June 20, 2017 through December 31, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2016–1048 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Jeff Yunker, Sector New York Waterways Management Division; telephone 718–354–4195, email *jeff.m.yunker@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

COTP Captain of the Port New York
CFR Code of Federal Regulations
DHS Department of Homeland Security
FDNY New York City Fire Department
FR Federal Register
NPRM Notice of proposed rulemaking
NYSDOT New York State Department of Transportation
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

The Coast Guard issued a Bridge Permit dated August 21, 2013 approving the location and construction of the Kosciuszko Bridge across Newtown Creek, mile 2.1, between the Boroughs of Queens and Brooklyn, NY. On November 29, 2016, NYSDOT notified the Coast Guard that it will be lowering the existing center span from the Kosciuszko Bridge over Newtown Creek at mile 2.1 onto two barges within the Newtown Creek Federal navigation channel, securing the center span to the barges for transit, rotating the barges, and towing the barges through Newtown Creek to the East River for final upland disposal.

In response, on February 22, 2017, the Coast Guard published a NPRM titled ''Safety Zone; Kosciuszko Bridge Construction, Newtown Creek, Brooklyn and Queens, NY'' (82 FR 11332). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this bridge project. During the comment period that ended March 24, 2017, we received no comments.

On May 1, 2017, the contractor provided June 21–22 as the expected primary dates for the removal and loading of the existing center span onto two barges. The contractor has informed the Coast Guard that the backup dates for the removal and transport of the existing center are June 28–29 and July 5–6, 2017.

The Coast Guard is making this temporary rule effective less than 30 days after publication in the **Federal Register** pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(d)). This provision authorizes an agency to make a rule effective less than 30 days after publication for good cause. We are issuing this rule, and under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making it effective less than 30 days after publication in the **Federal Register** because waiting 30 days would be impracticable and contrary to the public interest. It is impracticable and contrary to the public interest to provide a full 30-days notice because this rule must be effective on June 21–22, 2017 due to favorable tides on that day necessary for the barge transits. If this rule is not made effective by this date, then it would inhibit the Coast Guard's ability to perform its statutory mission to ensure the safety of the maritime public. Though we are not providing a full 30 day notice period before the rule becomes effective, the Coast Guard did provide notice and opportunity to comment through the NPRM process.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with these operations will be a safety concern for anyone within a 500-foot radius of the tugs and barges. The purpose of this rule is to ensure safety of vessels and the navigable waters within a 500-foot radius of the two barges and assist vessels when loading, securing, and transporting the center span of the Kosciuszko Bridge through Newtown Creek before, during, and after the operations.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published February 22, 2017. There are no changes to the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from June 21 through December 31, 2017. The safety zone will cover all navigable waters of Newtown Creek within 500 feet of the two barges and assist vessels to be used for the removal and loading of the existing center span from the Kosciuszko Bridge at mile 2.1,

within 500 feet of two barges and their assist vessels in Newtown Creek from approximately 370 yards south (upstream) of the existing Kosciuszko Bridge at mile 2.1 and Newtown Creek's confluence with the East River during transport of the existing center span to an offsite location. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the loading, securing, rotating the two barges for transit tentatively scheduled on June 21, 2017, and transporting the center span of the Kosciuszko Bridge through Newtown Creek tentatively scheduled on June 22, 2017. Backup dates for these operations are June 28–29 and July 5–6, 2017.

V. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the size, location, and duration of the safety zones. Although vessel traffic will not be able to transit around these safety zones as the two barges carrying the Kosciuszko Bridge center span will block a minimum of 109 feet of the 130 foot wide Federal navigation channel, enforcement of the safety will be limited in duration. It is anticipated the entire operation of loading the Kosciuszko Bridge center span, securing the span on the barges, rotating the barges, and towing through Newtown Creek should last no longer than 48 hours. During the lowering and securing of the center span and the approximate one-hour transit time from the bridge site to the East River vessels will not be able to meet or overtake the two barges with three assist tugs as the combined width of these vessels will be 109 feet and the Federal navigation channel is only 130 feet wide. However, the known waterway users upstream of the bridge including the New York City Department of Environmental Protection, U.S. Concrete, Bayside Fuel Oil Depot, and the U.S. Environmental Protection Agency all reported the requested 48-hour channel closure will not negatively impact their operations. U.S. Concrete stated they require at least two weeks' notice if the closure is anticipated to last longer than 48 hours. Facilities downstream of the bridge will not be required to move vessels moored at their facility as long as they do not extend into the Federal navigation channel and would be able to depart the facility before, or after, the two barges carrying the bridge span are towed past the facility. Moreover, the Coast Guard will issue a Local Notice to Mariners and a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zones.

B. Impact on Small Entities

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

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

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and

Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a stationary safety zone lasting approximately 48 hours, a moving safety zone lasting approximately one hour that will prohibit transit within 500 feet of the two barges and assist vessels carrying the bridge span, and a stationary safety zone lasting approximately three hours that will prohibit transit within 600 feet of the existing bridge during explosives demolition operations at each onshore approach span. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration (REC) for Categorically Excluded Actions is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

G. Protest Activities

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

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T01–1048 to read as follows:

§ 165.T01–1048 Safety Zone; Kosciuszko Bridge Construction, Newtown Creek, Brooklyn and Queens, NY.

(a) *Location.* (1) The following area is a safety zone: All waters from surface to bottom of Newtown Creek within 500 feet of the two barges and assist vessels while lowering and securing the existing Kosciuszko Bridge center span at mile 2.1 to the two barges. This area is bound by the following approximate positions: northwest of a line drawn from 40°43′34.9″ N., 073°55′42.0″ W. to 40°43′36.8″ N., 073°55′39.8″ W. (approximately 500 feet south (upstream) of the Kosciuszko Bridge at mile 2.1), and southeast of a line drawn from 40°43′40.6″ N., 073°55′52.8″ W. to 40°43′43.1″ N., 073°55′49.9″ W. (approximately 500 feet downstream of the Kosciuszko Bridge at mile 2.1) (NAD 83).

(2) The following area is a moving safety zone: All waters from surface to bottom of Newtown Creek within 500 feet of the two barges and assist vessels while transiting Newtown Creek between Latitude 40°43′30.0″ N. (approximately 370 yards south (upstream) of the Kosciuszko Bridge at mile 2.1), and east of a line drawn from the following approximate positions: 40°44′17.1″ N., 073°57′45.6″ W. to 40°44′10.4″ N., 073°57′45.6″ W. (at the confluence with the East River) (NAD 83).

(b) *Definitions.* The following definitions apply to this section:

(1) *Designated Representative.* A ''designated representative'' is any Coast Guard commissioned, warrant or petty officer of the U.S. Coast Guard who has been designated by the COTP to act on his or her behalf. A designated representative may be on an official patrol vessel or may be on shore and will communicate with vessels via VHF–FM radio or loudhailer. In addition, members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation.

(2) *Official Patrol Vessels.* Official patrol vessels may consist of any Coast Guard, Coast Guard Auxiliary, state, or local law enforcement vessels assigned or approved by the COTP.

(c) *Enforcement Periods.* (1) This safety zone is effective from June 21, 2017 to December 31, 2017 but will only be enforced when active center span lowering, securing, and towing operations are in progress.

(2) The Coast Guard will rely on marine broadcasts and local notice to mariners to notify the public of the time and duration that the safety zone will be enforced. Violations of this safety zone may be reported to the COTP at 718–354–4353 or on VHF-Channel 16.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23, as well as the following regulations, apply.

(2) During periods of enforcement, all persons and vessels must comply with all orders and directions from the COTP or a COTP's designated representative.

(3) During periods of enforcement, upon being hailed by a U.S. Coast Guard vessel by siren, radio, flashing light, or other means, the operator of the vessel must proceed as directed.

Dated: June 1, 2017.

Michael H. Day,

Captain, U.S. Coast Guard, Captain of the Port New York.

[FR Doc. 2017–12855 Filed 6–19–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 312

[EPA–HQ–OLEM–2016–0786; FRL–9958–47–OLEM]

Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to amend the Standards and Practices for All Appropriate Inquiries to update an existing reference to a standard practice recently revised by ASTM International, a widely recognized standards development organization. Specifically, this direct final rule amends the All Appropriate Inquiries Rule to reference ASTM International's E2247–16 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' and allow for its use to satisfy the statutory requirements for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA).

DATES: This rule is effective on September 18, 2017, without further notice, unless EPA receives adverse comment by July 20, 2017. If EPA receives such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2016–0786 at *http://www.regulations.gov.* Follow the online

instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION, CONTACT: For general information, contact the CERCLA Call Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC metropolitan area, call 703–412–9810 or TDD 703–412–3323. For more detailed information on specific aspects of this rule, contact Patricia Overmeyer, Office of Brownfields and Land Revitalization (5105T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0002, 202–566–2774, or *overmeyer.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Why is EPA using a Direct Final Rule?

EPA is publishing this rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment as this action is just revising an existing reference in part 312 to the updated version of a standard practice recently made available by ASTM International (E2247–16). However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule if adverse comments are received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We would address all public comments in any subsequent final rule based on the proposed rule.

B. Does this action apply to me?

This action offers certain parties the option of using an available industry standard to conduct all appropriate inquiries at certain properties. Parties purchasing large tracts of forested land and parties purchasing large rural properties may use the ASTM E2247–16 standard practice to comply with the all appropriate inquiries requirements of CERCLA. This rule does not require any entity to use this standard. Any party who wants to claim protection from liability under CERCLA may follow the regulatory requirements of the All Appropriate Inquiries Rule at 40 CFR part 312, use the ASTM E1527–13 Standard Practice for Phase I Environmental Site Assessments to comply with the all appropriate inquiries provision of CERCLA, or use the standard recognized in this direct final rule, the ASTM E2247–16 standard.

Entities potentially affected by this action, or who may choose to use the newly referenced ASTM standard to perform all appropriate inquiries, include public and private parties who, as bona fide prospective purchasers, contiguous property owners, or innocent landowners, are purchasing large tracts of forested lands or large rural properties and intend to claim a limitation on CERCLA liability in conjunction with the property purchase. In addition, any entity conducting a site characterization or assessment on a property that consists of large tracts of forested land or a large rural property with a brownfields grant awarded under CERCLA Section 104(k)(2)(B)(ii) may be affected by this action. This includes state, local and Tribal governments that receive brownfields site assessment grants. A summary of the potentially affected industry sectors (by North American Industry Classification System (NAICS) codes) is displayed in the table below.

Industry category	NAICS code
Real Estate	531
Insurance	52412
Banking/Real Estate Credit.	52292
Environmental Consulting Services.	54162
State, Local and Tribal Government.	926110, 925120
Federal Government	925120, 921190, 924120

The list of potentially affected entities in the above table may not be exhaustive. Our aim is to provide a guide for readers regarding those entities that EPA is aware potentially could be affected by this action. However, this action may affect other entities not listed in the table. If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding section entitled **FOR FURTHER INFORMATION CONTACT**.

C. Statutory Authority

This direct final rule amends the All Appropriate Inquiries Rule setting federal standards for the conduct of ''all appropriate inquiries'' at 40 CFR part 312. The All Appropriate Inquiries Rule sets forth standards and practices necessary for fulfilling the requirements of CERCLA section 101(35)(B) as required to obtain CERCLA liability relief and for conducting site characterizations and assessments with the use of brownfields grants per CERCLA section 104(k)(2)(B)(ii).

II. Background

On January 11, 2002, President Bush signed the Small Business Liability Relief and Brownfields Revitalization Act (''the Brownfields Amendments''). In general, the Brownfields Amendments to CERCLA provide funds to assess and clean up brownfields sites; clarifies CERCLA liability provisions related to innocent purchasers of contaminated properties; and provides funding to enhance State and Tribal cleanup programs. In part, subtitle B of the Brownfields Amendments revises some of the provisions of CERCLA section 101(35) and limits Superfund liability under Section 107 for bona fide prospective purchasers and contiguous property owners, in addition to clarifying the requirements necessary to establish the innocent landowner defense under CERCLA. The Brownfields Amendments clarified the requirement that parties purchasing potentially contaminated property undertake ''all appropriate inquiries'' into prior ownership and use of property prior to purchasing the property in order to qualify for protection from CERCLA liability.

The Brownfields Amendments required EPA to develop regulations establishing standards and practices for how to conduct all appropriate inquiries. EPA promulgated regulations that set standards and practices for all appropriate inquiries on November 1, 2005 (70 FR 66070). In the final regulation, EPA referenced, and recognized as compliant with the final

rule, the ASTM E1527–05 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process.'' The regulation was amended in December 2013 to recognize the revised ASTM E1527–13, ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process'' (78 FR 79319). EPA also amended the All Appropriate Inquiries Rule in December 2008 to recognize another ASTM standard as compliant with the final rule, the ASTM E2247–08 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' (73 FR 78716). Therefore, the All Appropriate Inquiries Rule (40 CFR part 312) currently allows for the use of both the ASTM E1527–13 and the ASTM E2247–08 standards to conduct all appropriate inquiries, in lieu of following requirements included in the final rule. Note that in October 2014, EPA withdrew the reference to the ASTM E1527–05 standard from the AAI rule (79 FR 60087).

Since EPA promulgated the All Appropriate Inquiries Rule setting standards and practices for the conduct of all appropriate inquiries, ASTM International published a revised Phase I site assessment standard for conducting Phase I environmental site assessments of large tracts of rural and forestland properties. This standard, ASTM E2247–16, ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property,'' was reviewed by EPA, in response to a request for its review by ASTM International, and determined by EPA to be compliant with the requirements of the All Appropriate Inquiries Rule.

II. What does this action do?

This direct final rule amends the All Appropriate Inquiries Rule to allow the use of the recently revised ASTM standard, E2247–16, for conducting all appropriate inquiries, as required under CERCLA for establishing the innocent landowner defense, as well as qualifying for the bona fide prospective purchaser and contiguous property owner liability protections.

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113, section 12(d) (15 U.S.C. 272)) directs agencies to use technical standards that are developed or adopted by voluntary consensus standards bodies, unless their use would be inconsistent with applicable law or otherwise impracticable. ASTM International is an internationally recognized voluntary consensus standard body. The ASTM E2247–16 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' includes an environmental site assessment process that EPA finds is not inconsistent with the standards and practices included in the All Appropriate Inquiries Rule.

With this action, EPA is establishing that, parties seeking liability relief under CERCLA's landowner liability protections, as well as recipients of brownfields grants for conducting site assessments, will be considered to be in compliance with the requirements for all appropriate inquiries, as required in the Brownfields Amendments to CERCLA, if such parties satisfy the applicability requirements and comply with the procedures provided in the ASTM E2247–16, ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.'' EPA determined that it is reasonable to promulgate this clarification as a direct final rule that is effective 90 days from the date of publication in the **Federal Register**, rather than delay promulgation of the clarification until after receipt and consideration of public comments. EPA made this determination based upon the Agency's finding that the ASTM E2247–16 standard is ''not inconsistent with,'' and compliant with the All Appropriate Inquiries Rule and the Agency sees no reason to delay allowing for its use in conducting all appropriate inquiries. The Agency notes that this action does not require any party to use the ASTM E2247–16 standard. Any party conducting all appropriate inquiries to comply with the CERCLA requirements at section 101(35)(B) for the innocent landowner defense, the contiguous property owner liability protection, or the bona fide prospective purchaser liability protection may continue to follow the provisions of the All Appropriate Inquiries Rule at 40 CFR part 312, use the ASTM E1527–13 Standard or use the ASTM E2247–16 standard, as applicable.

In taking this action, the Agency is allowing for the use of an additional recognized standard or customary business practice, in complying with a federal regulation. This action does not require any person to use the newly revised standard. This action merely allows for the use of ASTM International's E2247–16 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' for those parties purchasing relatively large tracts of rural property or forestlands who want to use the ASTM E2247–16 standard in lieu of the following specific requirements of the all appropriate inquiries rule or the ASTM E1527–13 standard.

The Agency notes that there are no significant differences between the regulatory requirements in the All Appropriate Inquiries Rule and the standards and practices included in the two ASTM standards (ASTM E1527–13 and ASTM E2247–16). To facilitate an understanding of the revisions to the ASTM E2247–08 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Standard for Forestland or Rural Property, which was recognized by EPA as compliant with the requirements of the all appropriate inquiries regulation in 2013, and the revised ASTM E2247–16 Standard, which replaces the ASTM E2247–08 standard, EPA developed, and placed in the docket for this action, the document ''Summary of Updates and Revisions to ASTM E2247 Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.'' Also in the docket for this action is the document ''Comparison of the All Appropriate Inquiries Regulation, the ASTM E1527–13 Phase I Environmental Site Assessment Process and the ASTM E2247–16 Phase I Environmental Site Assessment Process for Forestland or Rural Property Standard.'' This document provides an overview of the similarities and slight differences between the AAI regulatory requirements and the requirements included in the two ASTM phase I environmental site assessment standards.

This action includes no changes to the All Appropriate Inquiries Rule other than to update the reference in the regulation for the ASTM E2247 standard. This action replaces the reference to the ASTM E2247–08 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' in the All Appropriate Inquiries Rule with the updated ASTM E2247–16 standard of the same name. EPA is not seeking comments on the standards and practices included in the final rule published at 40 part 312. Also, EPA is not seeking comments on the ASTM E2247–16 standard. EPA's only action with this direct final rule is recognition of the ASTM E2247–16 standard as compliant with the final rule, and

therefore it is only this action on which the Agency is seeking comment.

IV. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), this action is not a ''significant regulatory action'' and is therefore not subject to OMB review. Further, this action will not have a significant impact on a substantial number of small entities and, as a result, is not subject to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate or the private sector in any one year, and does not contain regulatory requirements that might significantly or uniquely affect small governments, it is not subject to Sections 202, 203, and 205 of the Unfunded Mandates Reform Act of 1999 (UMRA) (Pub. L. 104–4). This action does not create new binding legal requirements that substantially and directly affect Tribes under Executive Order 13175 (65 FR 67249, November 9, 2000). This action does not have significant Federalism implications under Executive Order 13132 (64 FR 43255, August 10, 1999). 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).

A. National Technology Transfer and Advancement Act (NTTAA)

This action involves technical standards. This action allows for the use of the ASTM International Standard known as Standard E2247–16 and entitled ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.''

B. Congressional Review Act

This action is subject to the Congressional Review Act (CRA), and the EPA will submit a rule report to each House of Congress and to the Comptroller General of the United States. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 312

Environmental Protection, Administrative practice and procedure, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements, Superfund.

Dated: June 12, 2017.

Barry N. Breen,

Acting Assistant Administrator, Office of Land and Emergency Management.

For the reasons set out in the preamble, the Environmental Protection Agency amends title 40 chapter I of the code of Federal Regulations as follows:

PART 312—INNOCENT LANDOWNERS, STANDARDS FOR CONDUCTING ALL APPROPRIATE INQUIRIES

■ 1. The authority citation for part 312 continues to read as follows:

Authority: Section 101(35)(B) of CERCLA, as amended, 42 U.S.C. 9601(35)(B).

■ 2. Section 312.11 is amended by revising paragraph (a) to read as follows:

§ 312.11 References.

* * * * *

(a) The procedures of ASTM International Standard E2247–16 entitled ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property.'' This standard is available from ASTM International at *www.astm.org,* 1–610–832–9585.

* * * * *

[FR Doc. 2017–12841 Filed 6–19–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 300

[Docket No. 161223999–7438–03]

RIN 0648–BG61

Pacific Halibut Fisheries; Catch Sharing Plan; Correction

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

ACTION: Final rule; correction.

SUMMARY: On April 20, 2017, NMFS published a final rule to implement the portions of the Pacific Halibut Catch Share Plan (Plan) and management measures that are not regulated through the International Pacific Halibut Commission (IPHC), including the sport fishery allocations and management measures for the IPHC's regulatory Area 2A off Washington, Oregon, and California (Area 2A). This regulation corrects the opening dates for the 2017 sport fishery in the Columbia River subarea (Leadbetter Point, WA to Cape Falcon, OR); these were incorrect in the original rule.

DATES: This correction is effective June 19, 2017.

FOR FURTHER INFORMATION CONTACT: Gretchen Hanshew, phone: 206–526–6147, fax: 206–526–6736, or email: *gretchen.hanshew@noaa.gov.*

SUPPLEMENTARY INFORMATION:

Need for Correction

On April 20, 2017, NMFS published a final rule (82 FR 18581) that implemented the Plan and management measures that are not regulated through the IPHC, including the sport fishery allocations and management measures for the IPHC's regulatory Area 2A. Subsequent to publication in the **Federal Register**, two typographical errors were noted in the section ''2017 Sport Management Measures,'' in the Columbia River subarea.

On page 18583, in the last line of the third column, an incorrect date was provided for the opening of the nearshore fishery in the Columbia River subarea. This rule corrects the date to be consistent with the Plan and state regulations. The Plan describes that the nearshore fishery in this subarea opens subsequent to the all-depth fishery, on the first Monday following the opening of the all-depth fishery. State regulations correctly announced the 2017 date that conforms with the Plan framework, Monday, May 8, 2017.

On page 18584, in the fifth line of the first column, an incorrect date was provided for the opening of the all-depth fishery in the Columbia River subarea. This rule corrects the date to be consistent with the Plan and state regulations. The Plan describes that the all-depth fishery in this subarea opens the first Thursday of May, or on May 1 if it is a Friday, Saturday or Sunday. State regulations correctly announced the 2017 date that conforms with the Plan framework, Thursday, May 4, 2017.

The affected states and IPHC staff have been notified of these corrections, and the pending correct dates have been announced on NMFS's halibut hotline (1–800–662–9825 or 206 526–6667). NMFS will not take enforcement action against any individuals who relied on the original, incorrect dates in good faith. Therefore, these corrections are anticipated by the public and the state regulatory agencies, and their implementation will cause no harm.

Correction

In the **Federal Register** of April 20, 2017 (82 FR 18581), paragraph (8)(d)(i), beginning on page 18583, is corrected to read as follows:

(i) This subarea is divided into an all-depth fishery and a nearshore fishery. The nearshore fishery is allocated 500 pounds of the subarea allocation. The nearshore fishery extends from Leadbetter Point (46°38.17′ N. lat., 124°15.88′ W. long.) to the Columbia River (46°16.00′ N. lat., 124°15.88′ W. long.) by connecting the following coordinates in Washington 46°38.17′ N. lat., 124°15.88′ W. long., 46°16.00′ N. lat., 124°15.88′ W. long. and connecting to the boundary line approximating the 40 fm (73 m) depth contour in Oregon. The nearshore fishery opens Monday, May 8, and continues 3 days per week (Monday–Wednesday) until the nearshore allocation is taken, or September 30, whichever is earlier. The all-depth fishing season commences on Thursday, May 4, and continues 4 days a week (Thursday–Sunday) until 12,799 lb (5.81 mt) are estimated to have been taken and the season is closed by the Commission, or September 30, whichever is earlier. Subsequent to this closure, if there is insufficient quota remaining in the Columbia River subarea for another fishing day, then any remaining quota may be transferred inseason to another Washington and/or Oregon subarea by NMFS via an update to the recreational halibut hotline. Any remaining quota would be transferred to each state in proportion to its contribution.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries (AA) finds there is good cause to waive prior notice and an opportunity for public comment on this action, as notice and comment would be unnecessary and contrary to public interest. Notice and comment are unnecessary and contrary to the public interest because this action corrects inadvertent errors in regulations for a fishery that opens on May 4, and immediate notice of the error and correction is necessary to prevent confusion among participants in the fishery that could result from the existing conflict between state and tribal regulations and the final rule. To effectively correct the error, this correction must go into effect as soon as possible, as the affected Pacific halibut sport fisheries open May 4. Thus, there is not sufficient time for notice and comment due to the imminent opening of the fishery. In addition, notice and comment is unnecessary because this action makes only minor changes of which the public, states, and IPHC staff are already aware. This correction will not affect the results of analyses conducted to support management decisions in the Pacific halibut fishery nor change the total catch of Pacific halibut. No change in operating practices in the fishery is required.

For the same reasons stated above, the AA has determined that good cause exists to waive the 30-day delay in effectiveness pursuant to 5 U.S.C. 553(d). Because prior notice and an opportunity for public comment are not required to be provided for this rule by 5 U.S.C. 553, or any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no Regulatory Flexibility Analysis is required for this rule and none has been prepared.

This final rule is not significant under Executive Order 12866.

Authority: 16 U.S.C. 773–773k; 1801 *et seq.*

Dated: June 14, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

[FR Doc. 2017–12722 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1206013412–2517–02]

RIN 0648–XF493

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2017 Commercial Accountability Measure and Closure for Gulf of Mexico Greater Amberjack

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial greater amberjack in the Gulf of Mexico (Gulf) reef fish fishery for the 2017 fishing year through this temporary rule. NMFS projects commercial landings for greater amberjack will reach the commercial annual catch target (ACT) by June 20, 2017. Therefore, NMFS closes the commercial sector for greater amberjack in the Gulf on June 20, 2017, and it will remain closed until the start of the next fishing year on January 1, 2018. This closure is necessary to protect the Gulf greater amberjack resource.

DATES: This rule is effective 12:01 a.m., local time, June 20, 2017, until 12:01 a.m., local time, January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *Kelli.ODonnell@noaa.gov*.

SUPPLEMENTARY INFORMATION: NMFS manages the reef fish fishery of the Gulf, which includes greater amberjack, under the Fishery Management Plan for the Reef Fish Resources of the Gulf (FMP). The Gulf of Mexico Fishery Management Council (Council) prepared the FMP and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622. All greater amberjack weights discussed in this temporary rule are in round weight.

The commercial annual catch limit (ACL) for Gulf greater amberjack is 464,400 lb (210,648 kg), as specified in 50 CFR 622.41(a)(1)(iii). The commercial quota (equivalent to the commercial ACT) is 394,740 lb (179,051 kg), as specified in 50 CFR 622.39(a)(1)(v).

Under 50 CFR 622.41(a)(1)(i), NMFS is required to close the commercial sector for greater amberjack when the commercial ACT is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined the commercial ACT will be reached by June 20, 2017. Accordingly, the commercial sector for Gulf greater amberjack is closed effective 12:01 a.m., local time, June 20, 2017, until 12:01 a.m., local time, January 1, 2018.

The operator of a vessel with a valid commercial vessel permit for Gulf reef fish with greater amberjack on board must have landed, bartered, traded, or sold such greater amberjack prior to 12:01 a.m., local time, June 20, 2017.

During the commercial closure, the sale or purchase of greater amberjack taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of greater amberjack that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, June 20, 2017, and were held in cold storage by a dealer or processor. The commercial sector for greater amberjack will reopen on January 1, 2018, the beginning of the 2018 greater amberjack commercial fishing season.

During the commercial closure, the bag and possession limits specified in 50 CFR 622.38(b)(1) apply to all harvest or possession of greater amberjack in or from the Gulf exclusive economic zone (EEZ). However, the recreational sector for greater amberjack closed on March 24, 2017, until the start of the next fishing year on January 1, 2018 (82 FR 14477, March 21, 2017). During this recreational closure, the bag and possession limits for greater amberjack in or from the Gulf EEZ are zero.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of Gulf greater amberjack and is consistent with the Magnuson-Stevens Act and other applicable laws.

This action is taken under 50 CFR 622.41(a)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act, because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA), finds that the need to immediately implement this action to close the commercial sector for greater amberjack constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures are unnecessary because the rule establishing the closure provisions was subject to notice and comment, and all that remains is to notify the public of the closure. Such procedures are contrary to the public interest because of the need to immediately implement this action to protect the greater amberjack stock. The capacity of the commercial sector allows for rapid harvest of the commercial quota, and prior notice and opportunity for public comment would require time and would potentially result in harvest exceeding the commercial ACL.

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: June 14, 2017.

Margo B. Schulze-Haugen,

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

[FR Doc. 2017–12746 Filed 6–14–17; 4:45 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 117
Tuesday, June 20, 2017

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

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. APHIS–2016–0051]

RIN 0579–AE31

Importation of Campanula Spp. Plants for Planting in Approved Growing Media From Denmark to the United States

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing the importation of plants for planting to authorize the importation of *Campanula* spp. plants for planting from Denmark in approved growing media into the United States, subject to a systems approach. The systems approach would consist of measures that are currently specified in the regulations as generally applicable to all plants for planting authorized importation into the United States in approved growing media. This proposed rule would allow for the importation of *Campanula* spp. plants for planting from Denmark in approved growing media, while providing protection against the introduction of plant pests.

DATES: We will consider all comments that we receive on or before August 21, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0051.*
- *Postal Mail/Commercial Delivery:* Send your comment to Docket No. APHIS–2016–0051, Regulatory Analysis and Development, PPD, APHIS, Station 3A–03.8, 4700 River Road Unit 118, Riverdale, MD 20737–1238.

Supporting documents and any comments we receive on this docket may be viewed at *http://www.regulations.gov/#!docketDetail;D=APHIS-2016-0051* or in our reading room, which is located in room 1141 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC. Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays. To be sure someone is there to help you, please call (202) 799–7039 before coming.

FOR FURTHER INFORMATION CONTACT: Dr. Narasimha Samboju, Senior Regulatory Policy Specialist, Plants for Planting Policy, PPQ, APHIS, 4700 River Road, Unit 133, Riverdale, MD 20737–1236; (301) 851–2038.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319 prohibit or restrict the importation of certain plants and plant products into the United States to prevent the introduction of quarantine plant pests. The regulations contained in ''Subpart—Plants for Planting,'' §§ 319.37 through 319.37–14 (referred to below as the regulations), prohibit or restrict, among other things, the importation of living plants, plant parts, and seeds for propagation or planting.

The regulations differentiate between prohibited articles and restricted articles. Prohibited articles are plants for planting whose importation into the United States is not authorized due to the risk the articles present of introducing or disseminating plant pests. Restricted articles are articles that may be imported into the United States, provided that the articles are subject to measures to address the associated risks.

Conditions for the importation into the United States of restricted articles in growing media are found in § 319.37–8. In § 319.37–8, the introductory text in paragraph (e) lists taxa of restricted articles that may be imported into the United States in approved growing media, subject to the provisions of a systems approach. Paragraph (e)(1) lists the approved growing media, while paragraph (e)(2) contains the provisions of the systems approach. Within paragraph (e)(2), paragraphs (i) through (viii) contain provisions that are generally applicable to all the taxa listed in the introductory text of paragraph (e), while paragraphs (ix) through (xiii) contain additional, taxon-specific provisions.

Currently, *Campanula* spp. plants for planting from Denmark are not authorized for importation into the United States in approved growing media. However, the Animal and Plant Health Inspection Service (APHIS) has received a request from the national plant protection organization (NPPO) of Denmark to authorize the importation of *Campanula* spp. plants for planting in approved growing media into the United States.

In evaluating Denmark's request, we conducted a pest risk assessment (PRA) and prepared a risk management document (RMD). Copies of the PRA and the RMD may be obtained from the person listed under **FOR FURTHER INFORMATION CONTACT** or viewed on the *Regulations.gov* Web site (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

The PRA, titled ''Importation of *Campanula* spp. in Approved Growing Media from Denmark into the United States,'' analyzed the potential pest risk associated with the importation of *Campanula* spp. plants for planting in approved growing media into the United States from Denmark.

The PRA identified 10 quarantine pests that could be introduced into the United States through the importation of *Campanula* spp. plants for planting from Denmark in approved growing media:

Leaf Miners

- *Liriomyza buhri,*
- *Liriomyza strigata,* and
- *Phytomyza campanulae*

Whitefly

- *Aleyrodes lonicerae*

Aphids

- *Aphis psammophila,*
- *Uroleucon campanulae,*
- *Uroleucon nigrocampanulae,* and
- *Uroleucon rapunculoidis*

Thrips

- *Thrips major*

Snail

- *Arianta arbustorum*

The PRA determined that these 10 pests pose a medium risk of following the pathway of *Campanula* spp. plants for planting in approved growing media from Denmark into the United States

and having negative effects on U.S. agriculture.

Based on these risk ratings, the RMD, titled ''Importation of *Campanula* spp. in Approved Growing Media from Denmark into the United States,'' identifies the phytosanitary measures necessary to ensure the safe importation into the United States of *Campanula* spp. plants for planting in approved growing media from Denmark. The RMD finds that the mitigations that are currently specified in paragraphs (e)(2)(i) through (e)(2)(viii) of § 319.37–8 and that are generally applicable to the importation of all restricted articles authorized importation into the United States in approved growing media will mitigate the risk associated with the importation of *Campanula* spp. plants for planting in approved growing media from Denmark into the United States.

Accordingly, we propose to amend the introductory text of paragraph (e) of § 319.37–8 to add *Campanula* spp. plants for planting from Denmark to the list of taxa authorized importation into the United States in approved growing media.

Executive Orders 12866 and 13771 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget. Further, because this proposed rule is not significant, it does not trigger the requirements of Executive Order 13771

In accordance with 5 U.S.C. 603, we have performed an initial regulatory flexibility analysis, which is summarized below, regarding the economic effects of this proposed rule on small entities. Copies of the full analysis are available by contacting the person listed under **FOR FURTHER INFORMATION CONTACT** or on the *Regulations.gov* Web site (see **ADDRESSES** above for instructions for accessing *Regulations.gov*).

Based on the information we have, there is no reason to conclude that adoption of this proposed rule would result in any significant economic effect on a substantial number of small entities. However, we do not currently have all of the data necessary for a comprehensive analysis of the effects of this proposed rule on small entities. Therefore, we are inviting comments on potential effects. In particular, we are interested in determining the number and kind of small entities that may incur benefits or costs from the implementation of this proposed rule.

In 2014, U.S. production of potted *Campanula* spp. plants was valued at $683,000. The Small Business Administration (SBA) small-entity standard for entities involved in floriculture production is $750,000 or less in annual receipts. It is probable that most domestic producers of potted *Campanula* are small entities by the SBA standard.

We do not have specific trade or production data for *Campanula* spp. plants in Denmark, but one Danish industry group estimated that production in 2010 reached 20 million units. The NPPO of Denmark estimates that shipments of *Campanula* plants in growing media to the United States may total $1 million annually, that is, the volume could reach a level higher than domestic U.S. production.

Although the rule could theoretically enable Denmark-based exporters to bypass U.S. growers altogether and provide finished plants directly to retailers, such a scenario is considered unlikely, given the additional shipping and marketing support costs associated with shipping finished plants in pots. It is more likely that the Danish growers would continue to export immature plants to U.S. growers who would then grow them out for sale as finished plants. Allowing the importation of *Campanula* spp. in growing media would positively affect the quality and health of any such imported plants relative to those imported without growing media, and might also result in related price adjustments for the retail market. It is unlikely that it would shorten the marketing chain by eliminating the role of intermediate handlers of plants. Instead, this action is likely to benefit both importers and domestic intermediate growers by increasing the production quality, while expanding the market size. It is possible that some domestic growers of unfinished *Campanula* would be competing directly with Danish suppliers, but at pre-saturation market levels, this is also unlikely to be a significant issue.

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. If this proposed rule is adopted: (1) All State and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

National Environmental Policy Act

To provide the public with documentation of APHIS' review and analysis of any potential environmental impacts associated with the importation of *Campanula* spp. plants in approved growing media from Denmark into the United States, we have prepared an environmental assessment. The environmental assessment was prepared in accordance with: (1) The National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), (2) regulations of the Council on Environmental Quality for implementing the procedural provisions of NEPA (40 CFR parts 1500–1508), (3) USDA regulations implementing NEPA (7 CFR part 1b), and (4) APHIS' NEPA Implementing Procedures (7 CFR part 372).

The environmental assessment may be viewed on the *Regulations.gov* Web site or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) In addition, copies may be obtained by calling or writing to the individual listed under **FOR FURTHER INFORMATION CONTACT**.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), reporting and recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send comments on the Information Collection Request (ICR) to OMB's Office of Information and Regulatory Affairs via email to *oira_submissions@omb.eop.gov,* Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. APHIS–2016–0051. Please send a copy of your comments to the USDA using one of the methods described under **ADDRESSES** at the beginning of this document.

APHIS is proposing to amend the regulations governing the importation of plants for planting to authorize the importation of *Campanula* spp. plants for planting from Denmark in approved growing media into the United States, subject to a systems approach. The systems approach would consist of measures that are currently specified in the regulations as generally applicable to all plants for planting authorized importation into the United States in approved growing media. This proposed rule would allow for the importation of *Campanula* spp. plants for planting from Denmark in approved growing media, while providing protection against the introduction of plant pests.

Implementing this information collection will require respondents to

complete a phytosanitary certificate, written compliance agreements, and inspections.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection requirements. These comments will help us:

(1) Evaluate whether the proposed information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond, (such as 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).

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.83 hours per response.

Respondents: Growers and the national plant protection organization of Denmark.

Estimated number of respondents: 3.

Estimated number of responses per respondent: 62.

Estimated annual number of responses: 185.

Estimated total annual burden on respondents: 155 hours (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response).

A copy of the information collection may be viewed on the *Regulations.gov* Web site or in our reading room. (A link to *Regulations.gov* and information on the location and hours of the reading room are provided under the heading **ADDRESSES** at the beginning of this proposed rule.) Copies can also be obtained from Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483. APHIS will respond to any ICR-related comments in the final rule. All comments will also become a matter of public record.

E-Government Act Compliance

The Animal and Plant Health Inspection Service is committed to compliance with the EGovernment Act to promote the use of the Internet and other information technologies, to provide increased opportunities for citizen access to Government information and services, and for other purposes. For information pertinent to E-Government Act compliance related to this proposed rule, please contact Ms. Kimberly Hardy, APHIS' Information Collection Coordinator, at (301) 851–2483.

List of Subjects in 7 CFR Part 319

Coffee, Cotton, Fruits, Imports, Logs, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, we propose to amend 7 CFR part 319 as follows:

PART 319–FOREIGN QUARANTINE NOTICES

■ 1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 450, 7701–7772, and 7781–7786; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.3.

§ 319.37–8 [Amended]

■ 2. In § 319.37–8, in the introductory text of paragraph (e), the list of plants is amended by adding, in alphabetical order, an entry for ''*Campanula* spp. from Denmark''.

Done in Washington, DC, this 14th day of June 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–12801 Filed 6–19–17; 8:45 am]

BILLING CODE 3410–34–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[NRC–2008–0602, NRC–2002–0020]

RIN 3150–AH43

Decoupling an Assumed Loss of Offsite Power From a Loss-of-Coolant Accident

AGENCY: Nuclear Regulatory Commission.

ACTION: Discontinuation of rulemaking activity and denial of petition for rulemaking.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is discontinuing the rulemaking activity, ''Decoupling an Assumed Loss of Offsite Power from a Loss-of-Coolant Accident'' (the LOOP/LOCA rulemaking), and denying the associated petition for rulemaking (PRM), PRM–50–77. The purpose of this action is to inform members of the public of the discontinuation of the rulemaking activity and the denial of the PRM, and to provide a brief discussion of the NRC's decision regarding the rulemaking activity and PRM. The rulemaking activity will no longer be reported in the NRC's portion of the Unified Agenda of Regulatory and Deregulatory Actions (the Unified Agenda).

DATES: Effective June 20, 2017, the rulemaking activity discussed in this document is discontinued and PRM–50–77 is denied.

ADDRESSES: Please refer to Docket IDs NRC–2008–0602 (rulemaking activity) and NRC–2002–0020 (PRM) 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 Web site:* Go to *http://www.regulations.gov* and search for Docket IDs NRC–2008–0602 (rulemaking activity) and NRC–2002–0020 (PRM). 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.
- *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.
- *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.

FOR FURTHER INFORMATION CONTACT: Robert Beall, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3874; email: *Robert.Beall@nrc.gov.*

SUPPLEMENTARY INFORMATION:

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II. Process for Discontinuing Rulemaking Activities
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IV. Petition for Rulemaking (PRM–50–77)
V. Conclusion

I. Background

In both SECY–01–0133, ''Status Report on Study of Risk-Informed Changes to the Technical Requirements of 10 CFR part 50 (Option 3) and Recommendations on Risk-Informed Changes to 10 CFR 50.46 (ECCS Acceptance Criteria),'' dated July 23, 2001 (ADAMS Accession No. ML011800492), and SECY–02–0057, ''Update to SECY–01–0133, 'Fourth Status Report on Study of Risk-Informed Changes to the Technical Requirements of 10 CFR part 50 (Option 3) and Recommendations on Risk-Informed Changes to 10 CFR 50.46 (ECCS Acceptance Criteria)' '' (ADAMS Accession No. ML020660607), the NRC staff recommended developing a possible risk-informed alternative to reliability requirements in § 50.46 of title 10 of the *Code of Federal Regulations* (10 CFR) and General Design Criterion (GDC) 35, ''Emergency Core Cooling,'' of appendix A, ''General Design Criteria for Nuclear Power Plants,'' to 10 CFR part 50, ''Domestic Licensing of Production and Utilization Facilities.'' On March 31, 2003, in the staff requirements memorandum (SRM) for SECY–02–0057, the Commission directed the NRC staff to proceed with a rulemaking to risk-inform the emergency core cooling system (ECCS) functional reliability requirements in GDC 35 (ADAMS Accession No. ML030910476). This proposed rulemaking would provide licensees an option to relax the current analysis requirements for considering a loss of offsite power (LOOP) to occur coincident with a large-break loss-of-coolant accident (LOCA) (the LOOP/LOCA rulemaking). The SRM also stated that the NRC staff should include relevant issues and uncertainties that can impact plant risk (*e.g.,* delayed LOOP and ''double sequencing'' [1] of safety functions).

In parallel with the LOOP/LOCA rulemaking, the NRC pursued a separate rulemaking for a risk-informed definition of large-break LOCA ECCS analysis requirements (the 50.46a ECCS rulemaking). The proposed regulations in the 50.46a ECCS rulemaking would have allowed both pressurized water reactors (PWRs) and boiling water reactors (BWRs) to decouple a LOOP from a LOCA for certain break sizes.

II. Process for Discontinuing Rulemaking Activities

When the NRC staff identifies a rulemaking activity that can be discontinued, the staff requests approval from the Commission to discontinue it in a Commission paper. The Commission provides its decision in an SRM. If the Commission approves discontinuing a rulemaking activity, the NRC staff informs the public of the Commission's decision.

A rulemaking activity may be discontinued at any stage in the rulemaking process. For a rulemaking activity that has received public comments, the NRC considers those comments before discontinuing the rulemaking activity; however, the NRC staff will not provide individual comment responses.

After Commission approval to discontinue the rulemaking activity, the NRC staff updates the next edition of the Unified Agenda to indicate that the rulemaking is discontinued. The rulemaking activity will appear in the completed section of that edition of the Unified Agenda but will not appear in future editions.

A rulemaking activity proposed for discontinuation may have been initiated in response to accepting one or more PRMs, or may include issues from one or more PRMs that were accepted and added to the ongoing related rulemaking activity. Therefore, discontinuation of the rulemaking activity also requires the NRC to take action to resolve the associated PRM(s) and to inform the petitioner(s) and the public of the NRC's action. The NRC's action to discontinue a rulemaking would normally result in NRC denial of the associated PRM for the same reasons.

III. Decoupling an Assumed Loss of Offsite Power From a Loss-of-Coolant Accident

The Boiling Water Reactor Owners Group (BWROG) submitted for NRC review a licensing topical report NEDO–33148, ''Separation of Loss of Offsite Power from Large Break LOCA,'' dated April 27, 2004 (ADAMS Accession No. ML041210900). The BWROG stated that the licensing topical report would support plant-specific exemption requests to implement plant changes that are currently not possible with the existing regulatory requirements to consider a LOOP coincident with a large break LOCA. The NRC intended to derive some of the technical support for the proposed LOOP/LOCA rulemaking from NEDO–33148. The proposed rulemaking would allow BWR licensees to make specific design changes that otherwise could not be made without exemptions from the current 10 CFR 50.46 requirements.

The BWROG initially chose to pursue an approach that relied on a generic probabilistic risk assessment (PRA) and other published reports for justification of several important assumptions made in NEDO–33148 (*e.g.,* large-break LOCA probability, consequential/delayed LOOP, and double sequencing of electrical loads). The BWROG proposed to address these issues in Revision 2 of NEDO–33148, which was submitted on August 25, 2006 (ADAMS Accession No. ML062480321). Revision 2 presented the risk analyses as risk assessment methodologies rather than a generic risk assessment. In a letter to the BWROG dated March 24, 2008 (ADAMS Accession No. ML080230696), the NRC detailed the conditions and limitations that were required for approval of NEDO–33148, Revision 2. Some of the outstanding technical issues included LOOP/LOCA frequency determinations, seismic contributions to break frequency, the maintenance of defense-in-depth, and the treatment of delayed LOOP and double sequencing issues. The NRC staff determined that these issues needed to be adequately addressed in order to complete a regulatory basis that could support a proposed LOOP/LOCA rulemaking.

On June 12, 2008, the BWROG formally withdrew its licensing topical report, NEDO–33148, from further NRC review and discontinued its supporting effort. The BWROG's withdrawal letter (ADAMS Accession No. ML081680048) stated that further development of NEDO–33148 ''is no longer cost effective and, if ultimately approved in the form presently desired by NRC staff, adoption by licensees would most likely be prohibitively expensive.'' The withdrawal of NEDO–33148 and the discontinued effort by the BWROG demonstrated a potential loss of industry interest in this initiative.

In SECY–09–0140, ''Rulemaking Related to Decoupling an Assumed Loss of Offsite Power From a Loss-of-Coolant Accident, 10 CFR part 50, Appendix A, General Design Criterion 35 (RIN 3150–AH43),'' dated September 28, 2009 (ADAMS Accession No. ML092151078), the NRC staff proposed three options for the Commission to consider as a path

[1] Double sequencing is defined as a situation where electrically powered safety and accident mitigation equipment automatically start, shut down, and restart in rapid succession when called on to operate. Delayed LOOP and double sequencing were evaluated and dispositioned in GSI–171, ''ESF Failure from LOOP Subsequent to LOCA,'' for the current regulations (*https://www.nrc.gov/sr0933/Section%203.%20New%20Generic%20Issues/171r1.html#*). GSI–171 does not need to be reevaluated if the LOOP/LOCA rulemaking is discontinued.

forward on the LOOP/LOCA rulemaking: (1) Discontinue the LOOP/LOCA rulemaking, (2) proceed with the LOOP/LOCA rulemaking without the BWROG topical report, or (3) continue to defer the LOOP/LOCA rulemaking until implementation of the 50.46a ECCS rulemaking. The Commission approved the third option, to defer the LOOP/LOCA rulemaking, in the SRM for SECY–09–0140, dated July 2, 2010 (ADAMS Accession No. ML101830056).

In SECY–16–0009, ''Recommendations Resulting from the Integrated Prioritization and Re-Baselining of Agency Activities,'' dated January 31, 2016 (ADAMS Accession No. ML16028A189), the NRC staff recommended that the 50.46a ECCS rulemaking be discontinued. In the SRM for SECY–16–0009, dated April 13, 2016 (ADAMS Accession No. ML16104A158), the Commission approved discontinuing the 50.46a ECCS rulemaking. A **Federal Register** notice, published on October 6, 2016 (81 FR 69446), informed the public of the NRC's decision to discontinue the 50.46a ECCS rulemaking.

In support of the potential risk-informed alternative to reliability requirements in 10 CFR 50.46 and GDC 35, the NRC performed substantial work in a number of technical areas, including estimating LOCA frequencies and the conditional probability of a LOOP, given a LOCA (see memorandum from A. Thadani to S. Collins, ''Transmittal of Technical Work to Support Possible Rulemaking on a Risk-Informed Alternative to 10 CFR 50.46/GDC 35,'' dated July 31, 2002 (ADAMS Accession No. ML022120661)). As part of this work, the NRC identified a number of areas of uncertainty associated with estimating the conditional probability of a LOOP, given occurrence of a LOCA, including very limited data on major ECCS actuations and LOOPs after such actuations, incomplete knowledge about all of the factors that can impact the probability of consequential LOOP because of electrical transient factors,[2] and the impact on offsite system voltage due to deregulation of the electric utility industry. To complete a fully developed regulatory basis for the LOOP/LOCA rulemaking, the NRC staff would need to ensure that these areas of uncertainty are adequately addressed as part of the rulemaking activity.

On June 28, 2016, and October 26, 2016, the NRC held public meetings (ADAMS Accession Nos. ML16203A003 and ML16319A153, respectively) to receive external stakeholder feedback on the need for a LOOP/LOCA rulemaking. The NRC presented information on what would be required by the NRC and the industry to continue the proposed rulemaking activity. The NRC's position was similar to the March 24, 2008, letter to the BWROG detailing the information that would be needed to complete review of licensing topical report NEDO–33148. Representatives from the Nuclear Energy Institute and the PWR and BWR Owners Groups also presented their perspectives on continuing the proposed LOOP/LOCA rulemaking effort. The industry re-stated its view from the 2008 withdrawal of the licensing topical report that the estimated implementation costs would be prohibitively expensive for the benefit received. In addition, industry representatives recommended that the NRC staff devote its resources to other risk-informed licensing activities that have significantly higher industry interest, such as applications to implement 10 CFR 50.69, ''Risk-informed categorization and treatment of structures, systems and components for nuclear power reactors,'' and risk-informed technical specifications.

The NRC is discontinuing the LOOP/LOCA rulemaking activity. The current regulations provide adequate protection of public health and safety. This rulemaking would have provided licensees an option to relax the current analysis requirements for considering a LOOP to occur coincident with a LOCA. Based on the feedback from the industry, it is unlikely that any licensee would seek licensing basis changes that would rely on the proposed rulemaking. The issues that caused the industry to withdraw the BWROG topical report in 2008 are still applicable today and the industry has greater interest in the progress of other risk-informed initiatives. Therefore, pursuit of this effort would likely have minimal practical impact on safety. Based upon (1) the assessment that there is no current adequate protection issue with respect to compliance with the current ECCS rule, (2) the lack of significant safety benefits from the rulemaking, (3) the industry's representation that it would be unlikely for any licensee to voluntarily use the LOOP/LOCA rule because the estimated implementation costs would be prohibitively expensive for the benefit received, and (4) the industry's stated interest in pursuing other risk-informed licensing activities, the NRC is discontinuing the LOOP/LOCA rulemaking.

IV. Petition for Rulemaking (PRM–50–77)

On May 2, 2002, the NRC received a PRM from Bob Christie, Performance Technology (ADAMS Accession No. ML082530041), related to the topics in the proposed LOOP/LOCA rulemaking. The PRM requested that the NRC amend its regulations in appendix A to 10 CFR part 50 to eliminate the requirement to assume a LOOP coincident with postulated accidents. The NRC docketed the petition and assigned it Docket No. PRM–50–77. The NRC published a notice of receipt and request for comment on the PRM on June 13, 2002 (67 FR 40622), and received one comment supporting the PRM from the Strategic Teaming and Resource Sharing organization (ADAMS Accession No. ML022490192). The petition was resolved by a decision to consider its issues within the LOOP/LOCA rulemaking, but the petition remained open because of the ongoing developments related to this rulemaking. However, in late 2007, the NRC Executive Director for Operations approved changes to the PRM process to enhance the efficiency and effectiveness of dispositioning a PRM. As a result of those enhancements, the NRC closed this petition on April 13, 2009 (74 FR 16802), with a commitment to follow through with the original resolution to consider it within the LOOP/LOCA rulemaking.

Because of the agency's decision to discontinue the LOOP/LOCA rulemaking, the associated petition, PRM–50–77, is denied for the reasons discussed above. As provided at § 2.803(i)(2), the NRC has decided not to complete the rulemaking action and is documenting this denial of the PRM in the docket for the closed PRM.

V. Conclusion

The NRC is no longer pursuing the LOOP/LOCA rulemaking and is denying PRM–50–77 for the reasons discussed in this document. In the next edition of the Unified Agenda, the NRC will update the entry for the rulemaking activity and reference this document to indicate that the rulemaking is no longer being pursued. The rulemaking activity will appear in the completed actions section of that edition of the Unified Agenda but will not appear in future editions. If the NRC decides to pursue a similar or related rulemaking activity in the future, it will inform the public through a new rulemaking entry in the Unified Agenda.

Dated at Rockville, Maryland, this 14th day of June 2017.

[2] As used here, transient factors include the electrical disturbance triggered by starting electrically powered safety and accident mitigation equipment as a result of the LOCA and the conditions of the offsite transmission system grid.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2017–12792 Filed 6–19–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0561; Directorate Identifier 2016–NM–141–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2001–16–01, which applies to certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes, and certain Model A340 series airplanes; and AD 2014–17–06, which applies to all Airbus Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes. AD 2001–16–01 requires inspections for cracking of the aft cargo compartment door, and corrective action if necessary. AD 2014–17–06 requires revising the maintenance or inspection program, as applicable, to incorporate structural inspection requirements. Since we issued AD 2001–16–01 and AD 2014–17–06, we have determined that more restrictive maintenance instructions and airworthiness limitations are necessary. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate new or revised airworthiness limitation requirements; and remove airplanes from the applicability. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 4, 2017.

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

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

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0561; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

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–2017–0561; Directorate Identifier 2016–NM–141–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 we receive about this proposed AD.

Discussion

On July 26, 2001, we issued AD 2001–16–01, Amendment 39–12369 (66 FR 40874, August 6, 2001) (''AD 2001–16–01''), for certain Airbus Model A330–301, –321, –322, –341, and –342 airplanes, and certain Model A340 series airplanes. AD 2001–16–01 was prompted by reports of cracking in several structural parts of the aft cargo compartment door. AD 2001–16–01 requires repetitive inspections to detect cracking of the aft cargo compartment door, and corrective action if necessary; and also provides optional terminating action for the repetitive inspections. We issued AD 2001–16–01 to detect and correct cracking of the aft cargo compartment door, which could result in reduced structural integrity of the airplane.

On August 15, 2014, we issued AD 2014–17–06, Amendment 39–17959 (79 FR 52181, September 3, 2014) (''AD 2014–17–06''), for all Airbus Model A330–200 series airplanes, Model A330–200 Freighter series airplanes, and Model A330–300 series airplanes. AD 2014–17–06 superseded AD 2011–17–08, Amendment 39–16772 (76 FR 53303, August 26, 2011). AD 2014–17–06 was prompted by a revision of certain airworthiness limitations items documents, which specifies more restrictive instructions and/or airworthiness limitations. AD 2014–17–06 requires a revision to the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. We issued AD 2014–17–06 to detect and correct fatigue cracking, damage, and corrosion in certain structure, which could result in reduced structural integrity of the airplane.

Since we issued AD 2001–16–01 and AD 2014–17–06, we have determined that more restrictive maintenance instructions and airworthiness limitations are necessary, and that Model A340 series airplanes should be removed from the applicability as there are currently no Model A340 series airplanes on the U.S. register.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0152, dated July 27, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A330–200 Freighter, –200, and –300 series airplanes; and Model A340–200, –300, –500, and –600 series airplanes. The MCAI states:

The airworthiness limitations are currently defined and published in the Airbus A330 and A340 Airworthiness Limitations Section (ALS) documents.

The airworthiness limitations applicable to the Damage Tolerant Airworthiness Limitation Items (DT ALI), which are approved by EASA, are specified in Airbus A330 and A340 ALS Part 2. Failure to comply with these instructions could result in an unsafe condition [fatigue cracking, damage, and corrosion in a certain structure, which could result in reduced structural integrity of the airplane].

EASA issued AD 2012–0211 (for A330 aeroplanes) [which corresponds to FAA AD 2014–17–06] and AD 2013–0127 (for A340 aeroplanes) [which corresponds to FAA AD 2001–16–01] to require the actions as specified in Airbus A330 and A340 ALS Part 2 at original issue and Revision 01, respectively.

Since those [EASA] ADs were issued, Airbus issued Revision 01 and Revision 02, respectively, of Airbus A330 and A340 ALS Part 2, to introduce more restrictive maintenance requirements and/or airworthiness limitations.

For the reason described above, this [EASA] AD retains the requirements of EASA AD 2012–0211 and AD 2013–0127, which are superseded, and requires accomplishment of the actions specified in Airbus A330 ALS Part 2 Revision 01 including Variation 1.1 and Variation 1.2, or A340 ALS Part 2 Revision 02 including Variation 2.1 and Variation 2.2, as applicable (hereafter collectively referred to as 'the applicable ALS' in this [EASA] AD).

In addition, this [EASA] AD also supersedes DGAC France AD 2001–126(B), whose requirements applicable to A330 aeroplanes have been transferred into Airbus A330 ALS Part 2, and supersedes DGAC [Direction Générale de l'Aviation Civile] France AD 2001–124(B), EASA AD 2012–0031 and AD 2012–0167, whose requirements applicable to A340 aeroplanes have been transferred into Airbus A340 ALS Part 2 [EASA ADs 2001–124(B) and 2001–126(B) correspond with FAA AD 2001–16–01].

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0561.

Related Service Information Under 1 CFR Part 51

Airbus has issued the following service information, which describes airworthiness limitation requirements for damage-tolerant airworthiness limitation items. These documents are distinct since they provide different limitation requirements.

- Airbus A330 ALS Part 2, DT-ALI, Revision 01, issue 02, dated November 30, 2015.
- Airbus 330 ALS Part 2, DT-ALI, Variation 1.1, dated December 15, 2015.
- Airbus 330 ALS Part 2, DT-ALI, Variation 1.2, dated May 27, 2016.

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.

FAA's Determination and Requirements of This Proposed AD

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

This proposed AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an AMOC according to paragraph (l)(1) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

Differences Between This Proposed AD and the MCAI

This proposed AD does not include the Model A340 airplanes that are specified in the MCAI. We have added that MCAI to the required airworthiness actions list (RAAL) for the Model A340 airplanes.

The MCAI specifies that if there are findings from the ALS inspection tasks, corrective actions must be accomplished in accordance with Airbus maintenance documentation. However, this proposed AD does not include that requirement. Operators of U.S.-registered airplanes are required by general airworthiness and operational regulations to perform maintenance using methods that are acceptable to the FAA. We consider those methods to be adequate to address any corrective actions necessitated by the findings of ALS inspections required by this proposed AD.

Airworthiness Limitations Based on Type Design

The FAA recently became aware of an issue related to the applicability of ADs that require incorporation of an ALS revision into an operator's maintenance or inspection program.

Typically, when these types of ADs are issued by civil aviation authorities of other countries, they apply to all airplanes covered under an identified type certificate (TC). The corresponding FAA AD typically retains applicability to all of those airplanes.

In addition, U.S. operators must operate their airplanes in an airworthy condition, in accordance with 14 CFR 91.7(a). Included in this obligation is the requirement to perform any maintenance or inspections specified in the ALS, and in accordance with the ALS as specified in 14 CFR 43.16 and 91.403(c), unless an alternative has been approved by the FAA.

When a TC is issued for a type design, the specific ALS, including revisions, is a part of that type design, as specified in 14 CFR 21.31(c).

The sum effect of these operational and maintenance requirements is an obligation to comply with the ALS defined in the type design referenced in the manufacturer's conformity statement. This obligation may introduce a conflict with an AD that requires a specific ALS revision if new airplanes are delivered with a later revision as part of their type design.

To address this conflict, the FAA has approved alternative methods of compliance (AMOCs) that allow operators to incorporate the most recent ALS revision into their maintenance/inspection programs, in lieu of the ALS revision required by the AD. This eliminates the conflict and enables the operator to comply with both the AD and the type design.

However, compliance with AMOCs is normally optional, and we recently became aware that some operators choose to retain the AD-mandated ALS revision in their fleet-wide maintenance/inspection programs, including those for new airplanes delivered with later ALS revisions, to help standardize the maintenance of the fleet. To ensure that operators comply with the applicable ALS revision for newly delivered airplanes containing a later revision than that specified in an AD, we plan to limit the applicability of ADs that mandate ALS revisions to those airplanes that are subject to an earlier revision of the ALS, either as part of the type design or as mandated by an earlier AD.

For purposes of this NPRM, in order to ensure that affected airplanes are

maintained in accordance with mandatory instructions and airworthiness limitations, this NPRM includes the limitations specified in Airbus 330 ALS Part 2, DT-ALI, Variation 1.1, dated December 15, 2015; and Airbus 330 ALS Part 2, DT-ALI, Variation 1.2, dated May 27, 2016. This NPRM, therefore, applies to Model A330–200, –200 Freighter, and –300 series airplanes with an original certificate of airworthiness or original export certificate of airworthiness that was issued on or before May 27, 2016, the date of approval of Airbus 330 ALS Part 2, DT-ALI, Variation 1.2. Operators of airplanes with an original certificate of airworthiness or original export certificate of airworthiness issued after that date must comply with the airworthiness limitations specified as part of the approved type design and referenced on the type certificate data sheet.

Costs of Compliance

We estimate that this proposed AD affects 101 airplanes of U.S. registry.

The actions required by AD 2014–17–06, and retained in this proposed AD, take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Required parts cost about $0 per product. Based on these figures, the estimated cost of the actions that are required by AD 2014–17–06 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this proposed AD. The average labor rate is $85 per work-hour. Required parts would cost about $0 per product. Based on these figures, we estimate the cost of this proposed AD on U.S. operators to be $8,585, or $85 per product.

Authority for This Rulemaking

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

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

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; 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:

■ a. Removing Airworthiness Directives (AD) 2001–16–01, Amendment 39–12369 (66 FR 40874, August 6, 2001); and AD 2014–17–06, Amendment 39–17959 (79 FR 52181, September 3, 2014); and

■ b. Adding the following new AD:

Airbus: Docket No. FAA–2017–0561; Directorate Identifier 2016–NM–141–AD.

(a) Comments Due Date

We must receive comments by August 4, 2017.

(b) Affected ADs

This AD replaces AD 2001–16–01, Amendment 39–12369 (66 FR 40874, August 6, 2001) (''AD 2001–16–01''); and AD 2014–17–06, Amendment 39–17959 (79 FR 52181, September 3, 2014) (''AD 2014–17–06'').

(c) Applicability

This AD applies to the Airbus airplanes identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD, certificated in any category, with an original certificate of airworthiness or original export certificate of airworthiness issued on or before May 27, 2016.

(1) Airbus Model A330–201, –202, –203, –223, and –243 airplanes.

(2) Airbus Model A330–223F and –243F airplanes.

(3) Airbus Model A330–301, –302, –303, –321, –322, –323, –341, –342, and –343 airplanes.

(d) Subject

Air Transport Association (ATA) of America Code 05, Periodic inspections.

(e) Reason

This AD was prompted by a determination that more restrictive maintenance instructions and airworthiness limitations are necessary. We are issuing this AD to detect and correct fatigue cracking, damage, and corrosion in a certain structure, which could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Requirement: Maintenance or Inspection Program Revision, With a New Terminating Action

This paragraph restates the requirements of paragraph (i) of AD 2014–17–06, with a new terminating action. Accomplishing the revision required by paragraph (j) of this AD terminates the requirements of this paragraph.

(1) Within 3 months after October 8, 2014 (the effective date of AD 2014–17–06): Revise the maintenance or inspection program, as applicable, by incorporating Airbus Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation reference 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation reference 0GVLG130002/C01, dated March 26, 2013.

(2) Comply with all applicable instructions and airworthiness limitations included in Airbus Document AI/SE M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation reference 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation reference 0GVLG130002/C01, dated March 26, 2013. The initial compliance times for the actions specified in Airbus Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items,''

Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation reference 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' 0GVLG130002/C01, dated March 26, 2013; are at the times specified in Airbus Document AI/SE–M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012; ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation ref. 0GVLG120018/C0S, dated October 24, 2012; and ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation ref. 0GVLG130002/C01, dated March 26, 2013; or within 3 months after October 8, 2014 (the effective date of AD 2014–17–06), whichever occurs later.

(h) Retained Provision: Optional Compliance, With a New Terminating Action

This paragraph restates the provision in paragraph (j) of AD 2014–17–06, with a new terminating action. Compliance with tasks 533021–02–01, 533021–02–02, and 533021–02–03, specified in ''Variation to Issue 19 of ALI Document (referenced in ALS Part 2) Damage Tolerant Airworthiness Limitation Items (DT ALI),'' variation ref. 0GVLG120022/C0S, dated December 21, 2012, may be used as a method of compliance to tasks 533021–01–01, 533021–01–02, 533021–01–03 specified in Section 2.2.1 and 2.2.2 of Section 2, ''Airworthiness Limitations,'' of Airbus Document AI/SE M4/95A.0089/97, ''A330 Airworthiness Limitation Items,'' Issue 19, dated March 23, 2012. Accomplishing the revision required by paragraph (j) of this AD terminates the provision specified in this paragraph.

(i) Retained Requirement: No Alternative Intervals or Limits, With a New Exception

This paragraph restates the requirements of paragraph (k) of AD 2014–17–06, with a new exception. Except as provided by paragraph (h) of this AD and as required by paragraph (j) of this AD, after the maintenance or inspection program, as applicable, has been revised as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) under the provisions of paragraph (l)(1) of this AD.

(j) New Requirement: Maintenance or Inspection Program Revision

Within 3 months after the effective date of this AD: Revise the maintenance or inspection program, as applicable, by incorporating the service information specified in paragraphs (j)(1), (j)(2), and (j)(3) of this AD. The initial compliance times for the actions specified in the service information referenced in paragraphs (j)(1), (j)(2), and (j)(3) of this AD are the times specified in the applicable service information, or within 3 months after the effective date of this AD, whichever occurs later. Accomplishing the revision specified in this paragraph terminates the requirements of paragraph (g) of this AD and the provision specified in paragraph (h) of this AD.

(1) Airbus A330 Airworthiness Limitations Section (ALS) Part 2, Damage Tolerant Airworthiness Limitation Items (DT-ALI), Revision 01, issue 02, dated November 30, 2015.

(2) Airbus 330 ALS Part 2, DT-ALI, Variation 1.1, dated December 15, 2015.

(3) Airbus 330 ALS Part 2, DT-ALI, Variation 1.2, dated May 27, 2016.

(k) New Requirement: No Alternative Actions or Intervals

After the maintenance or inspection program, as applicable, has been revised, as required by paragraph (j) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an AMOC in accordance with the procedures specified in paragraph (l)(1) of this AD.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0152, dated July 27, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0561.

(2) For more information about this AD, contact Vladimir Ulyanov, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1138; fax 425–227–1149.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAL, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 45 80; email *airworthiness.A330-A340@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 9, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12614 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0559; Directorate Identifier 2017–NM–013–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP airplanes. This proposed AD was prompted by a report of damage found at the lower trailing edge panels of the left wing and a broken fuse pin of the landing gear beam end fitting. This proposed AD would require repetitive replacement or inspection of certain fuse pins, and applicable on-condition actions. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 4, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0559.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0559; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street 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: Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@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–2017–0559; Directorate Identifier 2017–NM–013–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 because of those comments.

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

Discussion

We have received a report indicating damage to the lower trailing edge panels of the left wing of a 747–400 airplane. Further inspection revealed that the left wing fuse pin of the landing gear beam end fitting had broken into two pieces. The airplane had 17,879 total flight cycles and 102,793 total flight hours at the time of the failure. Boeing has done an analysis and determined that the fuse pin broke as a result of fatigue. Fatigue cracking of the fuse pin, if not corrected, could result in a broken fuse pin. A broken fuse pin will not support the wing landing gear beam, causing damage to the surrounding structure, including flight control cables and hydraulic systems, which could result in loss of controllability of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017. The service information describes procedures for repetitive replacement or inspection of certain fuse pins, and applicable on-condition actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishment of the actions identified as ''RC'' (required for compliance) in the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017, described previously, except for any differences between this proposed AD and the service information that are identified in the regulatory text of this proposed AD. Although the crack reports that prompted this proposed AD were found only on the left wing, this proposed AD would require actions on both wings.

For information on the procedures and compliance times, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0559.

Costs of Compliance

We estimate that this proposed AD affects 158 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Fuse pin replacement [1]	46 work-hours × $85 per hour = $3,910 per replacement cycle.	$15,150	$19,060 per replacement cycle.	Up to $3,011,480 per replacement cycle.
Magnetic particle inspection [1]	48 work-hours × $85 per hour = $4,080 per inspection cycle.	0	$4,080 per inspection cycle.	Up to $644,640 per inspection cycle.
Surface inspection [1]	10 work-hours × $85 per hour = $850 per inspection cycle.	0	$850 per inspection cycle.	Up to $134,300 per inspection cycle.

[1] Operators may choose which action they want to use.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Fuse pin replacement	46 work-hours × $85 per hour = $3,910	Up to $15,150	Up to $19,060.

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, 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):

The Boeing Company: Docket No. FAA–2017–0559; Directorate Identifier 2017–NM–013–AD.

(a) Comments Due Date

We must receive comments by August 4, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 747–100, 747–100B, 747–100B SUD, 747–200B, 747–200C, 747–200F, 747–300, 747–400, 747–400D, 747–400F, 747SR, and 747SP airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report of damage found at the lower trailing edge panels of the left wing and a broken fuse pin of the landing gear beam end fitting. We are issuing this AD to detect and correct cracking in the fuse pin of the wing landing gear beam end fitting. A broken fuse pin will not support the wing landing gear beam, causing damage to the surrounding structure, including flight control cables and hydraulic systems, which could result in loss of controllability of the airplane.

(f) Compliance

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

(g) Actions Required for Compliance

Except as required by paragraph (h) of this AD: At the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017, do all applicable actions identified as required for compliance (''RC'') in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017.

(h) Exception to the Service Information

Where Boeing Alert Service Bulletin 747–57A2360, dated January 20, 2017, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (i)(4)(i) and (i)(4)(ii) of this AD apply.

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

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

(j) Related Information

(1) For more information about this AD, contact Bill Ashforth, Aerospace Engineer,

Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 9, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12612 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0608; Directorate Identifier 2017–CE–017–AD]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain Textron Aviation Inc. Model 390 airplanes (type certificate previously held by Beechcraft Corporation). This proposed AD was prompted by reports of hydraulic fluid loss from the engine driven pumps (EDPs) on three different airplanes. This proposed AD would require an inspection to determine if an affected EDP is installed with replacement as necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 4, 2017.

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

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

For service information identified in this NPRM, contact Textron Aviation Inc., Textron Aviation Customer Service, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; email: *premier@txtav.com;* Internet: *www.txtavsupport.com.* You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0608; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street 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: Paul C. DeVore, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4142; fax: (316) 946–4107, email: *paul.devore@faa.gov* or *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0608; Directorate Identifier 2017–CE–017–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We received reports of hydraulic fluid loss from the engine driven pumps (EDPs) on three different Textron Aviation Inc. Model 390 airplanes. In one incident, the airplane exited the runway at a high speed, resulting in extensive damage to the airplane. One manufacturing lot of EDPs has excessive pitting in the aluminum port caps that could cause multiple-origin fatigue cracking of the port caps. Flammable hydraulic fluid could leak into the engine compartment, and the leaking could also cause loss of all normal hydraulic functions, including normal anti-skid braking, ground spoilers, speedbrakes, and normal landing gear extension. This condition, if not corrected, could result in loss of normal hydraulic functions, which could lead to a high-speed runway overrun and/or an in-flight fire.

Related Service Information Under 1 CFR Part 51

We reviewed Parker Service Bulletin 66179–29–486, dated August 4, 2016, which identifies the affected serial number EDPs. We also reviewed Beechcraft Mandatory Service Bulletin SB 29–4161, dated November 18, 2016, which describes procedures for determining if an affected serial number EDP is installed and procedures for replacing the EDP if necessary. 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.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require accomplishing the actions specified in the service information described previously except as discussed under ''Differences Between this Proposed AD and the Service Information.''

Differences Between This Proposed AD and the Service Information

The service information specifies a compliance time of 200 hours time-in-service (TIS) or 12 months, whichever occurs first. This proposed AD would require a compliance of 100 hours TIS to reduce the possibility of another incident due to a cracked EDP. We removed the 12 month calendar time from the compliance time because we

determined the unsafe condition is related to flight hours of the airplane rather than calendar time. The requirements of this proposed AD take precedence over the requirements of the service information.

Costs of Compliance

We estimate that this proposed AD affects 179 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection to determine if affected serial number EDP is installed.	.5 work-hour × $85 per hour = $42.50	Not applicable	$42.50	$7,607.50

We estimate the following costs to do any necessary replacement that would be required based on the results of the proposed inspection. We estimate the affected manufacturer lot of EDPs as 28 EDPs. If an airplane has two of the affected EDPs installed, both EDPs must be replaced. However, no more than a total of 28 EDPs will require replacing for the U.S. fleet:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the EDP	3 work-hours × $85 per hour = $255	$17,388	$17,643

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

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, 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):

Textron Aviation Inc.: Docket No. FAA–2017–0608; Directorate Identifier 2017–CE–017–AD.

(a) Comments Due Date

We must receive comments by August 4, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Textron Aviation Inc. (type certificate previously held by Beechcraft Corporation) Model 390 airplanes; serial numbers RB–4 through RB–295; certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 29, Hydraulic Power.

(e) Unsafe Condition

This AD was prompted by reports of hydraulic fluid loss from the engine driven pumps (EDPs) on three different airplanes. We are issuing this AD to prevent cracking of the EDP that could cause leakage of hydraulic fluid and possibly lead to loss of normal hydraulic functions, which could lead to a high-speed runway overrun and/or an in-flight fire.

(f) Compliance

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

(g) Inspection

Within 100 hours time-in service (TIS) after the effective date of this AD, inspect the airplane to determine if any affected serial number EDP, part number (P/N) 66179–01 (Beechcraft/Textron P/N 390–389022–0003), is installed on the airplane following the Accomplishment Instructions in Beechcraft

Mandatory Service Bulletin SB 29–4161, dated November 18, 2016. Use table 1 in Parker Service Bulletin 66179–29–486, dated August 4, 2016, to identify the affected serial numbers of EDP, P/N 66179–01 (Beechcraft/Textron P/N 390–389022–0003).

(h) Replacement

If any affected serial number EDP was found during the inspection required in paragraph (g) of this AD, within 100 hours TIS after the effective date of this AD, replace any affected serial number EDP, P/N 66179–01 (Beechcraft/Textron P/N 390–389022–0003), with a serviceable serial number EDP, P/N 66179–01 (Beechcraft/Textron P/N 390–389022–0003) that is either not listed in table 1 in Parker Service Bulletin 66179–29–486, dated August 4, 2016, or has been reworked following Parker Service Bulletin 66179–29–486, dated August 4, 2016. Use the Accomplishment Instructions in Beechcraft Mandatory Service Bulletin SB 29–4161, dated November 18, 2016, to do the replacement actions.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(1) of this AD.

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

(j) Related Information

(1) For more information about this AD, contact Paul C. DeVore, Aerospace Engineer, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4142; fax: (316) 946–4107, email: *paul.devore@faa.gov* or *Wichita-COS@faa.gov.*

(2) For service information identified in this AD, contact Textron Aviation Inc., Textron Aviation Customer Service, P.O. Box 7706, Wichita, Kansas 67277; telephone: (316) 517–5800; email: *premier@txtav.com;* Internet: *www.txtavsupport.com;* Internet: *www.txtav.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on June 9, 2017.

Robert Busto,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12512 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0034; Directorate Identifier 2016–NE–32–AD]

RIN 2120–AA64

Airworthiness Directives; Honeywell International Inc. 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 certain Honeywell International Inc. (Honeywell) AS907–1–1A turbofan engines. This proposed AD was prompted by reports of loss of power due to failure of the second stage low-pressure turbine (LPT2) blade. This proposed AD would require a one-time inspection of the LPT2 blades and, if the blades fail the inspection, the replacement of the blades with a part eligible for installation. We are proposing this AD to correct the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 4, 2017.

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

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

For service information identified in this NPRM, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; Internet: *https://myaerospace.honeywell.com/wps/portal/!ut/.* You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, 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–2017–0034; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street 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: Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–0034; Directorate Identifier 2016–NE–32–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 because of those comments.

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

Discussion

We received reports of a loss of power due to failure of the LPT2 blade from high-cycle fatigue in the blade's dovetail region at similar times-in-service. The probable cause of this failure is wear and fretting of the LPT2 blade Z gap contact area at the blade tip shroud that leads to loss of dampening and increased vibration of the LPT2 blade. This tip shroud condition in two new production engines with the same time-in-service, if not corrected, could result in failure of the LPT2 blades, failure of one or more engines, and loss of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Honeywell Service Bulletin (SB) AS907–72–9067, Revision

1, dated March 20, 2017. This SB describes procedures for inspecting the LPT2 blades. 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.

Other Related Service Information

We reviewed Honeywell SB AS907–72–9067, Revision 0, dated December 12, 2016, which also describe procedures for inspecting the LPT2 blades. We also reviewed the Honeywell Light Maintenance Manual, AS907–1–1A, 72–00–00, Section 72–05–12, dated May 25, 2016, and Section 72–55–03, dated September 27, 2011, which provide additional guidance for performing borescope inspections.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would require a one-time borescope inspection of the LPT2 blades and, if the blades fail the inspection, replacement of the blades with an LPT2 rotor assembly eligible for installation.

Differences Between This Proposed AD and the Service Information

Honeywell SB AS907–72–9067, Revision 1, dated March 20, 2017, recommends borescope inspections of the affected LPT2 blades with more than 8,000 hours-since-new (HSN) and recommends that these inspections be completed within 400 operating hours after the issuance of Honeywell SB AS907–72–9067, Revision 0, dated December 12, 2016. This NPRM would require inspections of affected LPT2 blades with more than 8,000 HSN and requires that these inspections be completed within 200 operating hours after the effective date of this AD. This NPRM includes a reporting requirement that Honeywell SB AS907–72–9067, Revision 1, dated March 20, 2017 does not.

Costs of Compliance

We estimate that this proposed AD affects 40 engines installed on airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Borescope inspection	10 work-hours × $85 per hour = $850	$0	$850	$34,000
Report results of inspection	1 work-hour × $85 per hour = 85	0	85	3,400

We estimate the following costs to do any necessary replacements that would be required based on the results of the proposed inspection. We estimate that 40 engines will need this replacement.

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement of the LPT2 blade set	50 work-hours × $85 per hour = $4,250	$50,000	$54,250

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting associated with this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW., Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

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):

Honeywell International Inc.: Docket No. FAA–2017–0034; Directorate Identifier 2016–NE–32–AD.

(a) Comments Due Date

We must receive comments by August 4, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Honeywell International Inc. (Honeywell) AS907–1–1A turbofan engines with second stage low-pressure turbine (LPT2) rotor blades, part number (P/N) 3035602–1, installed.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by reports of loss of power due to failure of the LPT2 blade. We are issuing this AD to prevent failure of the LPT2 blades, failure of one or more engines, and loss of the airplane.

(f) Compliance

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

(1) For LPT2 rotor blades, P/N 3035602–1 that have more than 8,000 hours since new on the effective date of this AD, perform a one-time borescope inspection for wear of the Z gap contact area at the blade tip shroud for each of the 62 LPT2 rotor blades within 200 hours time in service after the effective date of this AD.

(2) Use the Accomplishment Instructions, Paragraph 3.B.(1), of Honeywell Service Bulletin (SB) AS907–72–9067, Revision 1, dated March 20, 2017, to do the inspection.

(3) If the measured wear and/or fretting of any Z gap contact area is greater than 0.005 inch, replace the LPT2 rotor assembly with a part eligible for installation before further flight.

(4) Do the following actions within 200 hours time in service after the effective date of this AD:

(i) Using a borescope make a clear digital image of the Z gap contact area at the blade tip shroud of the 62 LPT2 rotor blades.

(ii) Identify the three Z gap contact areas with the greatest amount of wear and/or fretting.

(iii) Record the blade position on the LPT2 rotor assembly and the measured wear of the three Z gap contact areas with the greatest amount of wear and/or fretting.

(iv) Send the results to Honeywell at *engine.reliability@honeywell.com* within 30 days after completing these actions.

(g) Credit for Previous Actions

You may take credit for the actions required by paragraphs (f)(1) and (4) of this AD, if you performed these actions before the effective date of this AD using Honeywell SB AS907–72–9067, Revision 0, dated December 12, 2016.

(h) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(i) Alternative Methods of Compliance (AMOCs)

The Manager, Los Angeles Aircraft Certification Office, FAA, may approve AMOCs for this AD. Use the procedures found in 14 CFR 39.19 to make your request.

(j) Related Information

(1) For more information about this proposed AD, contact Joseph Costa, Aerospace Engineer, Los Angeles Aircraft Certification Office, FAA, Transport Airplane Directorate, 3960 Paramount Blvd., Lakewood, CA 90712–4137; phone: 562–627–5246; fax: 562–627–5210; email: *joseph.costa@faa.gov.*

(2) Honeywell SBs AS907–72–9067, Revision 0, dated December 12, 2016 and AS907–72–9067, Revision 1, dated March 20, 2017, can be obtained from Honeywell International Inc., using the contact information in paragraph (j)(3) of this proposed AD.

(3) For service information identified in this proposed AD, contact Honeywell International Inc., 111 S 34th Street, Phoenix, AZ 85034–2802; phone: 800–601–3099; Internet: *https://myaerospace.honeywell.com/wps/portal/!ut/.*

(4) You may view this service information at the FAA, Engine & Propeller Directorate, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781–238–7125.

Issued in Burlington, Massachusetts, on June 13, 2017.

Robert J. Ganley,

Acting Manager, Engine & Propeller Directorate, Aircraft Certification Service.

[FR Doc. 2017–12561 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0560; Directorate Identifier 2016–NM–172–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes. This proposed AD was prompted by reports of cracking in the drainage holes on the lower skin panel in the center wing box between frames (FR) 42 and FR 46. This proposed AD would require repetitive rotating probe inspections for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, and corrective actions if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by August 4, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

• *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0560; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

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–2017–0560; Directorate Identifier 2016–NM–172–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 we receive about this proposed AD.

Discussion

Fatigue damage can occur locally, in small areas or structural design details, or globally, in widespread areas. Multiple-site damage is widespread damage that occurs in a large structural element such as a single rivet line of a lap splice joining two large skin panels. Widespread damage can also occur in multiple elements such as adjacent frames or stringers. Multiple-site damage and multiple-element damage cracks are typically too small initially to be reliably detected with normal inspection methods. Without intervention, these cracks will grow, and eventually compromise the structural integrity of the airplane. This condition is known as widespread fatigue damage (WFD). It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, WFD will likely occur, and will certainly occur if the airplane is operated long enough without any intervention.

The FAA's WFD final rule (75 FR 69746, November 15, 2010) became effective on January 14, 2011. The WFD rule requires certain actions to prevent structural failure due to WFD throughout the operational life of certain existing transport category airplanes and all of these airplanes that will be certificated in the future. For existing and future airplanes subject to the WFD rule, the rule requires that DAHs establish a limit of validity (LOV) of the engineering data that support the structural maintenance program. Operators affected by the WFD rule may not fly an airplane beyond its LOV, unless an extended LOV is approved.

The WFD rule (75 FR 69746, November 15, 2010) does not require identifying and developing maintenance actions if the DAHs can show that such actions are not necessary to prevent WFD before the airplane reaches the LOV. Many LOVs, however, do depend on accomplishment of future maintenance actions. As stated in the WFD rule, any maintenance actions necessary to reach the LOV will be mandated by airworthiness directives through separate rulemaking actions.

In the context of WFD, this action is necessary to enable DAHs to propose LOVs that allow operators the longest operational lives for their airplanes, and still ensure that WFD will not occur. This approach allows for an implementation strategy that provides flexibility to DAHs in determining the timing of service information development (with FAA approval), while providing operators with certainty regarding the LOV applicable to their airplanes.

On April 22, 2011, we issued AD 2011–10–06, Amendment 39–16687 (76 FR 27227, May 11, 2011) (''AD 2011–10–06''), applicable to all Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes. That AD currently requires:

• Cold working of trellis boom drainage holes;

• Repetitive detailed or rotating probe inspections for cracking in the drainage holes on the lower skin panel in the center wing box between FR 42 and FR 46, and corrective actions if necessary, including repair; and

• Repetitive eddy current inspections for cracking of the upper corner angle fitting and the vertical tee fitting at left and right FR 40, and corrective actions if necessary, including repair and replacement of the internal angle fitting.

AD 2011–10–06 was prompted by European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, AD 2009–0057 to identify and correct an unsafe condition. The identified unsafe condition is cracking of trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, which could result in reduced structural integrity of the wings.

Since issuance of AD 2011–10–06, EASA has issued EASA AD 2016–0196, dated September 30, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes. The MCAI states:

> DGAC France issued AD F–1992–106–132R7 to require certain inspections and modifications which addressed JAR/FAR [Joint Aviation Requirements/Federal Aviation Regulations] 25–571 requirements, related to damage-tolerance and fatigue evaluation of structure. Following the Extended Design Service Goal activities as part of the Structure Task Group for the Airbus A310 program, EASA published AD 2007–0053, which replaced DGAC France AD F–1992–106–132R7.
>
> After EASA issued AD 2007–0053R1, the thresholds and the intervals of Airbus Service Bulletins (SB) A310–57–2050 and A310–57–2064 were updated, prompting EASA to issue AD 2009–0057 [which corresponds to FAA AD 2011–10–06] and [EASA] AD 2007–0053 was revised (R2) accordingly. EASA AD 2009–0057 also required the accomplishment of the actions specified in Airbus SB A310–57–2048 at Revision 01.
>
> After EASA issued AD 2009–0057, in the frame of the Widespread Fatigue Damage campaign, new analysis has indicated the need for additional work included in Revision 03 of Airbus SB A310–57–2050.

For the reason described above, this new [EASA] AD retains the requirements of EASA AD 2009–0057, which is superseded, and requires inspection and corrective actions as specified in Airbus SB A310–57–2050 Revision 04.

Required actions include a repetitive rotating probe inspection for cracking of certain holes in the stringers bottom, inner pumps, and the trellis boom; and corrective actions, *i.e.,* repair of holes where cracks are discovered.

The compliance times vary depending on airplane configuration. The earliest initial inspection compliance time is 11,400 total flight cycles or 57,300 total flight hours, whichever occurs first. The latest initial compliance time is 38,700 total flight cycles or 77,500 total flight hours, whichever occurs first. The shortest repetitive interval is 6,200 flight cycles or 31,200 flight hours, whichever occurs first.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0560.

Related Service Information Under 1 CFR Part 51

We reviewed Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015. This service information describes procedures for repetitive rotating probe inspections for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

This proposed AD would not supersede AD 2011–10–06. Rather, we have determined that a stand-alone AD would be more appropriate to address the changes in the MCAI. This proposed AD would require repetitive rotating probe inspections for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, and corrective actions, if necessary. Accomplishment of the proposed actions would then terminate the actions required by paragraph (h) of AD 2011–10–06.

Costs of Compliance

We estimate that this proposed AD affects 8 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	84 work-hours × $85 per hour = $7,140	$5,890	$13,030	$104,240

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

Authority for This Rulemaking

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

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

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; 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):

Airbus: Docket No. FAA–2017–0560; Directorate Identifier 2016–NM–172–AD.

(a) Comments Due Date

We must receive comments by August 4, 2017.

(b) Affected ADs

This AD affects AD 2011–10–06, Amendment 39–16687 (76 FR 27227, May 11, 2011) (''AD 2011–10–06'').

(c) Applicability

This AD applies to Airbus Model A310–203, –204, –221, –222, –304, –322, –324, and –325 airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Reason

This AD was prompted by reports of cracking in the drainage holes on the lower skin panel in the center wing box between frames (FR) 42 and FR 46. We are issuing this AD to detect and correct cracking of trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, which could result in reduced structural integrity of the wings.

(f) Compliance

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

(g) Rotating Probe Inspections and Corrective Actions

Except as provided by paragraph (h)(1) of this AD, before exceeding the applicable threshold or grace period, whichever occurs later, as defined in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, accomplish the rotating probe inspection for cracking of the trellis boom drainage holes, the holes in the stringers bottom, and the holes of the inner pump, as applicable, and do all applicable corrective actions, as specified in, and in accordance with the Accomplishment Instructions of Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, except as required by paragraph (h)(2) of this AD. Do all applicable corrective actions before further flight. Repeat the inspection thereafter at intervals not to exceed those defined in paragraph 1.E., ''Compliance,'' of Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015.

(h) Exceptions to Service Information

(1) Where Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, specifies a grace period ''after receipt of the Service Bulletin without exceeding previous Service Bulletin revision values,'' this AD requires compliance within the specified grace period after the effective date of this AD.

(2) Where Airbus Service Bulletin A310–57–2050, Revision 04, dated March 13, 2015, specifies to contact Airbus for appropriate action, and specifies that action as ''RC'' (Required for Compliance): Before further flight, accomplish corrective actions in accordance with the procedures specified in paragraph (l)(2) of this AD.

(i) No Terminating Action for Inspections

Accomplishing corrective actions on an airplane as required by paragraph (g) or (h)(2) of this AD does not constitute terminating action for the repetitive actions required by paragraph (g) of this AD.

(j) Terminating Action

Accomplishment of the initial inspection required by paragraph (g) of this AD constitutes terminating action for the actions required by paragraph (h) of AD 2011–10–06.

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the service information specified in Airbus Service Bulletin A310–57–2050, Revision 03, dated December 19, 2014.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

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

(2) *Contacting the Manufacturer:* Except as required by paragraph (h)(2) of this AD: For any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). If approved by the DOA, the approval must include the DOA-authorized signature.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0196, dated September 30, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0560.

(2) For more information about this AD, contact Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone: 425–227–2125; fax: 425–227–1149.

(3) For service information identified in this AD, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone: +33 5 61 93 36 96; fax: +33 5 61 93 44 51; email: *account.airworth-eas@airbus.com;* Internet: *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425 227–1221.

Issued in Renton, Washington, on June 9, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–12613 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0458; Airspace Docket No. 17–ASW–8]

Proposed Amendment of Class E Airspace; Canadian, TX; and Wheeler, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Hemphill County Airport, Canadian, TX, and Wheeler Municipal Airport, Wheeler, TX. The FAA is proposing this action due to the decommissioning of the Sayre co-located VHF omnidirectional range and tactical air navigation system (VORTAC) facility, which provided navigation guidance for the instrument procedures to these airports. The VORTAC is being decommissioned as part of the VHF omnidirectional range (VOR) Minimum Operational Network (MON) Program. This action would enhance the safety and management of instrument flight rules (IFR) operations at these airports. Additionally, the geographic coordinates of the airports would be adjusted to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before August 4, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone (202) 366–9826, or 1–800–647–5527. You must identify FAA Docket No. FAA–2017–0458; Airspace Docket No. 17–ASW–8 at the beginning of your

comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX, 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Hemphill County Airport, Canadian, TX, and Wheeler Municipal Airport, Wheeler, TX, to enhance the safety and management of IFR operations at these airports.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0458/Airspace Docket No. 17–ASW–8.'' The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface to:

Within a 6.5-mile radius (reduced from a 6.8-mile radius) of Hemphill County Airport with an extension 1 mile either side of the 224° bearing from the airport from the 6.5-mile radius to 6.6 miles south of the airport, and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database; and

Within a 6.3-mile radius (reduced from a 6.4-mile radius) of Wheeler Municipal Airport and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Sayre VORTAC as part of the VOR MON Program and to bring the airspace in compliance with FAA Order JO 7400.2L, Procedures for Handling Airspace Matters. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at these airports.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a

substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

ASW TX E5 Canadian, TX [Amended]

Canadian, Hemphill County Airport, TX
(Lat. 35°53′42″ N., long. 100°24′14″ W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Hemphill County Airport, and within 1 mile either side of the 224° bearing from the airport extending from the 6.5-mile radius to 6.6 miles south of the airport.

* * * * *

ASW TX E5 Wheeler, TX [Amended]

Wheeler Municipal Airport, TX
(Lat. 35°27′04″ N., long. 100°12′00″ W.)

That airspace extending upward from 700 feet above the surface within a 6.3-mile radius of Wheeler Municipal Airport.

Issued in Fort Worth, Texas, on June 13, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–12704 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0459; Airspace Docket No. 17–AGL–14]

Proposed Amendment of Class E Airspace; Greenwood/Wonder Lake, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to modify Class E airspace extending upward from 700 feet above the surface at Galt Field Airport, Greenwood/Wonder Lake, IL. The FAA is proposing this action due to the decommissioning of the Kenosha VHF omnidirectional range (VOR) facility. The VOR is being decommissioned as part of the VOR Minimum Operational Network (MON) Program, which provided navigation guidance for the instrument procedures to the airport. This action would enhance the safety and management of instrument flight rules (IFR) operations at this airport. Additionally, the geographic coordinates of the airport would be adjusted to coincide with the FAA's aeronautical database.

DATES: Comments must be received on or before August 4, 2017.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590; telephone (202) 366–9826, or 1–800–647–5527. You must identify FAA Docket No. FAA–2017–0459; Airspace Docket No. 17–AGL–14 at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.* You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays.

FAA Order 7400.11A, Airspace Designations and Reporting Points, and subsequent amendments can be viewed online at *http://www.faa.gov/air_traffic/publications/.* For further information, you can contact the Airspace Policy Group, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 267–8783. The Order is also available for inspection at the National Archives and Records Administration (NARA). For information on the availability of FAA Order 7400.11A at NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal-regulations/ibr_locations.html.*

FAA Order 7400.11, Airspace Designations and Reporting Points, is published yearly and effective on September 15.

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. 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. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class E airspace extending upward from 700 feet above the surface at Galt Field Airport, Greenwood/Wonder Lake, IL, to enhance the safety and management of IFR operations at this airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. FAA–2017–0459/Airspace Docket No. 17–AGL–14.'' The postcard

will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Federal Aviation Administration, Air Traffic Organization, Central Service Center, Operations Support Group, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016. FAA Order 7400.11A is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11A lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by modifying Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile radius (reduced from an 8.8-mile radius) of Galt Field Airport, and updating the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

Airspace reconfiguration is necessary due to the decommissioning of the Kenosha VOR as part of the VOR MON Program and to bring the airspace in compliance with FAA Order JO 7400.2K, Procedures for Handling Airspace Matters, at this airport. Controlled airspace is necessary for the safety and management of standard instrument approach procedures for IFR operations at the airport.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11A, dated August 3, 2016, and effective September 15, 2016, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current, is non-controversial and unlikely to result in adverse or negative comments. It, therefore: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(f), 106(g); 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11A, Airspace Designations and Reporting Points, dated August 3, 2016, and effective September 15, 2016, is amended as follows:

Paragraph 6005 Class E Airspace Areas Extending Upward From 700 Feet or More Above the Surface of the Earth.

* * * * *

AGL IL E5 Greenwood/Wonder Lake, IL [Amended]

Greenwood/Wonder Lake, Galt Field Airport, IL

(Lat. 42°24′10″ N., long. 88°22′30″ W.)

That airspace extending upward from 700 feet above the surface within a 6.4-mile radius of the Galt Field Airport, excluding that airspace within the Chicago, IL, Class E airspace area.

Issued in Fort Worth, Texas, on June 13, 2017.

Walter Tweedy,

Acting Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2017–12711 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0016]

RIN 1625–AA87

Security Zone; Presidential Security Zone, Palm Beach, FL

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a security zone that encompasses certain waters of the Lake Worth Lagoon, the Intracoastal Waterway, and the Atlantic Ocean in the vicinity of the Mar-a-Lago Club and the Southern Boulevard Bridge in Palm Beach, Florida (FL). This proposed rule would be enforced during visits by the President of the United States, members of the First Family, or other persons under the protection of the Secret Service. This action is necessary to protect the official party, the public, and the surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature. Entering, transiting through, anchoring in, or remaining within this security zone while it is being enforced would be prohibited unless authorized by the Captain of the Port (COTP) Miami

or a designated representative. We invite your comments on this proposed rule.

DATES: Comments and related material must be received by the Coast Guard on or before July 20, 2017.

ADDRESSES: You may submit comments identified by docket number USCG–2017–0016 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email, Petty Officer Mara Brown, Waterways Management Division, U.S. Coast Guard; telephone 305–535–4317, email *Mara.J.Brown@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background, Purpose, and Legal Basis

The United States Coast Guard is establishing a security zone in the vicinity of the Mar-a-Lago Club in Palm Beach, FL. This security zone would be enforced whenever the President of the United States, members of the First Family or other persons under the protection of the Secret Service are present or expected to be present. The security zone is necessary to protect the official party, the public, and the surrounding waterway from terrorist acts, sabotage or other subversive acts, accidents, or other causes of a similar nature.

The Coast Guard previously established a temporary security zone to cover separate visits by the President of the United States to Mar-a-Lago, Palm Beach, FL in February (under docket numbers USCG–2017–0072, USCG–2017–0088, and USCG–2017–0107), and in March (under docket number USCG–2017–0145). In addition, the Coast Guard issued a temporary security zone (published in the **Federal Register** on March 28, 2017, see 82 FR 58) to cover the President's visits to the Mar-a-Lago Club starting March 17, 2017, through May 29, 2017. Due to the short notice given to the Coast Guard prior to these visits, the security zones were established without notice and without allowing for public comment, pursuant to 5 U.S.C. 553(b)(B).

The purpose of this NPRM is to allow the public an opportunity to comment, while ensuring the security of vessels and the navigable waters during visits by the President, the First Family, and other persons under the protection of the Secret Service to the Mar-a-Lago Club. We are seeking to establish this security zone before Fall 2017 when the President is expected to make visits to the Mar-a-Lago Club. The Coast Guard proposes this rulemaking under authority in 33 U.S.C. 1231.

III. Discussion of Proposed Rule

The Coast Guard proposes to establish a security zone that encompasses certain waters of the Lake Worth Lagoon, the Intracoastal Waterway, and the Atlantic Ocean in the vicinity of the Mar-a-Lago Club and the Southern Boulevard Bridge in Palm Beach, FL. The security zone established for the specific security event will consist of one or more of the zones categorized below.

(1) The center zone would consist of waters of Lake Worth Lagoon from the southern tip of Everglades Island to approximately 1000 yards south of the Southern Boulevard Bridge and the eastern shoreline out to Fisherman Island. No vessel or person would be permitted to enter into, transit in, anchor within, or remain within the center zone without obtaining permission from the Coast Guard or a designated representative.

(2) The west zone would consist of waters of Lake Worth Lagoon including the Intracoastal Waterway from the southern tip of Everglades Island to approximately 1000 yards south of the Southern Boulevard Bridge and from the western shoreline to Fisherman Island. All vessels transiting the west zone would be required to await escort through the zone by on-scene designated representatives, maintain a steady speed, and would not be allowed to slow down or stop in the zone without obtaining permission from the COTP Miami or a designated representative.

(3) The east zone would consist of waters of the Atlantic Ocean from Banyan Road in the north to Ocean View Road in the south and from shore to approximately 1000 yards east. All vessels transiting the east zone would be required to maintain a steady speed and would not be allowed to slow down or stop in the zone without obtaining permission from the COTP Miami or a designated representative.

The security zone would not be in effect all the time. Instead, the COTP Miami will notify the maritime community that the security zone is in effect, and in which locations, using Broadcast Notice to Mariners (BNM) and on-scene designated representatives. Coast Guard patrol assets will also be on scene with flashing blue lights energized when the center, west, or east security zone is in effect.

The regulatory text we are proposing appears at the end of this document.

IV. Regulatory Analyses

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

A. Regulatory Planning and Review

Executive Orders 12866 (Regulatory Planning and Review) and 13563 (Improving Regulation and Regulatory Review) direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 13771 (Reducing Regulation and Controlling Regulatory Costs) directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.''

The Office of Management and Budget (OMB) has not designated this rule a significant regulatory action under section 3(f) of Executive Order 12866. Accordingly, OMB has not reviewed it. As this rule is not a significant regulatory action, this rule is exempt from the requirements of Executive Order 13771. *See* the OMB Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs''' (February 2, 2017).

The economic impact of this proposed rule is not significant for the following reasons: (1) The security zone is expected to be enforced only when the President of the United States, members of the First Family, or other persons

under the protection of the Secret Service are present or expected to be present; (2) the center zone will impact only a small designated area of the Intracoastal Waterway in Palm Beach, FL, and vessels may be able to operate through the zone if granted permission to do so by the COTP of Miami or a designated representative; (3) the west zone is located in an area of the Intracoastal Waterway where vessel traffic is low and where on average 152 vessels are expected to travel per day, and vessels will be allowed to operate through the zone with an escort from an on-scene designated representative; (4) vessels will still be able to transit the east zone at a steady speed as long as they do not slow down or stop except in the case of unforeseen mechanical or other emergency; and (5) notification of the security zone will be made to the local maritime community via Broadcast Notice to Mariners and by on-scene designated representatives, when applicable. Larger vessels may need to wait to pass under the Southern Blvd. Bridge, which has set opening times pursuant to a separate existing regulation at 33 CFR 117.261(w). The bridge opens on the quarter-hour and three-quarter hour, or as directed by the on-scene designated representative.

B. Impact on Small Entities

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

While some owners or operators of vessels intending to transit the security zones may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

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

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

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves a security zone lasting only a few days at a time that will prohibit entry within certain waters of the Intracoastal Waterway and Atlantic Ocean in Palm Beach, FL. Normally such actions are categorically excluded from further review under paragraph 34(g) of Figure 2–1 of Commandant Instruction M16475.lD. A preliminary Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

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

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted

without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM as being available in the docket, and all public comments, will be in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 165

Harbor, Marine Safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.785 to read as follows:

§ 165.785 Security Zone; Presidential Security Zone, Palm Beach, FL.

(a) *Regulated areas.* The following areas are security zones:

(1) *Center zone.* All waters of Lake Worth Lagoon within the following points: Beginning at Point 1 in position 26°41′21″ N., 80°2′39″ W.; thence east to Point 2 in position 26°41′21″ N., 80°2′13″ W.; thence south following the shoreline to Point 3 in position 26°39′58″ N., 80°2′20″ W.; thence west to Point 4 in position 26°39′58″ N., 80°2′38″ W., thence back to origin at Point 1.

(2) *West zone.* All waters of Lake Worth Lagoon within the following points: Beginning at Point 1 in position 26°41′21″ N., 80°2′39″ W.; thence west to Point 2 in position 26°41′21″ N., 80°3′00″ W.; thence south following the shoreline to Point 3 in position 26°39′58″ N., 80°2′55″ W.; thence east to Point 4 in position 26°39′58″ N., 80°2′38″ W., thence back to origin at Point 1.

(3) *East zone.* All waters of the Atlantic Ocean within the following points: Beginning at Point 1 in position 26°41′21″ N., 80°2′01″ W.; thence south following the shoreline to Point 2 in position 26°39′57″ N., 80°2′01″ W.; thence east to Point 3 in position 26°39′58″ N., 80°1′02″ W.; thence north to Point 4 in position 26°41′20″ N., 80°1′02″ W., thence back to origin at Point 1.

(b) *Definition.* The term ''designated representative'' means Coast Guard Patrol Commanders, including Coast Guard coxswains, petty officers, and other officers operating Coast Guard vessels, and Federal, state, and local officers designated by or assisting the Captain of the Port Miami in the enforcement of the security zone.

(c) *Regulations*—(1) *Center zone.* All persons and vessels are prohibited from entering, transiting through, anchoring in, or remaining within the security zone unless authorized by the Captain of the Port Miami or a designated representative.

(2) *West zone.* All persons and vessels are required to transit through the security zone escorted by on-scene designated representatives at a steady speed and may not slow down or stop except in the case of unforeseen mechanical or other emergency. Any persons or vessels forced to slow or stop in the zone shall immediately notify the Captain of the Port Miami via VHF channel 16.

(3) *East zone.* All persons and vessels are required to transit through the security zone at a steady speed and may not slow down or stop except in the case of unforeseen mechanical or other emergency. Any persons or vessels forced to slow or stop in the zone shall immediately notify the Captain of the Port via VHF channel 16.

(4) *Contacting Captain of the Port.* Persons who must notify, or request authorization from, the Captain of the Port Miami may do so by telephone at (305) 535–4472, or may contact a designated representative via VHF radio on channel 16. If authorization to enter, transit through, anchor in, or remain within the security zone is granted by the Captain of the Port Miami or a designated representative, all persons and vessels receiving such authorization must comply with the instructions of the Captain of the Port Miami or the designated representative.

(d) *Enforcement period.* This section will be enforced when the President of the United States, members of the First Family, or other persons under the protection of the Secret Service are present or expected to be present at the Mar-a-Lago Club. The Coast Guard will provide notice of the regulated area via Broadcast Notice to Mariners or by on-scene designated representatives. Coast Guard patrol assets will also be on-scene with flashing blue lights energized when the center, west, or east security zone is in effect.

Dated: June 6, 2017.

M.M. Dean,

Captain, U.S. Coast Guard, Captain of the Port Miami.

[FR Doc. 2017–12853 Filed 6–19–17; 8:45 am]

BILLING CODE 9110–04–P

POSTAL REGULATORY COMMISSION

39 CFR Part 3050

[Docket No. RM2017–6; Order No. 3962]

Periodic Reporting

AGENCY: Postal Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission is noticing a recent filing requesting that the Commission initiate an informal rulemaking proceeding to consider changes to an analytical method for use in periodic reporting (Proposal Two). This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* July 31, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Proposal Two
III. Notice and Comment
IV. Ordering Paragraphs

I. Introduction

On June 8, 2017, the Postal Service filed a petition pursuant to 39 CFR 3050.11 requesting that the Commission initiate an informal rulemaking proceeding to consider changes to an analytical method relating to periodic reports.[1] The Petition identifies the

[1] Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), June 8, 2017 (Petition).

proposed analytical method changes filed in this docket as Proposal Two.

II. Proposal Two

Background. During the FY 2016 Annual Compliance Determination (ACD) process, in response to an information request, the Postal Service developed a methodology for revising the International Cost and Revenue Analysis report (ICRA) by changing the costing methodology for the treatment of Inbound mail, including Letter Post, Parcel Post and Express Mail Service to adjust for the increasingly difficult task of maintaining statistical reliability of reporting UPU Target and Transition Countries separately. Proposal Two at 1–2. Proposal Two is presented in response to Commission discussion in the FY 2016 ACD regarding those revisions.[2] Although the methodology was used provisionally for assessing compliance in the FY 2016 ACD, the Commission stated that the methodology must be reviewed by the Commission through a docketed proceeding before it may be used in future ACDs. Proposal Two at 2; *see* FY 2016 ACD at 64.

Proposal. Proposal Two implements the costing methodology developed in response to Chairman's Information Request No. 12, question 1, in the FY 2016 ACD process and consolidates the cost estimates for Target and Transition Countries. Proposal Two at 6. Proposal Two would also combine Inbound Letter Post from Target and Transition Countries at UPU rates reporting into a single ICRA Inbound Letter Post at UPU rates line separate from Canada. There would no longer be a need for the In-Office Cost System analysis to separate costs into Target and Transition Countries in the Cost and Revenue Analysis Cost Segments tab of the Inputs file. The Canada and UPU separation remains in place. *Id.*

Rationale and impact. The Postal Service states that continuing the Target Country and Transition Country distinction is not consistent with the current Mail Classification Schedule (MCS) and produces increasingly unreliable or misleading cost estimates due to the shrinking Transition Country classification. *Id.* The MCS makes no distinction between Target and Transition Countries regarding Inbound Letter Post. *Id.* The Postal Service believes that the current MCS classification is consistent with the fact that there is no costing reason to maintain a distinction between Target and Transition Countries. *Id.* at 7. The differences arising from the proposed modification are presented in a non-public file which was filed under seal with the Petition. *Id.*

III. Notice and Comment

The Commission establishes Docket No. RM2017–6 for consideration of matters raised by the Petition. More information on the Petition may be accessed via the Commission's Web site at *http://www.prc.gov.* Interested persons may submit comments on the Petition and Proposal Two no later than July 31, 2017. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is designated as officer of the Commission (Public Representative) to represent the interests of the general public in this proceeding.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. RM2017–6 for consideration of the matters raised by the Petition of the United States Postal Service for the Initiation of a Proceeding to Consider Proposed Changes in Analytical Principles (Proposal Two), filed June 8, 2017.

2. Comments by interested persons in this proceeding are due no later than July 31, 2017.

3. Pursuant to 39 U.S.C. 505, the Commission appoints Katalin K. Clendenin to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this docket.

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

By the Commission.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–12779 Filed 6–19–17; 8:45 am]

BILLING CODE 7710–FW–P

[2] *See* Docket No. ACR2016, Annual Compliance Determination, March 28, 2017, at 63–65 (FY 2016 ACD). The Postal Service states that the Commission linked the potential filing of Proposal Two to discussion of certain other topics but that none of the issues raised by these topics directly relates to the merits of Proposal Two and views it as entirely independent of these other matters. Petition at 1.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 312

[EPA–HQ–OLEM–2016–0786; FRL–9958–46–OLEM]

Amendment to Standards and Practices for All Appropriate Inquiries Under CERCLA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to amend the Standards and Practices for All Appropriate Inquiries to update an existing reference to a standard practice recently made available by ASTM International, a widely recognized standards development organization. Specifically, EPA is proposing to amend the All Appropriate Inquiries Rule to reference ASTM International's E2247–16 ''Standard Practice for Environmental Site Assessments: Phase I Environmental Site Assessment Process for Forestland or Rural Property'' and allow for its use to satisfy the statutory requirements for conducting all appropriate inquiries under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In the ''Rules and Regulations'' section of this **Federal Register**, EPA is amending the All Appropriate Inquiries Rule to reference the ASTM E2247–16 Standard as a direct final rule without a prior proposed rule. If we receive no adverse comment, we will not take further action on this proposed rule.

DATES: Written comments must be received by July 20, 2017.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OLEM–2016–0786 at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov*. The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: For general information, contact the CERCLA Call Center at 800–424–9346 or TDD 800–553–7672 (hearing impaired). In the Washington, DC metropolitan

area, call 703–412–9810 or TDD 703–412–3323. For more detailed information on specific aspects of this rule, contact Patricia Overmeyer, Office of Brownfields and Land Revitalization (5105T), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460–0002, 202–566–2774, or *overmeyer.patricia@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Why is EPA using this proposed rule?

This document proposes an amendment to 40 Code of Federal Regulations (CFR) part 312. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is making these changes as a direct final rule without a prior proposed rule because we view this as a noncontroversial action and anticipate no adverse comment. We have explained our reasons for this action, including our reasons for the specific amendment, in the preamble to the direct final rule. Additionally, the amendment to the regulatory text for this proposed rule can also be found in the direct final rule. If we receive no adverse comment on any of the changes we are promulgating today, we will not take further action on this proposed rule. If, however, we receive such comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this amendment will not take effect, and the reason for such withdrawal. We do not intend to institute a second comment period on this action. Any parties interested in commenting must do so at this time. EPA will address public comments in any subsequent final rule. For further information, please see the information provided in the **ADDRESSES** section of this document.

II. Does this action apply to me?

The discussion of the potentially affected entities by this proposed rule can be found in the preamble to the direct final rule.

III. Statutory and Executive Order Reviews

For a complete discussion of all the administrative requirements applicable to this action, see the direct final rule in the ''Rules and Regulations'' section of this **Federal Register**.

List of Subjects in 40 CFR Part 312

Environmental Protection, Administrative practice and procedure, Hazardous substances, Intergovernmental relations, Reporting and recordkeeping requirements, Superfund.

Dated: June 12, 2017.

Barry N. Breen,

Acting Assistant Administrator, Office of Land and Emergency Management.

[FR Doc. 2017–12839 Filed 6–19–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

[DFARS–RRTF–2017–01; Docket DARS–2017–0001]

Defense Federal Acquisition Regulation Supplement; DFARS Subgroup to the DoD Regulatory Reform Task Force, Review of DFARS Solicitation Provisions and Contract Clauses

AGENCY: Defense Acquisition Regulations System, Department of Defense.

ACTION: Request for comment.

SUMMARY: In accordance with Executive Order 13777, ''Enforcing the Regulatory Reform Agenda,'' the DFARS Subgroup to the DoD Regulatory Reform Task Force is seeking input on DFARS solicitation provisions and contract clauses that may be appropriate for repeal, replacement, or modification. See the Supplementary Information section below for additional guidance.

DATES: Interested parties should submit written comments to the address shown below on or before August 21, 2017, to be considered.

ADDRESSES: Submit comments identified by ''DFARS–RRTF–2017–01'' using any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by entering ''DFARS–RRTF–2017–01'' under the heading ''Enter keyword or ID'' and selecting ''Search.'' Select the link ''Submit a Comment'' that corresponds with ''DFARS–RRTF–2017–01.'' Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''DFARS–RRTF–2017–01'' on your attached document.
- *Fax:* 571–372–6099.
- *Mail:* Defense Acquisition Regulations System, Attn: DFARS Subgroup RRTF, OUSD(AT&L)DPAP/DARS, Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060.

Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (allow 30 days for posting of comments submitted by mail).

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Johnson, telephone 571–372–6100; or Ms. Carrie Moore, telephone 571–372–6093.

SUPPLEMENTARY INFORMATION: On February 24, 2017, the President signed Executive Order (E.O.) 13777, ''Enforcing the Regulatory Reform Agenda,'' which established a Federal policy ''to alleviate unnecessary regulatory burdens'' on the American people. Section 3(a) of the E.O. directs Federal agencies to establish a Regulatory Reform Task Force (Task Force). One of the duties of the Task Force is to evaluate existing regulations and ''make recommendations to the agency head regarding their repeal, replacement, or modification.'' The E.O. further asks that each Task Force ''attempt to identify regulations that:

(i) Eliminate jobs, or inhibit job creation; (ii) are outdated, unnecessary, or ineffective; (iii) impose costs that exceed benefits; (iv) create a serious inconsistency or otherwise interfere with regulatory reform initiatives and policies; (v) are inconsistent with the requirements of section 515 of the Treasury and General Government Appropriation Act, 2001 (44 U.S.C. 3516 note), or the guidance issued pursuant to that provision in particular those regulations that rely in whole or in part on data, information, or methods that are not publicly available or that are insufficiently transparent to meet the standard of reproducibility; or (vi) derive from or implement Executive Orders or other Presidential directives that have been subsequently rescinded or substantially modified.'' Section 3(e) of the E.O. 13777 calls on the Task Force to ''seek input and other assistance, as permitted by law, from entities significantly affected by Federal regulations, including State, local, and tribal governments, small businesses, consumers, non-governmental organizations, trade associations'' on regulations that meet some or all of the criteria above. Through this notice, DoD is soliciting such input from the public to inform evaluation of the DFARS part 252 solicitation provisions and contract clauses by the Task Force's DFARS Subgroup. Although the agency will not respond to each individual comment, DoD may follow-up with respondents to clarify comments. DoD values public feedback and will consider all input that it receives. Furthermore, DoD may share

inputs received in response to this notice with the ''Section 809 Panel'' (*section809panel.org*; *SEC809@DAU.MIL*) established under section 809 of the National Defense Act for Fiscal Year 2016, for the purpose of reviewing the acquisition regulations applicable to DoD with a view toward streamlining and improving the efficiency and effectiveness of the defense acquisition process and maintaining defense technology advantage.

Jennifer L. Hawes,

Editor, Defense Acquisition Regulations System.

[FR Doc. 2017–12731 Filed 6–19–17; 8:45 am]

BILLING CODE 5001–06–P

Notices

Federal Register
Vol. 82, No. 117
Tuesday, June 20, 2017

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

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China; Rescission of the Antidumping Duty Administrative Review; 2016

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

SUMMARY: On March 15, 2017, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China (PRC) for two companies. The period of review (POR) is January 1, 2016, to December 31, 2016. On April 27, 2017, the Department published a notice of a partial rescission of the administrative review with respect to Chongqing Changyuan Group Limited (Changyuan). Based on Pacific Accelerator Limited's (PAL) timely withdrawal of its request for review, we are now rescinding this administrative review in its entirety.

DATES: Effective June 20, 2017.

FOR FURTHER INFORMATION CONTACT: Kabir Archuletta or Jessica Weeks, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone (202) 482–2593 or (202) 482–4877, respectively.

SUPPLEMENTARY INFORMATION:

Background

On January 10, 2017, the Department published a notice of ''Opportunity to Request Administrative Review'' of the antidumping duty order on potassium permanganate from the PRC for the POR of January 1, 2016, through December 31, 2016.[1] On January 31, 2017, the Department received timely requests to conduct an administrative review of the antidumping duty order on potassium permanganate from the PRC from PAL and Changyuan.[2] Based upon those requests, on March 15, 2017, in accordance with section 751(a) or the Tariff Act of 1930, as amended, (the Act) the Department published a notice of initiation of an administrative review of the *Order*[3] covering the period January 1, 2016, to December 31, 2016.[4] The Department initiated the administrative review with respect to PAL and Changyuan.[5] On April 12, 2017, Changyuan timely withdrew its request for review.[6] Accordingly, the Department published a notice of partial rescission of the antidumping duty administrative review of potassium permanganate.[7] On June 13, 2017, PAL withdrew its request for review.[8]

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Secretary will rescind an administrative review, in whole or in part, if a party who requested the review withdraws the request within 90 days of the date of publication of notice of initiation of the requested review. PAL was the only remaining respondent in this administrative review, PAL timely withdrew its request for review, and no other party requested a review of PAL. Further, pursuant to 19 CFR 351.213(d)(1) and as a result of the rescission with respect to PAL and the prior rescission with respect to Changyuan, we are rescinding the administrative review of the antidumping duty order on potassium permanganate from the PRC for the period January 1, 2016, through December 31, 2016, in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review pertain shall be assessed antidumping duties at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption, in accordance with 19 CFR 351.212(c)(1)(i). The Department intends to issue appropriate assessment instructions to CBP 15 days after the publication of this notice in the **Federal Register**.

Notification to Importers

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

Notification Regarding Administrative Protective Orders

This notice also serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the

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[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 82 FR 2951 (January 10, 2017).

[2] *See* Letter to the Secretary of Commerce from PAL and Changyuan ''RE: Request for Administrative Review of the Antidumping Duty Order on Potassium Permanganate from the People's Republic of China'' (January 31, 2017).

[3] *See Antidumping Duty Order; Potassium Permanganate from the People's Republic of China,* 49 FR 3897 (January 31, 1984) (*Order*).

[4] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 13795 (March 15, 2017).

[5] *Id.*

[6] *See* Letter to the Secretary of Commerce from PAL and Changyuan ''Re: Amendment of Administrative Review Request: Antidumping Duty Order on Potassium Permanganate from the People's Republic of China (A–570–001)'' (April 12, 2017).

[7] *See Potassium Permanganate from the People's Republic of China; 2016; Partial Rescission of the Antidumping Duty Administrative Review,* 82 FR 19356 (April 27, 2017).

[8] *See* Letter to the Secretary of Commerce from PAL ''Re: PAL's Withdrawal of Review Request: 2016 Administrative Review of the Antidumping Duty Order on Potassium Permanganate from the People's Republic of China (A–570–001)'' (June 13, 2017).

regulations and terms of an APO is a violation which is subject to sanction.

Notification to Interested Parties

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(l) of the Act, and 19 CFR 351.213(d)(4).

Dated: June 15, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–12820 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2015

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

SUMMARY: The Department of Commerce (Department) published the preliminary results of the administrative review of the antidumping duty order on potassium permanganate from the People's Republic of China (PRC) on December 13, 2016. We gave interested parties an opportunity to comment on the *Preliminary Results,* and based upon our analysis of the comments and information received, we made changes to the margin calculation for these final results. The final dumping margin for the reviewed firm is listed below in the ''Final Results of the Administrative Review'' section of this notice. The period of review (POR) is January 1, 2015, through December 31, 2015.

DATES: Effective June 20, 2017.

FOR FURTHER INFORMATION CONTACT: Kenneth Hawkins, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone 202.482.6491.

SUPPLEMENTARY INFORMATION:

Background

The Department published the *Preliminary Results* on December 13, 2016.[1] This review covers one respondent, Pacific Accelerator Limited (PAL).[2] Between January 12 and 17, 2017, PAL and the petitioner, the Carus Corporation, submitted case and rebuttal briefs.[3] On April 4, 2017, the Department held a hearing limited to issues raised in the case and rebuttal briefs. On March 30, 2017, in accordance with section 751(a)(3)(A) of the Tariff Act of 1930, as amended (the Act), the Department extended the period for issuing the final results of this review by thirty days, from April 12, 2017 to May 12, 2017. On May 11, 2017, the Department extended the period for issuing the final results of this review a final time for an additional thirty days, from May 12, 2017 to June 12, 2017.[4]

Scope of the Order

Imports covered by this order are shipments of potassium permanganate, an inorganic chemical produced in free-flowing, technical, and pharmaceutical grades. Potassium permanganate is currently classifiable under item 2841.61.00 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS item number is provided for convenience and customs purposes, the written description of the merchandise remains dispositive.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties in this review are addressed in the Issues and Decision Memo (I&D Memo).[5] A list of the issues which parties raised is attached to this notice as an appendix. The I&D Memo is a public document and is on file in the Central Records Unit (CRU), Room B8024 of the main Department of Commerce building, as well as electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and to all users in the CRU. In addition, a complete version of the I&D Memo can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/index.html.* The signed I&D Memo and the electronic version are identical in content.

Changes Since the *Preliminary Results*

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results,* and for the reasons explained in the I&D Memo, we revised the margin calculation for PAL. Specifically, we made adjusted the drum factor of production, and we adjusted PAL's international freight movement expense.

Final Results of the Review

The dumping margins for the final results of this administrative review are as follows:

Exporter	Weighted-average margin (dollars/kilogram) [6]
Pacific Accelerator Limited ...	$0.00

Disclosure

The Department will disclose calculations performed for these final results to the parties within five days of the date of publication of this notice, in accordance with 19 CFR 351.224(b).

Assessment Rates

Pursuant to section 751(a)(2)(A) of the Act and 19 CFR 351.212(b), the Department will determine, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review. The Department intends to issue appropriate assessment instructions directly to CBP 15 days after publication of the final results of this administrative review.

In accordance with 19 CFR 351.212(b)(1), we are calculating importer- (or customer-) specific assessment rates for the merchandise subject to this review. For assessment purposes, we calculated a per-unit rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the total sales quantity associated with those transactions. We will direct CBP to assess the resulting per-unit rate against the entered quantity of the subject

[1] *See Potassium Permanganate from the People's Republic of China: Preliminary Results of the 2015 Antidumping Duty Administrative Review,* 81 FR 81897 (December 13, 2016) (*Preliminary Results*).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 11179 (March 3, 2015).

[3] *See* PAL's July 12, 2016 submission; Petitioner's July 17, 2016 submission.

[4] *See Notice of Clarification: Application of ''Next Business Day'' Rule for Administrative Determination Deadlines Pursuant to the Tariff Acto of 1930, As Amended,*70 FR 24533 (May 10, 2005).

[5] *See* Memorandum to Ronald Lorentzen, Assistant Secretary for Enforcement and Compliance, from Gary Taverman, Associate Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Potassium Permanganate from the People's Republic of China: Issues and Decision Memorandum for the Final Results,'' dated concurrently with and hereby adopted by this notice (I&D Memo).

[6] Consistent with Comment V in the I&D Memo, the Department has determined that it will calculate per-unit assessment and cash deposit rates.

merchandise.[7] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer- (or customer-) specific assessment rate is above *de minimis.* Where an importer- (or customer-) specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

Cash Deposit Requirements

The following cash deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results, as provided for by section 751(a)(2)(C) of the Act: (1) For the exporter listed above, the cash deposit rate will be the rate established in the final results of review; (2) for previously investigated or reviewed PRC and non-PRC exporters not listed above that have separate rates, the cash deposit rate will continue to be the exporter-specific rate published for the most recent period; (3) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be that for the PRC-wide entity, which is 128.94 percent; [8] and (4) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied that non-PRC exporter. The cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers Regarding the Reimbursement of Duties

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

[7] *See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101, 8103 (February 14, 2012).

[8] *See Potassium Permanganate from the People's Republic of China; Final Results of Antidumping Duty Administrative Review,* 59 FR 26625 (May 23, 1994).

Notification Regarding Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(l) and 777(i) of the Act.

Dated: June 12, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Final Decision Memorandum

Summary
Case Issues
Background
Scope of the Order
Discussion of the Issues
Comment I International Movement Expenses
Comment II Brokerage and Handling and Truck Freight Calculations
Comment III Marine Insurance Calculation
Comment IV Application of Rail Expense
Comment V Currency Conversion
Comment VI Drum FOP
Comment VII Valuation of Manganese Dioxidee
Comment VIII Deduction of VAT
Recommendation

[FR Doc. 2017–12822 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–857]

Certain Oil Country Tubular Goods From India: Amendment of Antidumping Duty Order

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

SUMMARY: On March 16, 2017, the United States Court of International Trade (CIT) entered final judgment sustaining the final results of remand redetermination pursuant to court order by the Department of Commerce (Department) pertaining to the less-than-fair-value (LTFV) investigation of certain oil country tubular goods (OCTG) from India. This judgment was not appealed within the 60-day deadline, and became final and conclusive on May 15, 2017. The Department previously notified the public that the final judgment in this case is not in harmony with the Department's final determination in the LTFV investigation of OCTG from India. Because the judgement in this case is final and conclusive, the Department is now amending its antidumping duty order on OCTG from India covering the period of investigation (POI) of July 1, 2012, through June 30, 2013, to exclude GVN Fuels Limited (GVN) from the order and revise the dumping margin for Jindal SAW, Limited (Jindal SAW).

DATES: Effective March 26, 2017.

FOR FURTHER INFORMATION CONTACT: Andrew Huston, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4261.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 2014, the Department published its final determination of sales at LTFV and final negative determination of critical circumstances in this proceeding.[1] The Department reached affirmative determinations for mandatory respondents GVN and Jindal SAW. On September 2, 2014, the International Trade Commission notified the Department of its affirmative determination that an industry in the United States was materially injured by reason of LTFV imports of OCTG from India.[2] On September 10, 2014, the Department published the antidumping duty orders on OCTG from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam,[3]

[1] *See Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances: Certain Oil Country Tubular Good from India,* 79 FR 41981 (July 18, 2014) (*Final Determination*).

[2] *See* Letter from the ITC to the Department, dated September 2, 2014; *see also Certain Oil Country Tubular Goods from India, Korea, Philippines, Taiwan, Thailand, Turkey, Ukraine, and Vietnam* (Investigation Nos. 701–TA–499–500 and 731–TA–1215–1217 and 1219–1223 (Final), USITC Publication 4489, September 2014).

[3] *See Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Antidumping Duty Orders; and Certain Oil Country Tubular Goods From the Socialist Republic of Vietnam: Amended Final Determination of Sales at*

Continued

and a correction on October 3, 2014.[4] U.S. Steel appealed the *Final Determination* to the CIT, and on May 5, 2016, the CIT sustained, in part, and remanded, in part, the *Final Determination*.[5] The court remanded the *Final Determination* to the Department with respect to its differential pricing analysis, specifically the Department's application and explanation of its ratio test in this case, for further explanation and consideration.[6] Further, the court remanded for further explanation and consideration the Department's determinations that: (1) Jindal SAW was unaffiliated with certain suppliers of inputs; (2) Jindal SAW's yield loss data reasonably reflected its costs of production; and (3) the highest COP in GVN's cost database should be assigned to its dual-grade products.[7] On August 31, 2016, the Department issued its final results of redetermination pursuant to remand, in accordance with the CIT's order.[8] On remand, the Department revised the weighted-average dumping margins for both GVN and Jindal SAW. On March 16, 2017, the CIT sustained the Department's *Final Redetermination*.[9] Parties had 60 days to appeal the CIT's judgement. No party appealed the decision.

In response to the CIT's March 16, 2017, decision, the Department published a notice of court decision that is not in harmony with a Department determination, and amended its *Final Determination* with respect to GVN and Jindal SAW.[10] The revised weighted-average dumping margin for GVN is 1.07 percent. The revised weighted-average dumping margin for Jindal SAW is 11.24 percent. Neither GVN or Jindal SAW have a superseding cash deposit rate (*e.g.* from an administrative review) and, therefore, the Department issued amended cash deposit instructions to U.S. Customs and Border Protection on May 10, 2017.[11]

Amendment of the Order on OCTG From India

The period to appeal the CIT's decision has passed, and a final and conclusive court decision has been reached in this case. Therefore, the Department is amending the antidumping duty order[12] on OCTG from India to exclude from the order subject merchandise produced and exported by GVN because the revised weighted-average dumping margin for GVN is *de minimis.* This exclusion does not apply to merchandise produced by GVN and exported by any other company or merchandise produced by any other company and exported by GVN. Resellers of merchandise produced by GVN, are also not entitled to this exclusion.

Estimated Weighted-Average Dumping Margins

The estimated weighted-average dumping margins are as follows:

Exporter or producer	Estimated weighted-average dumping margins (percent)[13]
Jindal SAW	11.24
All Others	5.79

Continuation of Suspension of Liquidation, in Part

In accordance with section 735(c)(1)(B) of the Act, the Department has instructed CBP to continue to suspend liquidation on all relevant entries of OCTG from India.[14] These instructions suspending liquidation will remain in effect until further notice. However, because the estimated weighted-average dumping margin for merchandise produced and exported by GVN's is *de minimis,* the Department is directing U.S. Customs and Border Protection to liquidate all entries produced and exported by GVN currently suspended without regard to antidumping duties, and to not to suspend liquidation of entries of subject merchandise where GVN acted as both the producer and exporter. Entries of subject merchandise exported to the United States by any other producer and exporter combination involving GVN are not entitled to this exclusion from suspension of liquidation and are subject to the cash deposit rate for the all-others entity.

Notification to Interested Parties

This notice constitutes the amended antidumping duty order with respect OCTG from India. This notice is issued and published in accordance with sections 516A(e)(1) and 736(a) of the Act.

Dated: June 14, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–12819 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–DS–P

Less Than Fair Value, 79 FR 53691 (September 10, 2014) (*Orders*).

[4] *See Certain Oil Country Tubular Goods from India, the Republic of Korea, Taiwan, the Republic of Turkey, and the Socialist Republic of Vietnam: Notice of Correction to the Antidumping Duty Orders With Respect to Turkey and the Socialist Republic of Vietnam,* 79 FR 59740 (October 3, 2014).

[5] *See United States Steel Corp.* v. *United States,* 179 F. Supp. 3d 1114 (CIT 2016) (*US Steel*).

[6] *See US Steel,* 179 F. Supp. 3d at 1120.

[7] *Id.*

[8] *See* Final Results of Redetermination Pursuant to Remand, *United States Steel Corporation et al. and Maverick Tube Corporation et al.* v. *United States,* Consolidated Court No. 14–00263, dated August 31, 2017 (*Final Redetermination*).

[9] *See United States Steel Corporation et al.* v. *United States,* Slip Op. 17–28, Consolidated Court No. 14–00263 (CIT 2017).

[10] *See Certain Oil Country Tubular Goods from India: Notice of Court Decision Not in Harmony With Final Determination of Sales at Less Than Fair Value and Final Negative Determination of Critical Circumstances and Notice of Amended Final Determination,* 82 FR 17631 (April 12, 2017).

[11] *See* Message No. 7130310, dated May 10, 2017 (Message No. 7130310).

[12] *See Orders.*

[13] Cash deposit rates are lower than estimated weighted-average dumping margins due to offsets for export subsidies.

[14] *See Orders* at 53692; *see also* Message No. 4262301, dated September 19, 2017, and Message No. 7130310.

DEPARTMENT OF COMMERCE

International Trade Administration

Environmental Technologies Trade Advisory Committee (ETTAC) Public Meeting

AGENCY: International Trade Administration, DOC.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a meeting of the Environmental Technologies Trade Advisory Committee (ETTAC).

DATES: The meeting is scheduled for Tuesday, July 18, 2017 from 8:30 a.m.–3:30 p.m. Eastern Daylight Time (EDT). The deadline for members of the public to register or to submit written comments for dissemination prior to the meeting is 5:00 p.m. EDT on Friday, July 7, 2017. The deadline for members of the public request auxiliary aids is 5:00 p.m. EDT on Tuesday, July 11, 2017.

ADDRESSES: The meeting will be held in room 6057–59 at the U.S. Department of Commerce, Herbert Clark Hoover Building, 1401 Constitution Avenue NW., Washington, DC 20230. The address to register, submit comments, or request auxiliary aids is: Ms. Amy Kreps, Office of Energy & Environmental Industries (OEEI), International Trade Administration, Room 28018, 1401 Constitution Avenue NW., Washington, DC 20230 or email: *amy.kreps@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Ms. Amy Kreps, Office of Energy &

Environmental Industries (OEEI), International Trade Administration, Room 28018, 1401 Constitution Avenue NW., Washington, DC 20230 (Phone: 202–482–3835; Fax: 202–482–5665; email: *amy.kreps@trade.gov.*)

SUPPLEMENTARY INFORMATION:

The meeting will take place on July 18 from 8:30 a.m. to 3:30 p.m. Eastern Daylight Time (EDT). The general meeting is open to the public and time will be permitted for public comment from 3:00–3:30 p.m. EDT. All guests are required to register in advance. Those interested in attending must provide notification by Friday, July 7, 2017 at 5:00 p.m. EDT, via the contact information provided above. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to OEEI at (202) 482–5225 no less than one week prior to the meeting. Last minute requests will be accepted, but may not be possible to fill.

Written comments concerning ETTAC affairs are welcome any time before or after the meeting. To be considered during the meeting, written comments must be received by Friday, July 7, 2017 at 5:00 p.m. EDT to ensure transmission to the members before the meeting. Minutes will be available within 30 days of this meeting.

Topic To Be Considered: The agenda for the July 18, 2017 meeting includes a roundtable briefing and discussion with the U.S. interagency Trade Promotion Coordinating Committee (TPCC) Environmental Technology Working Group, which includes the Departments of State and Energy as well as the Environmental Protection Agency and others. Also during the meeting, the three ETTAC subcommittees will review their top priorities and objectives for the charter, including optimizing the U.S. Government's trade promotion programs, identifying market access barriers and pros and cons of existing trade agreements, and discussing procurement policy, including issues with financing mechanisms, localization and non-tariff barriers. The subcommittees are: Trade and Export Market Development, Professional Services and Infrastructure Advancement, and Trade Policy and American Competitiveness.

Background: The ETTAC is mandated by Section 2313(c) of the Export Enhancement Act of 1988, as amended, 15 U.S.C. 4728(c), to advise the Environmental Trade Working Group of the Trade Promotion Coordinating Committee, through the Secretary of Commerce, on the development and administration of programs to expand U.S. exports of environmental technologies, goods, services, and products. The ETTAC was originally chartered in May of 1994. It was most recently re-chartered until August 2018.

Dated: June 13, 2017.

Edward A. O'Malley,

Director, Office of Energy and Environmental Industries.

[FR Doc. 2017–12758 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–533–844]

Certain Lined Paper Products From India: Amended Final Results of Countervailing Duty Administrative Review, 2014

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

SUMMARY: The Department of Commerce (the Department) is amending the final results of the countervailing duty administrative review of certain lined paper products from India to correct ministerial errors. The period of review (POR) is January 1, 2014, through December 31, 2014.

DATES: Effective June 20, 2017.

FOR FURTHER INFORMATION CONTACT: John Conniff; AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: 202–482–1009.

SUPPLEMENTARY INFORMATION:

Background

In accordance with sections 751(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.221(b)(5), on April 17, 2017, the Department published its final results in the countervailing duty administrative review of certain lined paper products from India.[1] On that same day, the Association of American School Paper Suppliers (the petitioner) timely alleged that the Department made ministerial errors in the *Final Results.*[2] On April 28, 2017, Goldenpalm Manufacturers PVT Limited (Goldenplam), the respondent in this review, submitted rebuttal comments.[3]

Period of Review

The POR covered by this review is January 1, 2014, through December 31, 2014.

Scope of the Order

The merchandise subject to the order is certain lined paper products. The products are currently classifiable under the Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 4811.90.9035, 4811.90.9080, 4820.30.0040, 4810.22.5044, 4811.90.9050, 4811.90.9090, 4820.10.2010, 4820.10.2020, 4820.10.2030, 4820.10.2040, 4820.10.2050, 4820.10.2060, and 4820.10.4000. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description remains dispositive. A full description of the scope of the order is contained in the *Final Results* IDM.[4]

Ministerial Errors

Section 751(h) of the Act, and 19 CFR 351.224(f) define a ''ministerial error'' as an error ''in addition, subtraction, or other arithmetic function, clerical error resulting from inaccurate copying, duplication, or the like, and any similar type of unintentional error which the Secretary considers ministerial.'' The Department finds that the purported errors alleged by the petitioner constitute ministerial errors within the meaning of 19 CFR 351.224(f).[5] Specifically, we committed certain ministerial errors with regard to the ''0.5 Percent Test,'' as described under 19 CFR 351.524(b)(2), and the benefit calculation performed in connection with import duty exemptions that Goldenpalm received under the Export Promotion of Capital Goods Scheme. For a complete discussion of these alleged errors, *see* the Response to Ministerial Error Allegations.

In accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results.*[6] Specifically, we are amending the net subsidy rate for Goldenpalm. The

[1] *See Certain Lined Paper from India: Final Results of Countervailing Duty Administrative Review; 2014,* 82 FR 18112 (April 17, 2017) (*Final Resutls*) and accompanying Issues and Decision Memorandum (IDM).

[2] *See* Letter from Petitioner, ''Certain Lined Paper Products from India: Petitioner's Comments on Ministerial Errors in the Final Results,'' dated April 17, 2017.

[3] *See* Letter from Goldenpalm, ''Certain Lined Paper Products from India, C–533–844; Response to Ministerial Error Comments,'' dated April 28, 2017.

[4] *See Final Results* IDM at 3–5.

[5] *See* Memorandum, ''Response to Ministerial Error Allegations in the Final Results'' (Response to Ministerial Error Allegations) dated concurrently with this notice.

[6] *See Final Results,* 82 FR at 18113.

revised net subsidy rate is provided below.

Amended Final Results

As a result of correcting the ministerial errors, we determine that Goldenpalm's total net countervailable subsidy rate for the period January 1, 2014, through December 31 2014, is as follows:

Producer/exporter from India	Net countervailable subsidy rate (percent)
Goldenpalm Manufacturers PVT Limited.	8.30 percent *ad valorem*.

Assessment Rates/Cash Deposits

The Department intends to issue appropriate assessment instructions to U.S. Customs and Border Protection (CBP) 15 days after the date of publication of these amended final results of review, to liquidate shipments of subject merchandise produced and/or exported by the respondent listed above entered, or withdrawn form warehouse, for consumption on or after January 1, 2014, through December 31, 2014.

The Department also intends to instruct CBP to collect cash deposits of estimated countervailing duties, in the amount shown above for the company listed above on shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after April 17, 2017, the date of publication of the *Final Results.* For all non-reviewed firms, we will instruct CBP to continue to collect cash deposits at the most-recent company-specific or all-others rate applicable to the company, as appropriate. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure

We will disclose the calculations performed for these amended final results to interested parties within five business days of the date of the publication of this notice in accordance with 19 CFR 351.224(b).

We are issuing and publishing these results in accordance with sections 751(h) and 777(i)(1) of the Act, and 19 CFR 351.224(e).

Dated: June 13, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–12818 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

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.

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Pacific Halibut Fisheries: Subsistence.

OMB Control Number: 0648–0512.

Form Number(s): None.

Type of Request: Regular (extension of a currently approved information collection).

Number of Respondents: 7,337.

Average Hours per Response: Permit applications, 10 minutes; Community harvest log, 30 minutes; Ceremonial or educational harvest log, 30 minutes; Appeal for permit denial, 4 hours.

Burden Hours: 1,438.

Needs and Uses: This request is for extension of a currently approved information collection.

This information collection describes special permits issued to participants in the Pacific halibut subsistence fishery in waters off the coast of Alaska and any appeals resulting from denials. The National Marine Fisheries Service (NMFS) designed the permits to work in conjunction with other halibut harvest assessment measures. Subsistence fishing for halibut has occurred for many years among the Alaska Native people and non-Native people. Special permits are initiated in response to the concerns of Native and community groups regarding increased restrictions in International Pacific Halibut Commission Area 2C and include Community Harvest Permits, Ceremonial Permits, and Educational Permits.

A Community Harvest Permit allows the community or Alaska Native tribe to appoint one or more individuals from its respective community or tribe to harvest subsistence halibut from a single vessel under reduced gear and harvest restrictions.

Ceremonial and Educational Permits are available exclusively to Alaska Native tribes. Eligible Alaska Native tribes may appoint only one Ceremonial Permit Coordinator per tribe for Ceremonial Permits or one authorized Instructor per tribe for Educational Permits.

Except for enrolled students fishing under a valid Educational Permit, special permits require persons fishing under them to also possess a Subsistence Halibut Registration Certificate (SHARC) (see OMB No. 0648–0460) which identifies those persons who are currently eligible for subsistence halibut fishing. Each of the instruments is designed to minimize the reporting burden on subsistence halibut fishermen while retrieving essential information.

Affected Public: Business or other for-profit organizations; state, local or tribal governments.

Frequency: Annually or on occasion.

Respondent's Obligation: Required to obtain or retain benefits.

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: June 15, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–12776 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Economic Value of Whale Watching in Stellwagen Bank National Marine Sanctuary

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 21, 2017.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *pracomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Dr. Danielle Schwarzmann 240–533–0706 *danielle.schwarzmann@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for a new information collection.

NOAA is conducting research to estimate the market and non-market economic values associated with whale watching in Stellwagen Bank National Marine Sanctuary (SBNMS) and the surrounding region.

The required information is to conduct surveys of the for hire-operations that take people out for non-consumptive recreation to watch whales or other wildlife, to obtain total use by type of activity (*e.g.* whale watching, and other wildlife observation) and the spatial use by type of activity. Information will also be obtained on the knowledge, attitudes, and perceptions of for-hire operations towards the sanctuary, sanctuary resources and sanctuary processes.

Surveys will also be conducted of the passengers of the for-hire operation boats to obtain their market and non-market economic use values for whales and other wildlife. Information collected from passengers will include their expenditures, number of trips, activities while visiting the sanctuary and non-market value for improvements to whales and other sanctuary resources. An on-site survey will obtain information on demographic profiles, annual number of whale watching trips in SBNMS, and their non-market economic use value for improvements to whales and sanctuary resources. Self-addressed, postage paid mail back questionnaires will be used for importance-satisfaction ratings and whale watching trip expenditures.

II. Method of Collection

The data from the operators will be collected by scheduling appointments to meet with the owner and conduct the survey in-person. For the passengers, surveys will be conducted at the docks after the completion of their whale watching trip and via mail.

III. Data

OMB Control Number: 0648–XXXX.

Form Number: None.

Type of Review: Regular submission (new information collection).

Affected Public: Individuals or households; businesses or other for-profit organizations.

Estimated Number of Respondents: 1,000 passengers on-site, 600 for importance-satisfaction mail back and 450 for the expenditure mailback; 40 owners of whale watching operations.

Estimated Time per Response: 20 minutes per on-site interview of passengers, 20 minutes per importance-satisfaction mail back and 20 minutes for the expenditure mail back. One hour per owner of whale watching operations.

Estimated Total Annual Burden Hours: 723.

Estimated Total Annual Cost to Public: $0 in recordkeeping/reporting costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 15, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–12777 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF430

Endangered and Threatened Species; Initiation of 5-Year Review for the Endangered Gulf of Maine Distinct Population Segment of Atlantic Salmon

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

ACTION: Notice of initiation of 5-year review; request for information.

SUMMARY: We, NMFS, announce our intent to conduct a 5-year review for the Gulf of Maine distinct population segment (DPS) of Atlantic salmon (*Salmo salar*) under the Endangered Species Act of 1973, as amended (ESA). The DPS is listed as endangered under the ESA. We are required by the ESA to conduct 5-year reviews to ensure that the listing classifications of the species are accurate. The 5-year review must be based on the best scientific and commercial data available at the time of the review. We request submission of any such information on the Gulf of Maine DPS of Atlantic salmon, particularly information on the status, threats and recovery of the species that has become available since the final listing determination in 2009.

DATES: To allow us adequate time to conduct this review, we must receive your information no later than July 20, 2017. However, we will continue to accept new information about Atlantic salmon at any time.

ADDRESSES: Submit your comments by including NOAA–NMFS–2017–0050, by either of the following methods:

- *Federal e-Rulemaking Portal.* Go to *www.regulations.gov/!docketDetail;D=[NOAA-NMFS-2017-0050],* Click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written information to Dan Kircheis, NMFS, Greater Atlantic Regional Fisheries Office, Maine Field Station, 17 Godfrey Drive, Orono, Maine 04473

Instructions: We may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the specified period. All comments received are a part of the public record and we will generally post for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive or protected information submitted voluntarily by the sender is publicly accessible. We will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Dan Kircheis at the above address, by phone at 207–866–7320 or *Dan.Kircheis@noaa.gov* or Julie Crocker 978–282–8480 or *Julie.Crocker@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Gulf of Maine DPS of Atlantic salmon (*Salmo salar*) was listed as endangered under the ESA on June 19, 2009 (74 FR 29344) by NMFS and the U.S. Fish and Wildlife Service (the Services). The Services

have agreed that NMFS will serve as the lead agency for this 5-year review. Section 4(c)(2)(A) of the ESA requires that we conduct a review of listed species at least once every five years. On the basis of such reviews, under section 4(c)(2)(B) we determine whether a species should be delisted or reclassified from endangered to threatened or from threatened to endangered. Delisting a species must be supported by the best scientific and commercial data available and only considered if such data substantiates that the species is neither endangered nor threatened for one or more of the following reasons: (1) The species is considered extinct; (2) the species is considered to be recovered; or (3) the original data available when the species was listed, or the interpretation of such data, were in error (see 50 CFR 424.11(d)). The ESA implementing regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species currently under active review. This notice announces our active review of the Gulf of Maine DPS of Atlantic salmon, currently listed as endangered.

Background information about this species, including the endangered listing, is available on the NMFS Greater Atlantic Regional Fisheries Office Web site: *https://www.greateratlantic.fisheries.noaa.gov/protected/atlsalmon/.*

Determining if a Species Is Threatened or Endangered

Section 4(a)(1) of the ESA requires that we determine whether a species is endangered or threatened based on one or more of the five following factors: (1) The present or threatened destruction, modification, or curtailment of its habitat or range; (2) overutilization for commercial, recreational, scientific, or educational purposes; (3) disease or predation; (4) the inadequacy of existing regulatory mechanisms; or (5) other natural or manmade factors affecting its continued existence. Section 4(b) also requires that our determination be made on the basis of the best scientific and commercial data available after taking into account those efforts, if any, being made by any State or foreign nation, to protect such species.

Application of the DPS Policy

In the application of the DPS Policy, we are responsible for determining whether species, subspecies, or DPSs of marine and anadromous species are threatened or endangered under the ESA. For Atlantic salmon, we use the joint U.S. Fish and Wildlife Service-NMFS DPS policy (61 FR 4722; February 7, 1996) in identifying the appropriate taxonomic unit for listing consideration. Under this policy, a DPS must be discrete from other conspecific populations, and it must be significant to its taxon. A group of organisms is discrete if physical, physiological, ecological or behavioral factors make it markedly separate from other populations of the same taxon. Under the DPS policy, if a population group is determined to be discrete, the agency must then consider whether it is significant to the taxon to which it belongs. Considerations in evaluating the significance of a discrete population include: (1) Persistence of the discrete population in an unusual or unique ecological setting for the taxon; (2) evidence that the loss of the discrete population segment would cause a significant gap in the taxon's range; (3) evidence that the discrete population segment represents the only surviving natural occurrence of a taxon that may be more abundant elsewhere outside its historical geographic range; or (4) evidence that the discrete population has marked genetic differences from other populations of the species.

Public Solicitation of New Information

To ensure that the 5-year review is complete and based on the best scientific and commercial data, we are soliciting new information from the public, governmental agencies, Tribes, the scientific community, industry, environmental entities, and any other interested parties concerning the status of the Gulf of Maine DPS. The 5-year review will consider the best scientific and commercial data that has become available since the listing determination for the Gulf of Maine DPS in June 2009. Our Northeast Fisheries Science Center will assist the Greater Atlantic Regional Fisheries Office in gathering and analyzing this information. Categories of requested information include: (1) Population abundance; (2) population productivity; (3) changes in species distribution or population spatial structure; (4) genetics or other indicators of diversity; (5) changes in habitat conditions and associated limiting factors and threats; (6) conservation measures that have been implemented that benefit the species, including monitoring data demonstrating the effectiveness of such measures in addressing identified limiting factors or threats; (7) data concerning the status and trends of identified limiting factors or threats; (8) information that may affect determinations regarding the composition of the DPS; (9) other new information, data, or corrections including, but not limited to, taxonomic or nomenclatural changes, identification of erroneous information in the previous listing determination, and improved analytical methods for evaluating extinction risk.

If you wish to provide information for this 5-year review, you may submit your information and materials electronically via email (see **ADDRESSES** section). We request that all information be accompanied by supporting documentation such as maps, bibliographic references, or reprints of pertinent publications. We also would appreciate

the submitter's name, address, and any association, institution, or business that the person represents; however, anonymous submissions will be accepted.

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

Dated: June 15, 2017.

Angela Somma,

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

[FR Doc. 2017–12789 Filed 6–19–17; 8:45 am]

BILLING CODE 3510–22–P

COMMODITY FUTURES TRADING COMMISSION

Agency Information Collection Activities: Comment Request—Notice of Intent To Amend Collection 3038–0079: Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is announcing an opportunity for public comment on a proposed amendment to the collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comment on an amendment to the collection of information under OMB Control No. 3038–0079 (Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants).

DATES: Comments must be submitted on or before August 21, 2017.

ADDRESSES: You may submit comments, identified by ''OMB Control No. 3038–0079; Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants,'' by any of the following methods:

- The Commission's Web site, via its Comments Online process at *http://comments.cftc.gov/.* Follow the instructions for submitting comments through the Web site.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW., Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail above.
- *Federal eRulemaking Portal: http://www.regulations.gov/search/index.jsp.* Follow the instructions for submitting comments through the Portal.
- Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.*

FOR FURTHER INFORMATION CONTACT: Katherine Driscoll, Associate Chief Counsel, (202) 418–5544, *kdriscoll@cftc.gov;* or Adam Kezsbom, Special Counsel, (202) 418–5372, *akezsbom@cftc.gov,* Division of Swap Dealer and Intermediary Oversight, Commodity Futures Trading Commission, 1155 21st Street NW., Washington, DC 20581.

SUPPLEMENTARY INFORMATION: Under the PRA, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of Information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3 and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA, 44 U.S.C. 3506(c)(2)(A), requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed amendment to an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, the CFTC is publishing notice of the proposed amendment to the collection of information listed below. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Title: Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants (OMB Control No. 3038–0079). This is a request for an amendment to a currently approved information collection.

Abstract: In 2012, the Commission promulgated Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties (External Business Conduct Standards Final Rulemaking) [1] which include all of Subpart H of Part 23 of the Commission's regulations (EBCS Rules).[2] In the External Business Conduct Standards Final Rulemaking, the Commission stated that the information collections associated with the EBCS Rules were part of the overall supervision, compliance and recordkeeping requirements imposed by the Commission in certain other rulemakings including, among others, the collection of information for rules on Conflicts of Interest Policies and Procedures by Swap Dealers and Major Swap Participants under § 23.605 under OMB Collection No. 3038–79. While the collections associated with the EBCS Rules do overlap with the requirements in certain other Commission regulations, the OMB collections associated with those other Commission regulations do not accurately reflect the burdens imposed by the EBCS Rules.

The Commission is proposing to amend the information collection under OMB Control No. 3038–0079 to clearly reflect the paperwork burden imposed by the EBCS Rules under §§ 23.401–450 and ensure that the paperwork burden of the EBCS Rules is centrally located under OMB Control No. 3038–0079. In addition, the Commission will be retitling the collection under OMB Control No. 3038–0079 ''Swap Dealer and Major Swap Participant Conflicts of Interest and Business Conduct Standards with Counterparties'' to more accurately reflect its coverage. The collections of information contained in the EBCS rules are necessary to implement requirements set forth in the Dodd-Frank Wall Street Reform and Consumer Protection Act [3] and for the protection of investors and market participants.

With respect to the collection of information, the CFTC invites comments on:

- Whether the proposed revision to the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have a practical use;
- The accuracy of the Commission's estimate of the burden of the proposed revision to the collection of information, including the validity of the methodology and assumptions used;
- Ways to enhance the quality, usefulness, and clarity of the information to be collected; and
- Ways to minimize the burden of 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.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act, a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Regulation 145.9.[4]

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all of your submission from *http://www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the information collection request will be retained in the public comment file and will be considered as required under the Administrative Procedure Act and other applicable laws, and may be accessible under the Freedom of Information Act.

[1] Business Conduct Standards for Swap Dealers and Major Swap Participants with Counterparties, 77 FR 9734, Feb. 17, 2012.

[2] Subpart H of Part 23 is titled ''Business Conduct Standards for Swap Dealers and Major Swap Participants Dealing with Counterparties, Including Special Entities.'' Subpart H includes the following provisions: § 23.400 (Scope); § 23.402 (Definitions); § 23.402 (General Provisions); § 23.410 (Prohibition on fraud, manipulation and other abusive practices); § 23.430 (Verification of counterparty eligibility); § 23.431 (Disclosures of material information); § 23.432 (Clearing disclosures); § 23.433 (Communications—fair dealing); § 23.434 (Recommendations to counterparties—institutional suitability; § 23.440 (Requirements for swap dealers acting as advisors to Special Entities); § 23.450 (Requirements for swap dealers and major swap participants acting counterparties to Special Entities); and § 23.451 (Political contributions by certain swap dealers).

[3] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act, Public Law 111–203, 124 Stat. 1376 (2010). The text of the Dodd-Frank Act may be accessed at *http://www.cftc.gov/ucm/groups/public/@swaps/documents/file/hr4173_enrolledbill.pdf.*

[4] 17 CFR 145.9.

Burden Statement: The respondent burden for this collection is detailed below and includes the burden currently associated with OMB Collection No. 3038–0079 in connection with § 23.605 (Conflicts of Interest Policies and Procedures for Swap Dealers and Major Swap Participants) and the EBCS Rules.

The Commission estimates the burden of this collection of information as follows:

Respondents/Affected Entities: Swap Dealers and Major Swap Participants.

Estimated Number of Respondents: 102.

Estimated Average Burden Hours per Respondent: 2,352.9 hours.

Estimated Total Annual Burden on Respondents: 240,000 hours.

Frequency of Collection: Ongoing.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: June 14, 2017.

Robert N. Sidman,

Deputy Secretary of the Commission.

[FR Doc. 2017–12790 Filed 6–19–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Notice of Three-Year Extension of Defense Health Agency Evaluation of Non-United States Food and Drug Administration Approved Laboratory Developed Tests Demonstration Project

AGENCY: Department of Defense.

ACTION: Notice of three-year extension of Defense Health Agency Evaluation of Non-United States Food and Drug Administration Approved Laboratory Developed Tests Demonstration Project.

SUMMARY: This notice is to advise interested parties of a three-year extension of a demonstration project entitled Defense Health Agency (DHA) Evaluation of Non-United States Food and Drug Administration (FDA) Approved Laboratory Developed Tests (LDTs) Demonstration Project. The original notice was published on June 18, 2014 (79 FR 34726–34729).

DATES: Effective July 19, 2017.

ADDRESSES: Defense Health Agency (DHA), Attn: Clinical Support Division, 16401 East Centretech Parkway, Aurora, CO 80011–9066.

FOR FURTHER INFORMATION CONTACT: Jim Black, Clinical Support Division, Defense Health Agency, Telephone (303) 676–3487.

SUPPLEMENTARY INFORMATION: For additional information on the DHA Evaluation of Non-United States FDA Approved LDTs Demonstration Project, please see 79 FR 34726–34729. According to 32 CFR 199.4(g)(15)(i)(A), TRICARE may not cost-share medical devices, including LDTs, that have not received FDA medical device 510(k) clearance or premarket approval.

The purpose of this demonstration is to improve the quality of health care services for TRICARE beneficiaries. Under this demonstration, the Department of Defense reviews non-FDA approved LDTs to determine if they meet TRICARE's requirements for safety and effectiveness, and allows those that do to be covered as a benefit under the demonstration. This demonstration also extends coverage for prenatal and preconception cystic fibrosis (CF) carrier screening, when provided in accordance with the American College of Obstetricians and Gynecologists guidelines.

The Department has determined that continuation of the demonstration project for an additional three years is necessary to provide the Secretary with sufficient information to fully evaluate the project while continuing to provide TRICARE beneficiaries and their health care providers with seamless access to safe and effective, medically necessary tests to support health care decisions and treatment. During the next three years, the DHA will continue to evaluate the LDT examination and recommendation process to assess feasibility, resource requirements, and the cost-effectiveness of establishing an internal safety and efficacy review process to permit TRICARE cost-sharing for an ever-expanding pool of non-FDA approved LDTs, including tests for cancer risk, diagnosis and treatment, blood and clotting disorders, a variety of genetic diseases and syndromes, and neurological conditions. The results of the evaluation will provide an assessment of the potential improvement of the quality of health care services for beneficiaries who would not otherwise have access to these safe and effective tests and to support future regulatory revisions which will enhance the flexibility of the Military Health System in responding to emerging technologies. The demonstration project continues to be authorized by 10 U.S.C. 1092.

Dated: June 15, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–12840 Filed 6–19–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy; DoD.

ACTION: Notice.

SUMMARY: The inventions listed below are assigned to the United States Government as represented by the Secretary of the Navy and are available for domestic and foreign licensing by the Department of the Navy.

The following patents are available for licensing: U.S. Patent No. 9,180,933: INTEGRATED STERN BULB AND FLAP//U.S. Patent No. 9,228,805: CORRUGATED BLAST FREQUENCY CONTROL PANEL AND METHOD//U.S. Patent No. 9,230,717: UNIVERSAL CABLE JACKET REMOVAL TOOL//U.S. Patent No. 9,238,501: BILGE KEEL WITH POROUS LEADING EDGE//U.S. Patent No. 9,306,360: TORSION ELIMINATING COMPRESSION DEVICE AND METHOD//U.S. Patent No. 9,307,156: LONGWAVE INFRARED IMAGING OF A HIGH TEMPERATURE HIGH INTENSITY LIGHT SOURCE// U.S. Patent No. 9,340,284: CARGO SUSPENSION FRAME FOR AIRCRAFT//U.S. Patent No. 9,365,262: WIGGLE HULL DESIGN HAVING A CONCAVE AND CONVEX PLANING HULL//U.S. Patent No. 9,376,171: MOORING CLEAT WITH OPEN DESIGN FOR NON THREAD ENTRY// U.S. Patent No. 9,376,175: WATER VESSEL WITH INTEGRATED BUOYANCY BULB AND STERN RAMP//U.S. Patent No. 9,381,979: PORTABLE LIGHTWEIGHT APPARATUS AND METHOD FOR TRANSFERRING HEAVY LOADS//U.S. Patent No. 9,417,155: CALCAREOUS DEPOSIT WIPE TEST APPARATUS AND METHOD//U.S. Patent No. 9,421,618: CLAMPING DEVICE FOR SECURING CABLES TO SUBMERGED FERROUS HULL SURFACE.//

ADDRESSES: Requests for copies of the patents cited should be directed to Office of Counsel, Naval Surface Warfare Center Carderock Division, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700.

FOR FURTHER INFORMATION CONTACT: Dr. Joseph Teter, Director, Technology Transfer Office, Naval Surface Warfare Center Carderock Division, Code 0120, 9500 MacArthur Blvd., West Bethesda, MD 20817–5700, telephone 301–227–4299.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: June 14, 2017.

B.D. Corcoran

Lieutenant, Judge Advocate General's Corps, U.S. Navy, Alternate Federal Register Liaison Officer.

[FR Doc. 2017–12833 Filed 6–19–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0086]

Agency Information Collection Activities; Comment Request; PLUS Adverse Credit Reconsideration Loan Counseling

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before August 21, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0086. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Beth Grebeldinger, 202–377–4018.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: PLUS Adverse Credit Reconsideration Loan Counseling.

OMB Control Number: 1845–0129.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individual or Households.

Total Estimated Number of Annual Responses: 475,974.

Total Estimated Number of Annual Burden Hours: 356,982.

Abstract: Section 428B(a)(1)(A) of the Higher Education Act of 1965, as amended (HEA), provides that to be eligible to receive a Federal PLUS Loan under the Federal Family Education Loan (FFEL) Program, the applicant must not have an adverse credit history, as determined pursuant to regulations promulgated by the Secretary. In accordance with section 455(a)(1) of the HEA, this same eligibility requirement applies to applicants for PLUS loans under the Direct Loan Program. Since July 1, 2010 the Direct Loan Program is the only Federal loan program that offers Federal PLUS Loans. The adverse credit history section of the eligibility regulations in 34 CFR 685.200 (b) and (c) specify an applicant for a PLUS loan who is determined to have an adverse credit history must complete loan counseling offered by the Secretary before receiving the Federal PLUS loan.

The Department is requesting an extension to the information collection regarding the adverse credit history regulations in 34 CFR 685.200 (b) and (c) and the burden these changes create for Federal PLUS loan borrowers, both parent and graduate/professional students.

Dated: June 14, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–12749 Filed 6–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No. ED–2017–ICCD–0052]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Revision of the National Center for Education Statistics (NCES) Confidentiality Pledges Under Confidential Information Protection and Statistical Efficiency Act (CIPSEA) and Education Sciences Reform

AGENCY: Institute of Education Sciences (IES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 20, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0052. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Kashka Kubzdela, 202–245–7377.

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed,

revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Revision of the National Center for Education Statistics (NCES) Confidentiality Pledges under Confidential Information Protection and Statistical Efficiency Act (CIPSEA) and Education Sciences Reform.

OMB Control Number: 1850–0937.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 1.

Total Estimated Number of Annual Burden Hours:

Abstract: Under 44 U.S.C. 3506(e), and 44 U.S.C. 3501 (note), the National Center for Education Statistics (NCES) is announcing revisions to the confidentiality pledge(s) it provides to its respondents under the Confidential Information Protection and Statistical Efficiency Act (44 U.S.C. 3501 (note)) (CIPSEA) and under the Education Sciences Reform Act of 2002 (ESRA 2002). These revisions are required by the passage and implementation of provisions of the Federal Cybersecurity Enhancement Act of 2015 (6 U.S.C. 151), which permits and requires the Secretary of Homeland Security to provide Federal civilian agencies' information technology systems with cybersecurity protection for their Internet traffic.

Dated: June 14, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–12756 Filed 6–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0087]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and approval; Comment Request; National Assessment of Educational Progress (NAEP) 2018 and 2019 Item Library

AGENCY: National Center for Education Statistics (NCES), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a revision of an existing information collection.

DATES: Interested persons are invited to submit comments on or before July 20, 2017.

ADDRESSES: To access and review all the documents related to the information collection listed in this notice, please use *http://www.regulations.gov* by searching the Docket ID number ED–2017–ICCD–0087. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact NCES Information Collections at *NCES.Information.Collections@ed.gov.*

SUPPLEMENTARY INFORMATION: The Department of Education (ED), in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed, revised, and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the public's reporting burden. It also helps the public understand the Department's information collection requirements and provide the requested data in the desired format. ED is soliciting comments on the proposed information collection request (ICR) that is described below. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: National Assessment of Educational Progress (NAEP) 2018 and 2019 Item Library.

OMB Control Number: 1850–0928.

Type of Review: A revision of an existing information collection.

Respondents/Affected Public: Individuals or Households.

Total Estimated Number of Annual Responses: 759,283.

Total Estimated Number of Annual Burden Hours: 371,166.

Abstract: The National Assessment of Educational Progress (NAEP), conducted by the National Center for Education Statistics (NCES), is a federally authorized survey of student achievement at grades 4, 8, and 12 in various subject areas, such as mathematics, reading, writing, science, U.S. history, civics, geography, economics, technology and engineering literacy (TEL), and the arts. The National Assessment of Educational Progress Authorization Act (Pub. L. 107–279 Title III, section 303) requires the assessment to collect data on specified student groups and characteristics, including information organized by race/ethnicity, gender, socio-economic status, disability, and limited English proficiency. It requires fair and accurate presentation of achievement data and permits the collection of background, noncognitive, or descriptive information that is related to academic achievement and aids in fair reporting of results. The intent of the law is to provide representative sample data on student achievement for the nation, the states, and

subpopulations of students and to monitor progress over time. The nature of NAEP is that burden alternates from a relatively low burden in national-level administration years to a substantial burden increase in state-level administration years when the sample has to allow for estimates for individual states and some of the large urban districts. The NAEP results are reported to the public through the Nation's Report Card as well as other online NAEP tools. This request is to conduct NAEP in 2018 and 2019, including operational assessments, pilot tests, and special studies. NAEP 2018–2019 data collections, including operational assessments, pilot tests, and special studies, are currently under OMB review (OMB# 1850–0928–v.5). This request is to add Oral Ready Fluency (ORF) items to the NAEP 2018–2019 questionnaire item library (Appendix F). We are announcing a second 30-day comment period for NAEP 2018–2019 for the inclusion of these additional ORF questionnaire items.

Dated: June 15, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017–12861 Filed 6–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Nuclear Energy Advisory Committee; Meeting

AGENCY: Office of Nuclear Energy, Department of Energy.

ACTION: Notice of cancellation of open meeting.

SUMMARY: On May 26, 2017, the Department of Energy (DOE) published a notice of open meeting, scheduled for June 20, 2017, and request for comment, of the Nuclear Energy Advisory Committee (NEAC). This notice announces the cancellation of this meeting. The rescheduled meeting will be held at a date to be determined (August or September).

DATES: The meeting scheduled for June 20, 2017, announced in the May 26, 2017, issue of the **Federal Register** (FR Doc. 2017–10877, 82 FR 101), is cancelled.

FOR FURTHER INFORMATION CONTACT: Rob Rova, Designated Federal Officer, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; email: *robert.rova@nuclear.energy.gov* or phone: 301–903–9096.

Issued at Washington, DC, on June 14, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–12788 Filed 6–19–17; 8:45 am]

BILLING CODE 6405–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1235–017]

City of Radford; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 1235–017.

c. *Date Filed:* May 30, 2017.

d. *Applicant:* City of Radford.

e. *Name of Project:* Municipal Hydroelectric Project.

f. *Location:* On the Little River near the City of Radford in Montgomery and Pulaski Counties, Virginia. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Tim Logwood, Director of Electric Utilities for the City of Radford, 701 17th Street, Radford, VA 24141; Telephone (540) 731–3641.

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov*.

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC ¶ 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. Deadline for filing additional study requests and requests for cooperating agency status: July 29, 2017.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–1235–017.

m. This application is not ready for environmental analysis at this time.

n. The existing Municipal Hydroelectric Project consists of: (1) A 293-foot-long, 58-foot-high reinforced concrete slab and buttress dam that includes: (a) A south non-overflow section; (b) an overflow bulkhead section; (c) an eight-bay spillway section each with a steel tainter gate; (d) a powerhouse intake section; and (e) a north non-overflow section; (2) a 77-acre impoundment with a gross storage capacity of 562 acre-feet at a normal pool elevation of 1,772 feet National Geodetic Vertical Datum of 1929 (NGVD29) and a net storage capacity of 220 acre-feet between elevations 1,768 and 1,772 feet NGVD29; (3) a 20-foot, 3-inch-wide intake section with angled steel trash racks (3-inch by 5/16th-inch trash rack bars spaced 2.5 inches on center) and a steel roller-type head gate; (4) a 27-foot-long steel-lined penstock in concrete that transitions from a 13.5-foot-wide, 11-foot-high entrance to an 8-foot-diameter conveyance to the turbine scroll case; (5) a 30-foot-long, 28-foot-wide, and 62-foot-high powerhouse containing a single 1,185 kilowatts turbine-generator unit; (6) a 2.7-mile-long transmission line connected to the grid; and (7) appurtenant facilities.

The City of Radford proposes to revise its exhibit G to include transmission facilities composed of only three, 560-foot-long, 4.16-kV overhead conductors that transmit power to a switched disconnect/interconnection with the local distribution grid. The City of Radford states that the formerly licensed transmission line now serves to distribute power to other sources along its length and is no longer part of the project.

The City of Radford operates the project in both run-of-river and peaking modes. For the period 1984 through 2013, the project's average annual generation was about 4,550 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

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.

p. Procedural schedule and final amendments: The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Acceptance or Deficiency Letter—August 2017

Issue Scoping Document for comment—September 2017

Notice that application is ready for environmental analysis—December 2017

Notice of the availability of the EA—April 2018

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: June 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–12864 Filed 6–19–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1070]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 21, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1070.

Title: Allocation and Service Rules for the 71–76 GHz, 81–86 GHz, and 92–95 GHz Bands.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; and State, local, or Tribal Government.

Number of Respondents: 754 respondents; 3,000 responses.

Estimated Time per Response: 1.5 to 9 hours.

Frequency of Response: On occasion reporting requirement, recordkeeping requirement, and third-party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 303(f) and (r), 309, 316, and 332 of the Communications Act of 1934, as amended.

Total Annual Burden: 11,250 hours.

Total Annual Cost: $910,000.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality. The Commission has not granted assurances of confidentially to those parties submitting the information. In those cases where a respondent believes information requires confidentiality, the respondent can request confidential treatment and the Commission will afford such confidentiality for 20 days, after which the information will be available to the public.

Needs and Uses: The Commission is seeking an extension of this information collection in order to obtain the full three year approval from OMB. There are no program changes to the reporting, recordkeeping and/or third-party disclosure requirements but we are revising estimates based on experience and the possible addition of a fourth database manager. The recordkeeping, reporting, and third party disclosure requirements will be used by the Commission to verify licensee compliance with the Commission rules and regulations, and to ensure that licensees continue to fulfill their statutory responsibilities in accordance with the Communications Act of 1934. The Commission's rules promote the private sector development and use of 71–76 GHz, 81–86 GHz, and 92–95 GHz

bands (70/80/90 GHz bands). Such information has been used in the past and will continue to be used to minimize interference, verify that applicants are legally and technically qualified to hold license, and to determine compliance with Commission rules.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–12829 Filed 6–19–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0310]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 21, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0310.

Title: Community Cable Registration, FCC Form 322.

Form Number: FCC Form 322.

Type of Review: Extension of a currently approved collection.

Respondents: Business and other for-profit entities; not-for-profit institutions.

Number of Respondents and Responses: 601 respondents and 601 responses.

Estimated Time per Response: 30 minutes.

Frequency of Response: One time and on occasion reporting requirements.

Total Annual Burden: 301 hours.

Total Annual Cost: $36,060.

Obligation To Respond: Required to obtain or retain benefits. The statutory *52649 authority for this collection of information is contained in Sections 154(i), 303, 308, 309 and 621 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Impact Assessment(s): No impacts.

Needs and Uses: Cable operators are required to file FCC Form 322 with the Commission prior to commencing operation of a community unit. FCC Form 322 identifies biographical information about the operator and system as well as a list of broadcast channels carried on the system. This form replaces the requirement that cable operators send a letter containing the same information.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–12831 Filed 6–19–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0016, 3060–0017, 3060–0027, 3060–0837, 3060–0928, 3060–0932, 3060–1176, 3060–1177]

Information Collections Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before July 20, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the

information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page <*http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–0016.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule C (Former FCC Form 346); Sections 74.793(d) and 74.787, Low Power Television (LPTV) Out-of-Core Digital Displacement Application; Section 73.3700(g)(1)–(3), Post-Incentive Auction Licensing and Operations; Section 74.799, Low Power Television and TV Translator Channel Sharing.

Form No.: FCC Form 2100, Schedule C.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 4,460 respondents and 4,460 responses.

Estimated Time per Response: 2.5–7 hours (total of 9.5 hours).

Frequency of Response: One-time reporting requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Section 154(i), 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Total Annual Burden: 42,370 hours.

Annual Cost Burden: $24,744,080.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule C is used by licensees/permittees/applicants when applying for authority to construct or make changes in a Low Power Television, TV Translator or TV Booster broadcast station.

The Commission is submitting a revision to this information collection which results from the rule provisions adopted in the FCC 17–29. On March 23, 2017, the Commission adopted a Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, Low Power Television (LPTV) and TV translator stations.

Although there are no changes to the FCC Form 2100, Schedule C itself, there are changes to the substance, burden hours, and costs as described herein.

The information collection requirements contained in 47 section 74.799 (previously 74.800) permits LPTV and TV translator stations to seek approval to share a single television channel with other LPTV and TV translator stations and with full power and Class A stations. Stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule C in order to have the channel sharing arrangement approved. If the sharing station is proposing to make changes to its facility to accommodate the channel sharing, it must also file FCC Form 2100 Schedule C.

OMB Control Number: 3060–0017.

Title: Application for Media Bureau Audio and Video Service Authorization, FCC 2100, Schedule D.

Form Number: FCC Form 2100, Schedule D.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents/Responses: 570 respondents; 570 responses.

Estimated Hours per Response: 1.5 hours per response.

Frequency of Response: One time reporting requirement; On occasion reporting requirement.

Total Annual Burden: 855 hours.

Total Annual Cost: $68,400.

Obligation To Respond: Required to obtain benefits. The statutory authority for this information collection is contained in sections 154(i), 301, 303, 307, 308 and 309 of the Communications Act of 1934, as amended.

Nature and Extend of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: No impact(s).

Needs and Uses: Applicants/licensees/permittees are required to file FCC Form 2100, Schedule D when applying for a Low Power Television, TV Translator or TV Booster Station License.

The Commission is submitting this revising this information collection which results from the rule provisions adopted in the FCC 17–29. On March 23, 2017, the Commission adopted the Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, Low Power Television (LPTV) and TV translator stations.

Although there are no changes to the FCC Form 2100, Schedule D itself, there are changes to the substance, burden hours, and costs as described herein.

The information collection requirements contained in 47 section 74.799 (previously 74.800) permits LPTV and TV translator stations to seek approval to share a single television channel with other LPTV and TV translator stations and with full power and Class A stations. Stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule D in order to complete the licensing of their channel sharing arrangement.

OMB Control No.: 3060–0027.

Title: Application for Construction Permit for Commercial Broadcast Station, FCC Form 301; FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule A; 47 CFR 73.3700(b)(1) and (2) and 73.3800, Post Auction Licensing.

Form No.: FCC Form 2100, Schedule A.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 3,090 respondents and 6,526 responses.

Estimated Time per Response: 1–6.25 hours.

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 303 and 308 of the Communications Act of 1934, as amended.

Total Annual Burden: 15,317 hours.

Annual Cost Burden: $62,444,288.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission is submitting this revision to this information collection which results from the rule provisions adopted in the FCC 17–29. On March 23, 2017, the Commission adopted the Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, Low Power Television (LPTV) and TV translator stations.

Although there are no changes to the FCC Form 2100, Schedule A itself, there are changes to the substance, burden hours, and costs as described herein.

The information collection requirements contained in 47 CFR 73.3800 allows full power television stations to channel share with other full power stations, Class A, LPTV and TV translator stations outside of the incentive auction context. Full power stations file FCC Form 2100, Schedule A in order to obtain Commission approval to operate on a shared channel.

OMB Control No.: 3060–0837.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule B (Former FCC Form 302–DTV), Section 73.3700(b)(3) and Section 73.3700(h)(2).

Form No.: FCC Form 2100, Schedule B.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions.

Number of Respondents and Responses: 975 respondents and 975 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in Sections 154(i), 307, 308, 309, and 319 of the Communications Act of 1934, as amended; the Community Broadcasters Protection Act of 1999, Public Law 106–113, 113 Stat. Appendix I at pp. 1501A–594–1501A–598 (1999) (codified at 47 U.S.C. 336(f)); and the Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act).

Total Annual Burden: 1,950 hours.

Annual Cost Burden: $585,945.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule B (formerly FCC Form 302–DTV) is used by licensees and permittees of full power broadcast stations to obtain a new or modified station license and/or to notify the Commission of certain changes in the licensed facilities of those stations. It may be used: (1) To cover an authorized construction permit (or auxiliary antenna), provided that the facilities have been constructed in compliance with the provisions and conditions specified on the construction permit; or (2) To implement modifications to existing licenses as permitted by 47 CFR 73.1675(c) or 73.1690(c).

The Commission is submitting this revision to this information collection which results from the rule provisions adopted in the FCC 17–29. On March 23, 2017, the Commission adopted the Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, (Low Power Television) LPTV and TV translator stations.

Although there are no changes to the FCC Form 2100, Schedule B itself, there are changes to the substance, burden hours, and costs as described herein.

The information collection requirements contained in 47 CFR 73.3800 allows full power television stations to channel share with other full power stations, Class A, LPTV and TV translator stations outside of the incentive auction context. Full power stations file FCC Form 2100, Schedule B in order to complete the licensing of their shared channel.

OMB Control No.: 3060–0928.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule F (Formerly FCC 302–CA); 47 CFR 73.6028.

Form No.: FCC Form 2100, Schedule F.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, local or Tribal Government.

Number of Respondents and Responses: 975 respondents and 975 responses.

Estimated Time per Response: 2 hours.

Frequency of Response: One-time reporting requirement and on occasion reporting requirement.

Total Annual Burden: 1,950 hours.

Annual Cost Burden: $307,125.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The FCC Form 2100, Schedule F is used by Low Power TV (LPTV) stations that seek to convert to Class A status; existing Class A stations seeking a license to cover their authorized construction permit facilities; and Class A stations entering into a channel sharing agreement. The FCC Form 2100, Schedule F requires a series of certifications by the Class A applicant as prescribed by the Community Broadcasters Protection Act of 1999 (CBPA). Licensees will be required to provide weekly announcements to their listeners: (1) Informing them that the applicant has applied for a Class A license and (2) announcing the public's opportunity to

comment on the application prior to Commission action.

The Commission is submitting this revision to this information collection, which results from the provisions adopted in the FCC 17–29. On March 23, 2017, the Commission adopted the Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, LPTV and TV translator stations.

Although there are no changes to the FCC Form 2100, Schedule F itself, there are changes to the substance, burden hours, and costs as described herein.

The information collection requirements contained in 47 CFR 73.6028 permits Class A stations to seek approval to share a single television channel with LPTV, TV translator, full power and Class A television stations. Class A stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule F in order to complete the licensing of their channel sharing arrangement.

OMB Control No.: 3060–0932.

Title: FCC Form 2100, Application for Media Bureau Audio and Video Service Authorization, Schedule E (Former FCC Form 301–CA); 47 CFR Sections 73.3700(b)(1)(i)–(v) and (vii),(b)(2)(i) and (ii); 47 CFR Section 74.793(d).

Form No.: FCC Form 2100, Schedule E (Application for Media Bureau Audio and Video Service Authorization) (Former FCC Form 301–CA).

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for-profit entities; Not for profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 745 respondents and 745 responses.

Estimated Time per Response: 2.25 hours–6 hours (for a total of 8.25 hours).

Frequency of Response: One-time reporting requirement; On occasion reporting requirement; Third party disclosure requirement; Recordkeeping requirement.

Obligation To Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in 47 U.S.C. 151, 154(i), 157 and 309(j) as amended; Middle Class Tax Relief and Job Creation Act of 2012, Public Law 112–96, 6402 (codified at 47 U.S.C. 309(j)(8)(G)), 6403 (codified at 47 U.S.C. 1452), 126 Stat. 156 (2012) (Spectrum Act) and the Community Broadcasters Protection Act of 1999.

Total Annual Burden: 6,146 hours.

Annual Cost Burden: $4,035,550.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: FCC Form 2100, Schedule E (formerly FCC Form 301–CA) is to be used in all cases by a Class A television station licensees seeking to make changes in the authorized facilities of such station. FCC Form 2100, Schedule E requires applicants to certify compliance with certain statutory and regulatory requirements. Detailed instructions on the FCC Form 2100, Schedule E provide additional information regarding Commission rules and policies. FCC Form 2100, Schedule E is presented primarily in a ''Yes/No'' certification format. However, it contains appropriate places for submitting explanations and exhibits where necessary or appropriate. Each certification constitutes a material representation. Applicants may only mark the ''Yes'' certification when they are certain that the response is correct. A ''No'' response is required if the applicant is requesting a waiver of a pertinent rule and/or policy, or where the applicant is uncertain that the application fully satisfies the pertinent rule and/or policy. FCC Form 2100, Schedule E filings made to implement post-auction channel changes will be considered minor change applications.

Class A applications for a major change are subject to third party disclosure requirement of Section 73.3580 which requires local public notice in a newspaper of general circulation of the filing of all applications for major changes in facilities. This notice must be completed within 30 days of the tendering of the application. This notice must be published at least twice a week for two consecutive weeks in a three-week period. A copy of this notice must be placed in the public inspection file along with the application.

47 CFR 74.793(d) requires that digital low power and TV translator stations shall be required to submit information as to vertical radiation patterns as part of their applications (FCC Forms 346 and 301–CA) for new or modified construction permits.

The Commission is submitting this revision to this information collection, which results from the rule provisions adopted in the FCC 17–29. On March 23, 2017, the Commission adopted the Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, LPTV and TV translator stations.

Although there are no changes to the FCC Form 2100, Schedule E itself, there are changes to the substance, burden hours, and costs as described herein.

The information collection requirements contained in 47 CFR 73.6028 permits Class A stations to seek approval to share a single television channel with Low Power Television (LPTV), TV translator, full power and Class A television stations. Class A stations interested in terminating operations and sharing another station's channel must submit FCC Form 2100 Schedule E in order to obtain Commission approval for their channel sharing arrangement.

OMB Control Number: 3060–1176.

Title: MVPD Notice, Section 73.3700.

Form Number: Not applicable.

Type of Review: Revision of a currently approved information collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 735 respondents; 735 responses.

Estimated Hours per Response: 1–2 hours.

Frequency of Response: One time reporting requirement; Third party disclosure requirement.

Total Annual Burden: 1,397 hours.

Total Annual Cost: $43,800.

Obligation To Respond: Required to obtain benefits. The statutory authority for this information collection is contained in sections 1, 4(i) and (j), 7, 154(i), 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336 and 337 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: No impact(s).

Needs and Uses: On June 2, 2014 the Commission released a rulemaking titled ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,'' GN Docket 12–268, Report and Order, FCC 14–50, 29 FCC Rcd 6567 (2014) which adopted rules for holding an Incentive Auction. Full power and Class A stations will be reassigned to a new channel via the repacking process

following the auction. Other stations will submit winning bids to relinquish their channels, enter into channel sharing agreements (and move to the channel of the station they are sharing with); or to move from high-VHF to low-VHF channels or from UHF to high-VHF or low-VHF. Each of these stations are required to notify multichannel video programming providers (''MVPD'') that carry the station of the fact that the station will be changing channels or terminating operations.

The information collection requirements contained in 47 CFR 73.3700 requires that full power and Class A television stations assigned a new channel in the incentive auction repacking, relinquishing their channel or moving to a new channel as a result of a winning bid in the auction, notify MVPDs of their termination of operations or change in channel.

On March 23, 2017, the Commission adopted the Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, Low Power Television (LPTV) and TV translator stations. Channel sharing stations also must notify MVPDs of the fact that stations will be terminating operations on one channel to share another station's channel.

The information collection requirements contained in 47 CFR 73.3800, Full Power Television Channel Sharing Outside the Incentive Auction, Section 73.6028 Class A Television Channel Sharing Outside the Incentive Auction and Section 74.799 Low Power Television and TV Translator Channel Sharing require that stations seeking to channel share outside of the incentive auction provide notification to MVPDs of the fact that the station will be terminating operations on one channel to share another station's channel.

OMB Control No.: 3060–1177.

Title: 47 CFR 74.800, Channel Sharing Agreement (CSA).

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for profit entities; Not for profit institutions; State, local or Tribal government.

Number of Respondents and Responses: 160 respondents; 160 responses.

Estimated Hours per Response: 1 hr.

Frequency of Response: One time reporting requirement.

Total Annual Burden: 160 hours.

Total Annual Cost: $86,400.

Obligation To Respond: Required to obtain benefits. The statutory authority for this information collection is contained in sections 1, 4(i) and (j), 7, 154(i), 301, 302, 303, 307, 308, 309, 312, 316, 318, 319, 324, 325, 336 and 337 of the Communications Act of 1934, as amended.

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Privacy Act Assessment: No impact(s).

Needs and Uses: Full power and Class A television stations that agree to share a single television channel in conjunction with the incentive auction and low power television (LPTV) and TV translator stations that channel share outside of the auction context are required to reduce their agreement (CSA) to writing and submit a copy to the Commission for review. There is no specified format for the CSA but it must contain provisions covering: a. Access to facilities, including whether each licensee will have unrestrained access to the shared transmission facilities; b. Allocation of bandwidth within the shared channel; c. Operation, maintenance, repair, and modification of facilities, including a list of all relevant equipment, a description of each party's financial obligations, and any relevant notice provisions; d. Transfer/assignment of a shared license, including the ability of a new licensee to assume the existing CSA; e. Termination of the license of a party to the CSA, including reversion of spectrum usage rights to the remaining parties to the CSA and f. A provision affirming compliance with the channel sharing requirements in the rules including a provision requiring that each channel sharing licensee shall retain spectrum usage rights adequate to ensure a sufficient amount of the shared channel capacity to allow it to provide at least one Standard Definition (SD) program stream at all times.

The Commission is submitting this revision to this information collection, which results from the rule provisions adopted in the FCC 14–50 and FCC 17–29.

On June 2, 2014 the Commission released a rulemaking titled ''Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,'' GN Docket 12–268, Report and Order, FCC 14–50, 29 FCC Rcd 6567 (2014) which adopted rules for holding an Incentive Auction. Full power and Class A stations are permitted to propose to relinquish their channels in the auction and to share the channel of another station.

The information collection requirements contain in 47 CFR 73.3700 requires that full power and Class A television stations seeking approval to channel share in the incentive auction provide the Commission with a copy of their CSA for review.

On March 23, 2017, the Commission adopted the Report and Order, Channel Sharing by Full Power and Class A Stations Outside the Broadcast Television Spectrum Incentive Auction Context, GN Docket No. 12–268, MB Docket No. 03–185, MB Docket No. 15–137, FCC 17–29 (''Report and Order''). This document approved channel sharing outside of the incentive auction context between full power, Class A, Low Power Television (LPTV) and TV translator stations. The information collection requirements contained in 47 CFR 73.3800, Full Power Television Channel Sharing Outside the Incentive Auction, Section 73.6028, Class A Television Channel Sharing Outside the Incentive Auction and Section 73.799, Low Power Television and TV Translator Channel Sharing require that stations seeking to channel share outside of the incentive auction provide a copy of their ''CSA'' to the Commission for review.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–12828 Filed 6–19–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0093]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility;

the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before August 21, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0093.

Title: Application for Renewal of Radio Station License for Experimental Radio Service, FCC Form 405.

Form No.: FCC Form 405.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households, business or other for-profit, not-for-profit institutions and state, local or tribal government.

Number of Respondents and Responses: 520 respondents and 520 responses.

Estimated Time per Response: 2.25 hours.

Frequency of Response: On occasion, and every two year reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection (IC) is contained in sections 4(i), 301, 302, 303(e), 303(f), and 303(r), of the Communications Act of 1934, as amended; 47 U.S.C. 154(i), 301, 302, 303(e), 303(f) and 303(r).

Total Annual Burden: 1,170 hours.

Total Annual Cost: $179,400.

Privacy Act Impact Assessment: This information collection affects individuals or households. The Commission has a System of Records, FCC/OET–1 ''Experimental Radio Station License Files'' which cover the personally identifiable information (PII) that individual applicants may include in their submissions for experimental radio authorizations. The system of records notice (SORN) was published in the **Federal Register** on April 5, 2006, *see* 71 FR 17234, 17241. The SORN may be viewed at *https://www.fcc.gov/general/privacy-act-information.*

Nature and Extent of Confidentiality: Applicants may request that any information supplied be withheld from public inspection, *e.g.,* granted confidentiality, pursuant to 47 CFR Section 0.459 of the Commission's rules.

Needs and Uses: This collection will be submitted as an extension after this 60 day comment period in order to obtain the full three year clearance from the OMB.

FCC Form 405 is used by the Experimental Radio Service to apply for renewal of radio station licenses at the FCC. Section 307 of the Communications Act of 1934, as amended, limits the term of radio licenses to five years and requires that written applications be submitted for renewal. The regular license period for stations in the Experimental Radio Service is either two or five years.

The information submitted on FCC Form 405 is used by the Commission staff to evaluate the applicant/licensee's need for a license renewal. In performing this function, staff performs analysis of the renewal request as compared to the original license grant to ascertain if any changes are requested. If so, additional analysis is performed to determine if such changes met the requirements of the rules of the Experimental Radio Service for interference free operation. If needed, the collected information is used to coordinate such operation with other Commission bureaus or other Federal Agencies. All applications are also analyzed on their merits regarding whether they meet the general requirements for an Experimental license. These requirements are set out in 47 CFR part 5.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–12827 Filed 6–19–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1166, 3060-xxxx and 3060-xxxx]

Information Collections Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with

a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before August 21, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1166.

Title: Section 1.21001, Participation in Competitive Bidding for Support; Section 1.21002, Prohibition of Certain Communications During the Competitive Bidding Process.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: 750 respondents and 750 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 1,125 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality. Information collected in each application for universal service support will be made available for public inspection, and the Commission is not requesting that respondents submit confidential information to the Commission as part of the pre-auction application process. Respondents seeking to have information collected on an application for universal service support withheld from public inspection may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR Section 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will use the information collected to determine whether applicants are eligible to participate in auctions for Universal Service Fund support. On November 18, 2011, the Commission released an order comprehensively reforming and modernizing the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. *Connect America Fund et al.,* Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*). In adopting the *USF/ICC Transformation Order,* the Commission created the Connect America Fund (CAF) to help make broadband available to homes, businesses, and community anchor institutions in areas that do not, or would not otherwise, have broadband. In addition, the Commission created the Connect America Mobility Fund (MF) to ensure the availability of mobile broadband networks in areas where a private-sector business case is lacking and a separate and complementary one-time Tribal Mobility Fund Phase I to accelerate mobile voice and broadband availability in Tribal areas. Finally, the Commission created the Remote Areas Fund (RAF) to ensure that Americans living in the most remote areas in the nation, where the cost of deploying traditional terrestrial broadband networks is extremely high, can obtain affordable access through alternative technology platforms, including satellite and unlicensed wireless services.

To implement these reforms and conduct competitive bidding for CAF, MF, and RAF support, the Commission adopted new rules containing information collection requirements that would be used to determine whether an applicant is generally qualified to bid for universal service support. The Commission also adopted rules containing information collection requirements that would be used to determine whether an applicant is specifically qualified to bid for Phase I of the Mobility Fund and Tribal Mobility Fund.

Because support under Phase I of the Mobility Fund and Tribal Mobility Fund has been awarded, the Commission is revising the currently approved information collection to remove the information collections requirements that apply specifically to applicants seeking to participate in competitive bidding for Mobility Fund Phase I and Tribal Mobility Fund Phase I support and to retain only those information collections requirements that apply generally to applicants seeking to participate in competitive bidding for universal service support. The Commission also requests that the title of this information collection be changed to ''Section 1.21001, Participation in Competitive Bidding for Support; Section 1.21002, Prohibition of Certain Communications During the Competitive Bidding Process'' to reflect the revised information collection.

OMB Control Number: 3060–XXXX.

Title: Application to Participate in an Auction for Mobility Fund Phase II Support, FCC Form 184.

Form Number: FCC Form 184.

Type of Review: New collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: 250 respondents and 250 responses.

Estimated Time per Response: 1.5 hours.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 375 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality. Information collected on FCC Form 184 is made available for public inspection, and the Commission is not requesting that respondents submit confidential information on FCC Form 184. Respondents seeking to have information collected on FCC Form 184 withheld from public inspection may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR Section 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will use the information collected to determine whether applicants are eligible to participate in the Mobility Fund Phase II auction. On November 18, 2011, the Commission released an order comprehensively reforming and modernizing the universal service and intercarrier compensation systems to ensure that robust, affordable voice and broadband service, both fixed and mobile, are available to Americans throughout the nation. *Connect America Fund et al.,* Order and Further Notice of Proposed Rulemaking, 26 FCC Rcd 17663 (2011) (*USF/ICC Transformation Order*). In adopting the *USF/ICC Transformation Order,* the Commission created the Connect America Mobility Fund (MF) to ensure the availability of mobile broadband networks in areas where a private-sector business case is lacking a separate and complementary one-time Tribal Mobility Fund accelerate mobile voice and broadband availability in Tribal areas.

On February 23, 2017, the Commission adopted the framework for moving forward with Phase II of the Mobility Fund and Tribal Mobility Fund, which will allocate up to $4.53 billion over the next decade to advance the deployment of 4G LTE service to areas that are so costly that the private sector has not yet deployed there and to preserve such service where it might not otherwise exist. *Connect America Fund; Universal Service Reform—Mobility Fund,* WC Docket No. 10–90 and WT Docket No. 10–208, Report and Order, FCC 17–11. To implement the reform and conduct the MF–II auction, the Commission adopted new rules for the MF–II auction which include new information collections. The Commission will utilize a reverse auction to distribute high-cost support for mobile services to areas that lack unsubsidized 4G LTE service, while completing the phase-down of legacy support going to mobile competitive eligible telecommunications carriers. The Commission will use a two-stage application process for the MF–II auction similar to that used in spectrum license auctions. Based on the Commission's experience with auctions and consistent with the record, this two-stage collection of information balances the need to collect information essential to conduct a successful auction with administrative efficiency.

Under this information collection, the Commission will collect information that will be used to determine whether an applicant is legally qualified to participate an auction for Mobility Fund Phase II and Tribal Mobility Fund Phase II support. To aid in collecting this information, the Commission has created FCC Form 184, which the public will use to provide the necessary information and certifications. Commission staff will review the information collected on FCC Form 184 as part of the pre-auction process, prior to the start of the auction, and determine whether each applicant satisfies the Commission's requirements to participate in an auction for Mobility Fund Phase II and Tribal Mobility Fund Phase II support. Without the information collected on FCC Form 184, the Commission will not be able to determine if an applicant is legally qualified to participate in the auction and has complied with the various applicable regulatory and statutory auction requirements for such participation. This approach provides an appropriate screen to ensure serious participation without being unduly burdensome.

OMB Control Number: 3060–XXXX.

Title: Application to Participate in Connect America Fund Phase II Auction, FCC Form 183.

Form Number: FCC Form 183.

Type of Review: New collection.

Respondents: Business or other for-profit entities, not-for-profit institutions, and state, local or tribal governments.

Number of Respondents and Responses: 500 respondents and 500 responses.

Estimated Time per Response: 7 hours.

Frequency of Response: On occasion reporting requirement.

Obligation To Respond: Required to obtain or retain benefits. Statutory authority for this information collection 47 U.S.C. 154, 254 and 303(r).

Total Annual Burden: 3,500 hours.

Total Annual Cost: No cost.

Nature and Extent of Confidentiality: There is no need for confidentiality. Information collected on FCC Form 183 is made available for public inspection, and the Commission is not requesting that respondents submit confidential information on FCC Form 183. Respondents seeking to have information collected on FCC Form 183 withheld from public inspection may request confidential treatment of such information pursuant to section 0.459 of the Commission's rules, 47 CFR Section 0.459.

Privacy Act Impact Assessment: No impact(s).

Needs and Uses: The Commission will use the information collected to determine whether applicants are eligible to participate in the Connect America Fund Phase II auction (CAF–II auction). On November 18, 2011, the Commission released the *USF/ICC Transformation Order and Further Notice of Proposed Rulemaking,* WC Docket No. 10–90 et al., FCC 11–161, which comprehensively reformed and modernized the high-cost program within the universal service fund to focus support on networks capable of providing voice and broadband services. The Commission created the Connect America Fund (CAF) and concluded that support in price cap areas would be provided through a combination of ''a new forward-looking model of the cost of constructing modern multi-purpose networks'' and a competitive bidding process (the CAF–II auction). The Commission also sought comment on proposed rules governing the CAF–II auction, including options regarding basic auction design and the application process.

In the CAF–II auction, service providers will compete to receive support of up to $1.98 billion to offer voice and broadband service in unserved high-cost areas. To implement reform and conduct the CAF–II auction, the Commission adopted new rules for the CAF–II auction which include new information collections. In the *April 2014 Connect America Order,* WC Docket No. 10–90 et al., FCC 14–54, the Commission adopted certain rules regarding participation in the CAF–II auction, the term of support, and the ETC designation process. In the *Phase II Auction Order,* WC Docket No. 10–90 et al., FCC 16–64, the Commission adopted rules to implement the CAF–II auction, including the adoption of a two-stage application process. Based on the Commission's experience with auctions and consistent with the record, this two-stage collection of information balances the need to collect information essential to conduct a successful auction with administrative efficiency.

Under this information collection, the Commission will collect information that will be used to determine whether an applicant is legally qualified to participate in an auction for Connect America Fund Phase II support (CAF–II support). To aid in collecting this information, the Commission has created FCC Form 183, which the public will use to provide the necessary information and certifications. Commission staff will review the information collected on FCC Form 183 as part of the pre-auction process, prior to the start of the auction, and determine whether each applicant satisfies the Commission's requirements to participate in an auction for CAF–II support. Without the information collected on FCC Form 183, the Commission will not be able to determine if an applicant is legally

qualified to participate in the auction and has complied with the various applicable regulatory and statutory auction requirements for such participation. This approach provides an appropriate screen to ensure serious participation without being unduly burdensome.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–12830 Filed 6–19–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, June 22, 2017 At 11:15 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

Items To Be Discussed

Draft Advisory Opinion 2017–01: American Urological Association
Draft Advisory Opinion 2017–03: American Association of Clinical Urologists, Inc./UROPAC
Draft Advisory Opinion 2017–04: Lancman for Congress
Audit Division Recommendation Memorandum on the American Financial Services Association PAC (AFSAPAC) (A15–11)
Discussion of Commission's Response to Alleged Foreign Interference in American Elections

MANAGEMENT AND ADMINISTRATIVE MATTERS: Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dayna C. Brown, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer.

Telephone: (202) 694–1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017–12896 Filed 6–16–17; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT

Board Member Meeting, June 26, 2017, 8:30 A.M. (In-Person)

Open Session

1. Approval of the Minutes for the May 31, 2017 Board Member Meeting
2. Monthly Reports
   (a) Participant Activity Report
   (b) Investment Performance Report
   (c) Legislative Report
3. Vendor Financials
4. EBSA Audit Reports Update
5. IT Update

Closed Session

Information covered under 5 U.S.C. 552b(c)(4) and (c)(9)(B).

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: June 15, 2017.

Megan Grumbine,

General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2017–12847 Filed 6–19–17; 8:45 am]

BILLING CODE 6760–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10265 and CMS–10638]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected; and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by July 20, 2017.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 *OR* Email: *OIRA_submission@omb.eop.gov*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at Web site address at *https://www.cms.gov/Regulations-and-Guidance/Legislation/PaperworkReductionActof1995/PRA-Listing.html.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: William Parham at (410) 786–4669.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension, revision or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Reinstatement of a currently approved collection; *Title of Information Collection:* Mandatory Insurer Reporting Requirements of Section 111 of the Medicare, Medicaid and SCHIP Act of 2007; *Use:* The CMS is responsible for oversight and

implementation of the MSP provisions as part of its overall authority for the Medicare program. The CMS accomplishes this through a combination of direct CMS action and work by CMS' contractors. The CMS efforts include policy and operational guidelines, including regulations (as necessary), as well as oversight over contractor MSP responsibilities. As a result of litigation in the mid-1990's, certain GHP insurers were mandated to report coverage information for a number of years. Subsequent to this litigation related mandatory reporting, CMS instituted a Voluntary Data Sharing Agreement (VDSA) effort which expanded the scope of the GHP participants and added some NGHP participants. This VDSA process complemented the IRS/SSA/CMS Data Match reporting by employers, but clearly did not include the universe of primary payers and had few NGHP participants. Both GHP and NGHP entities have had and continue to have the responsibility for determining when they are primary to Medicare and to pay appropriately, even without the mandatory Section 111 process. In order to make this determination, they should already and always be collecting most of the information CMS will require in connection with Section 111 of the MMSEA. Section 111 establishes separate mandatory reporting requirements for GHP arrangements as well as for liability insurance (including self-insurance), no-fault insurance, and workers' compensation, these may collectively be referred to as ''Non-GHP or NGHP.'' *Form Number:* CMS–10265 (OMB control number: 0938–1074); *Frequency:* Yearly, Quarterly; *Affected Public:* Private Sector (Business or other for-profits); *Number of Respondents:* 19,248; *Total Annual Responses:* 5,019,248; *Total Annual Hours:* 557,826. (For policy questions regarding this collection contact John Albert at 410–786–7457.)

2. *Type of Information Collection Request:* New collection (Request for a new OMB control number); *Title of Information Collection:* Add-On Payments for New Medical Services and Technologies Paid Under the Inpatient Prospective Payment System; *Use:* Sections 1886(d)(5)(K) and (L) of the Act establish a process of identifying and ensuring adequate payment for new medical services and technologies (sometimes collectively referred to in this section as ''new technologies'') under the IPPS. Section1886(d)(5)(K)(vi) of the Act specifies that a medical service or technology will be considered new if it meets criteria established by the Secretary after notice and opportunity for public comment. Section 1886(d)(5)(K)(ii)(I) of the Act specifies that a new medical service or technology may be considered for new technology add-on payment if, ''based on the estimated costs incurred with respect to discharges involving such service or technology, the DRG prospective payment rate otherwise applicable to such discharges under this subsection is inadequate.'' The regulations at 42 CFR 412.87 implement these provisions and specify three criteria for a new medical service or technology to receive the additional payment: (1) The medical service or technology must be new; (2) the medical service or technology must be costly such that the DRG rate otherwise applicable to discharges involving the medical service or technology is determined to be inadequate; and (3) the service or technology must demonstrate a substantial clinical improvement over existing services or technologies. We use the application in order to determine if a technology meets the new technology criteria. *Form Number:* CMS–10638 (OMB Control Number: 0938—New); *Frequency:* Yearly; *Affected Public:* Individuals and households, Private sector (Business or other for-profits and Not-for-profits institutions; *Number of Respondents:* 15; *Total Annual Responses:* 15; *Total Annual Hours:* 600. (For policy questions regarding this collection contact Noel Manlove at 410–786–5161.)

Dated: June 15, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–12849 Filed 6–19–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Comment Request; Data Collection Materials for the Evaluation of the Administration for Community Living's American Indian, Alaska Natives and Native Hawaiian Programs (OAA Title VI)

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing that the proposed collection of information listed above has been submitted to the Office of Management and Budget (OMB) for review and clearance as required under section 506(c)(2)(A) of the Paperwork Reduction Act of 1995. This 30-Day notice collects comments on the information collection requirements related to a new collection (ICR New).

DATES: Submit written or electronic comments on the collection of information by July 20, 2017.

ADDRESSES: Submit written comments on the collection of information by fax 202.395.5806 or by email to *OIRA_submission@omb.eop.gov,* Attn: OMB Desk Officer for ACL; or by mail to the Office of Information and Regulatory Affairs, OMB, New Executive Office Bldg., 725 17th St. NW., Rm. 10235, Washington, DC 20503, Attn: OMB Desk Officer for ACL.

FOR FURTHER INFORMATION CONTACT: Kristen Hudgins, 202–795–7732; email: *kristen.hudgins@acl.hhs.gov*.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, ACL has submitted the following proposed collection of information to OMB for review and clearance.

The Data Collection Materials for the Evaluation of the Administration for Community Living's American Indian, Alaska Natives and Native Hawaiian Programs (OAA Title VI) is a new data collection (ICR-New) that will include focus groups for elders and caregiver program participants, interviews with Title VI staff, and a survey for caregiver program participants. The Evaluation of the Administration for Community Living's American Indian, Alaska Natives and Native Hawaiian Programs will allow ACL/AoA to document the value of the Title VI programs for individuals, families, communities and Tribes/Tribal Organizations. ACL estimates the annual burden of this collection of information as follows:

The proposed data collection tools may be found on the ACL Web site at: *https://www.acl.gov/about-acl/policy-and-regulations*.

Respondent type	Form name	Number of annual respondents	Number of responses per respondent	Average burden (in hours) per response	Annual burden hours [1]
Program director	Program staff interview	10	1	1	10
Program director	Program staff focus group moderator guide.	10	1	2	20
Other Program Staff	Tribal program staff focus group moderator guide.	10	1	1	10
Other Program Staff	Tribal program staff focus group moderator guide.	10	1	2	20
Tribal elder	Tribal elder focus group moderator guide.	100	1	2	200
Tribal elder	Tribal elder interview	20	1	1	20
Caregiver	Tribal caregiver focus group moderator guide.	87	1	2	174
Caregiver	Tribal caregiver survey	98	1	0.42	41
Total		335			495

[1] Rounded to the nearest whole number.

Comments in Response to the 60-Day Federal Register Notice

In response to the 60-day **Federal Register** notice related to this proposed data collection and published on February 23, 2017, vol. 82, No. 35; pp. 11472–11473. No public comments to the evaluation materials were received, however; in an effort to maintain consistency between evaluation instruments, ACL has decided to change some of the wording and response options to Question 37 in the Tribal caregiver survey. This is in keeping with ACL's National Family Caregiver Support Program Evaluation Caregiver Survey as well as the National Evaluation of the Title III–C Services Client Outcomes Survey CAPI Questionnaire and does not substantively change the information being collected.

Dated: June 13, 2017.

Daniel P. Berger,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2017–12748 Filed 6–19–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Notice of Intent To Award a Single Source Non-Competing Supplement to the Native American Elder Justice Initiative (NAEJI)

SUMMARY: In 2014, ACL announced a funding opportunity known as ''the Native American Elder Justice Initiative'' that awarded funds to the University of North Dakota (UND) National Indigenous Elder Justice Initiative (NIEJI), to address the need for more culturally appropriate information and community education materials on elder abuse, neglect, and exploitation in Indian Country. The one year extension will enable NIEJI to (1) continue to develop culturally appropriate para-professional training to tribal aging networks, including work with community health representatives, Senior Companions and Foster Grandparents; (2) develop additional training modules around aspects of elder neglect, exploitation and abuse; (3) continue to work with individual tribes and tribal organizations seeking direction on developing prevention and awareness programs, and to (4) provide on-going training to tribal aging and health programs.

DATES: Estimated Project Period—August 1, 2017–July 31, 2018.

SUPPLEMENTARY INFORMATION:

Program Name: Native American Elder Justice Initiative Program-University of North Dakota/National Indigenous Elder Justice Initiative.

Award Amount: $200,000.

Award Type: Cooperative Agreement.

Statutory Authority: This program is authorized under Title II, Section 201(c)(3)(H) (42 U.S.C.3011).

Catalog of Federal Domestic Assistance (CFDA) Number: 95.047.

Program Description: The Administration on Aging, an agency of the U.S. Department of Health and Human Service's Administration for Community Living, has funded the University of North Dakota's (UND) National Indigenous Elder Justice Initiative (NIEJI) under the Native American Elder Justice Initiative (NAEJI) Program since August 1, 2014. The purpose of the initiative is to address the lack of culturally appropriate information and community education materials on elder abuse, neglect, and exploitation in Indian Country. Some of the undertakings of the initiative that are included will be (1) to maintain a resource center on elder abuse to assist tribes in addressing indigenous elder abuse, neglect and exploitation; (2) to identify and make available existing literature; (3) to develop resources and tribal codes that address indigenous elder abuse; and (4) to develop and disseminate culturally appropriate and responsive resources for use by tribes, care providers, law enforcement and other stakeholders. UND/NIEJI has experience working with elder justice issues throughout Indian country and is recognized as the prevention specialist in this area. Changing recipients at this time would necessitate a break in the established workflow and additional time to familiarize a new grantee with the project and working with Indian Country. The research specialist who directs the project has grown with NIEJI and is recognized for that work throughout Indian Country. UND/NIEJI currently educates and collaborates with law enforcement, caregivers and social services providers throughout Indian Country on elder justice issues through the ''Native American Elder Abuse Online Educational Training Modules'' designed by NIEJI. Additionally UND/NIEJI is currently working to complete three additional trainings and will be utilized by individuals and groups working in Indian Country on elder justice priorities and other elder abuse issues. This initiative was developed to address the unique cultural aspects of abuse, neglect and exploitation and to assist tribes in developing an appropriate response to fit the needs of their particular communities in protecting tribal elders.

Agency Contact: For further information or comments regarding this supplemental action, contact Cynthia LaCounte, U.S. Department of Health and Human Services, Administration for Community Living, Administration on Aging, 330 C Street SW., Washington DC 20201; telephone 202–795–7380; email *Cynthia.LaCounte@acl.hhs.gov*.

Dated: June 13, 2017.

Daniel P. Berger,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2017–12753 Filed 6–19–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Community Living

Agency Information Collection Activities; Proposed Collection; Public Comment Request; Revision of a Currently Approved Information Collection (ICR-Rev); Title III Supplemental Form to the Financial Status Report (SF–425)

AGENCY: Administration for Community Living, HHS.

ACTION: Notice.

SUMMARY: The Administration for Community Living (ACL) is announcing an opportunity for the public to comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish a notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the proposed action. This notice solicits comments on a proposed revision of an existing data collection regarding the information collection requirements relating to the Title III Supplemental Form to the Financial Status Report for all ACL/AoA Title III Grantees.

DATES: Submit written or electronic comments on the collection of information by August 21, 2017.

ADDRESSES: Submit electronic comments on the collection of information to: *jesse.more@acl.hhs.gov.* Submit written comments on the collection of information to the U.S. Department of Health and Human Services, Administration for Community Living, Washington, DC 20201, Attention: Jesse E. Moore, Jr.

FOR FURTHER INFORMATION CONTACT: Jesse E. Moore, Jr., Aging Services Program Specialist, Administration for Community Living, Washington, DC, 20201, 202–795–7578.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60 day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or update of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, ACL is publishing the notice of the proposed collection of information set forth in this document. With respect to the following collection of information, ACL invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of ACL's functions, including whether the information will have practical utility; (2) the accuracy of ACL's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology.

Purpose

The *Title III Supplemental Form to the Financial Status Report* (SF–425) is used by ACL/AoA for all grantees to obtain a more detailed understanding of how projects funded under Title III of the Older Americans Act (OAA) of 1965, as amended, are being administered, and to ensure compliance with legislative requirements, pertinent Federal regulations and other applicable instructions and guidelines issued by the ACL. The level of data detail necessary is not available through the Federal Financial Status Report (SF–425) form. The Title III Supplemental Form provides necessary details on non-federal required match, administration expenditures, Older Relative Caregivers expenditures, and Long Term Care Ombudsman expenditures.

In addition to renewing OMB approval of this data collection, minor changes are being proposed to it to reflect changes in statutory language that occurred as a result of the 2016 reauthorization of the OAA. Specifically, the term ''Grandparents Only'' has been changed to ''Older Relative Caregivers,'' the new term in the OAA that describes this population of eligible service recipients. Similarly, the accompanying instructions for completing the Title III Supplemental Form to the Financial Status Report were also modified to include this same language. References in the Code of Federal Regulation (CFR) have been updated addressing financial reporting requirements and non-substantive technical edits have been made to the instructions.

Data Burden

ACL estimates the burden of this collection of information as follows: 56 State Units on Aging (SUA) respond semi-annually which should have an average estimated burden of 2 hours per grantee for a total of 112 hours per submission.

The proposed data collection tool may be found on the ACL Web site for review at: *https://www.acl.gov/sites/default/files/about-acl/2017-06/ACL%20Title%20III%20Supplemental%20Form%20and%20Instructions%202017.pdf.*

Respondent/data collection activity	Number of respondents	Responses per respondent	Hours per response	Total annual burden hours
Title III Supplemental Form to the Financial Status Report	56	2/yr	2	224
Total	56	2/yr	2	224

Dated: June 13, 2017.

Daniel P. Berger,

Acting Administrator and Assistant Secretary for Aging.

[FR Doc. 2017–12755 Filed 6–19–17; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1119]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions of reporting and recordkeeping requirements for firms that process acidified foods and thermally processed low-acid foods in hermetically sealed containers.

DATES: Submit either electronic or written comments on the collection of information by August 21, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 21, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 21, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov/* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov/.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N–1119 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov/* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov/.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov/* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, *301–796–3794,* PRAStaff@*fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information,

including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food Canning Establishment Registration, Process Filing, and Recordkeeping for Acidified Foods and Thermally Processed Low-Acid Foods in Hermetically Sealed Containers—21 CFR 108.25 and 108.35, and Parts 113 and 114—OMB Control Number 0910–0037—Extension

Section 402 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 342) deems a food to be adulterated, in part, if the food bears or contains any poisonous or deleterious substance which may render it injurious to health. Section 301(a) of the FD&C Act (21 U.S.C. 331(a)) prohibits the introduction or delivery for introduction into interstate commerce of adulterated food. Under section 404 of the FD&C Act (21 U.S.C. 344), our regulations require registration of food processing establishments, filing of process or other data, and maintenance of processing and production records for acidified foods and thermally processed low-acid foods in hermetically sealed containers. These requirements are intended to ensure safe manufacturing, processing, and packing procedures and to permit us to verify that these procedures are being followed. Improperly processed low-acid foods present life-threatening hazards if contaminated with foodborne microorganisms, especially *Clostridium botulinum*. The spores of *C. botulinum* need to be destroyed or inhibited to avoid production of the deadly toxin that causes botulism. This is accomplished with good manufacturing procedures, which must include the use of adequate heat processes or other means of preservation.

To protect the public health, our regulations require that each firm that manufactures, processes, or packs acidified foods or thermally processed low-acid foods in hermetically sealed containers for introduction into interstate commerce register the establishment with us using Form FDA 2541 (§§ 108.25(c)(1) and 108.35(c)(2) (21 CFR 108.25(c)(1) and 108.35(c)(2)). In addition to registering the plant, each firm is required to provide data on the processes used to produce these foods, using Form FDA 2541a for all methods except aseptic processing, or Form FDA 2541c for aseptic processing of low-acid foods in hermetically sealed containers (§§ 108.25(c)(2) and 108.35(c)(2)). Plant registration and process filing may be accomplished simultaneously. Process data must be filed prior to packing any new product, and operating processes and procedures must be posted near the processing equipment or made available to the operator (21 CFR 113.87(a)).

Regulations in parts 108, 113, and 114 (21 CFR parts 108, 113, and 114) require firms to maintain records showing adherence to the substantive requirements of the regulations. These records must be made available to FDA on request. Firms also must document corrective actions when process controls and procedures do not fall within specified limits (§§ 113.89, 114.89, and 114.100(c)); to report any instance of potential health-endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce (§§ 108.25(d) and 108.35(d) and (e)); and to develop and keep on file plans for recalling products that may endanger the public health (§§ 108.25(e) and 108.35(f)). To permit lots to be traced after distribution, acidified foods and thermally processed low-acid foods in hermetically sealed containers must be marked with an identifying code (§§ 113.60(c)) (thermally processed foods) and 114.80(b) (acidified foods)).

The records of processing information are periodically reviewed during factory inspections by FDA to verify fulfillment of the requirements in parts 113 or 114. Scheduled thermal processes are examined and reviewed to determine their adequacy to protect public health. In the event of a public health emergency, records are used to pinpoint potentially hazardous foods rapidly and thus limit recall activity to affected lots.

As described in our regulations, processors may obtain the paper versions of Forms FDA 2541, FDA 2541a, and FDA 2541c by contacting us at a particular address. Processors mail completed paper forms to us. However, processors who are subject to § 108.25, § 108.35, or both, have an option to submit Forms FDA 2541, FDA 2541a, and FDA 2541c electronically (Ref. 1) (see also 76 FR 11783 at 11785; March 3, 2011).

Although we encourage commercial processors to use the electronic submission system for plant registration and process filing, we will continue to make paper-based forms available. To standardize the burden associated with process filing, regardless of whether the process filing is submitted electronically or using a paper form, we are offering the public the opportunity to use four forms, each of which pertain to a specific type of commercial processing and are available both on the electronic submission system and as a paper-based form. The electronic submission system and the paper-based form ''mirror'' each other to the extent practicable. The four process filing forms are as follows:

- Form FDA 2541d (Food Process Filing for Low-Acid Retorted Method) (Ref. 3);
- Form FDA 2541e (Food Process Filing for Acidified Method) (Ref. 4);
- Form FDA 2541f (Food Process Filing for Water Activity/Formulation Control Method) (Ref. 5); and
- Form FDA 2541g (Food Process Filing for Low-Acid Aseptic Systems) (Ref. 6).

At this time, the paper-based versions of the four proposed replacement forms and their instructions are all available for review as references to this document (Refs. 4 through 6) or at *https://www.fda.gov/Food/GuidanceRegulation/FoodFacilityRegistration/AcidifiedLACFRegistration/ucm2007436.htm*.

Description of Respondents: The respondents to this information collection are commercial processors and packers of acidified foods and thermally processed low-acid foods in hermetically sealed containers.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	FDA Form No.	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
§§ 108.25(c)(1) and 108.35(c)(2); Food canning establishment registration.	2541	645	1	645	0.17 (10 minutes)	110
§ 108.25(c)(2); Food process filing for acidified method.	2541e	726	11	7,986	0.333 (20 minutes)	2,659
§ 108.35(c)(2); Food process filing for low-acid retorted method.	2541d	336	12	4,032	0.333 (20 minutes)	1,343
§ 108.35(c)(2); Food process filing for water activity/formulation control method.	2541f	37	6	222	0.333 (20 minutes)	74
§ 108.35(c)(2); Food process filing for low-acid aseptic systems.	2541g	42	22	924	0.75 (45 minutes)	693
§§ 108.25(d) and 108.35(d) and (e); Report of any instance of potential health endangering spoilage, process deviation, or contamination with microorganisms where any lot of the food has entered distribution in commerce.	N/A	1	1	1	4	4
Total						4,883

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimate of the number of respondents in table 1 on registrations, process filings, and reports received over the past 3 years. The hours per response reporting estimates are based on our experience with similar programs and information received from industry. The reporting burden for §§ 108.25(d) and 108.35(d) and (e), is minimal because notification of spoilage, process deviation, or contamination of product in distribution occurs less than once a year. Most firms discover these problems before the product is distributed and, therefore, are not required to report the occurrence. We estimate that we will receive one report annually under §§ 108.25(d) and 108.35(d) and (e). The report is expected to take 4 hours per response, for a total of 4 hours.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR part	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
108, 113, and 114	10,392	1	10,392	250	2,598,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

FDA bases its estimate of 10,392 recordkeepers in table 2 on its records of the number of registered firms, excluding firms that were inactive or out of business, yet still registered. To avoid double-counting, we have not included estimates for §§ 108.25(g), 108.35(c)(2)(ii), and 108.35(h) because they merely cross-reference recordkeeping requirements contained in parts 113 and 114 and have been accounted for in the recordkeeping burden estimate. We estimate that 10,392 firms will expend approximately 250 hours per year to fully satisfy the recordkeeping requirements in parts 108, 113 and 114, for a total of 2,598,000 hours.

Finally, our regulations require that processors mark thermally processed low-acid foods in hermetically sealed containers (§ 113.60(c)) and acidified foods (§ 114.80(b)) with an identifying code to permit lots to be traced after distribution. We seek OMB approval of the third party disclosure requirements in §§ 113.60(c) and 114.80(b). However, we have not included a separate table to report the estimated burden of these regulations. No burden has been estimated for the third-party disclosure requirements in §§ 113.60(c) and 114.80(b) because the coding process is done as a usual and customary part of normal business activities. Coding is a business practice in foods for liability purposes, inventory control, and process control in the event of a problem. Under 5 CFR 1320.3(b)(2), the time, effort, and financial resources necessary to comply with a collection of information are excluded from the burden estimate if the reporting, recordkeeping, or disclosure activities needed to comply are usual and customary because they would occur in the normal course of activities.

II. References

The following references are on display in the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov/*. FDA has verified the Web site addresses, as of the date this document publishes in the **Federal Register**, but Web sites are subject to change over time.

1. FDA 2016. ''Guidance for Industry: Submitting Form FDA 2541 (Food Canning Establishment Registration) and Forms FDA 2541a and FDA 2541c (Food Process Filing Forms) to FDA in Electronic or Paper Format.'' Available at *https://www.fda.gov/Food/GuidanceRegulation/Guidance*

DocumentsRegulatoryInformation/AcidifiedLACF/ucm309376.htm.

2. Form FDA 2541. Food Process Filing for All Methods Except Low-Acid Aseptic. Available at *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM076778.pdf.*
3. Form 2541d. Food Process Filing for Low-Acid Retorted Method. Available at *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM465591.pdf.*
4. Form 2541e. Food Process Filing for Acidified Method. Available at *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM465593.pdf.*
5. Form 2541f. Food Process Filing for Water Activity/Formulation Control Method. Available at *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM465595.pdf.*
6. Form 2541g. Food Process Filing for Low-Acid Aseptic Systems. Available at *https://www.fda.gov/downloads/AboutFDA/ReportsManualsForms/Forms/UCM465598.pdf.*

Dated: June 14, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12783 Filed 6–19–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–3101]

Abbreviated New Drug Applications: Pre-Submission Facility Correspondence Associated with Priority Submissions; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''ANDAs: Pre-Submission Facility Correspondence Associated with Priority Submissions.'' The Pre-Submission Facility Correspondence (PFC) process was identified as part of the performance goals and program enhancements for the Generic Drug User Fee Amendments reauthorization for Fiscal Years 2018–2022 (GDUFA II). A complete and accurate PFC allows the Agency to begin the facility assessment process in advance of the planned abbreviated new drug application (ANDA) submission. This draft guidance describes PFC content and format, as well as the Agency's approach to assessing this information.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by September 18, 2017. Submit either electronic or written comments concerning the collection of information proposed in the draft guidance by September 18, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–3101 for ''ANDAs: Pre-Submission Facility Correspondence Associated with Priority Submissions.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY**

INFORMATION section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Nikhil Thakur, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 4164, Silver Spring, MD 20993, 301–796–5536.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''ANDAs: Pre-Submission Facility Correspondence Associated with Priority Submissions.'' As one of the enhancements specified in the GDUFA II commitment letter, the PFC is a mechanism to achieve expedited review of priority ANDAs, prior approval supplements (PASs), and their amendments (collectively ANDAs). Under the performance goals and program enhancements for GDUFA II, FDA agreed to a shorter goal date for action on a priority generic drug submission if:

- A complete and accurate PFC is submitted to FDA 2 months ahead of the planned ANDA submission, and
- facility information remains unchanged in the ANDA.

A complete and accurate PFC allows the Agency to begin the facility assessment process in advance of the planned ANDA submission. This critical 2-month lead time provides the Agency the opportunity to determine whether facility inspections will be needed, and, when they are, to initiate inspection planning earlier in the review of the ANDA, enabling FDA to meet the shorter review timeframe.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on ''ANDAs: Pre-Submission Facility Correspondence Associated with Priority Submissions.'' It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act (44 U.S.C. 3501–3520) (the PRA), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing the proposed collection of information set forth in this notice of availability that would result from the submission of PFCs.

With respect to the following collection of information, FDA invites comment on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Title: Draft Guidance for Industry on ANDAs: Pre-Submission Facility Correspondence Associated with Priority Submissions.

Description: As described in the draft guidance, the GDUFA II commitments included an agreement to establish a mechanism to facilitate a shortened GDUFA goal date for ANDAs, PASs, and their amendments that have been designated as a ''Priority'' by FDA. For planned ANDAs that successfully meet FDA's priority review criteria, applicants may submit a PFC as a mechanism to facilitate evaluation of facilities associated with a planned ANDA.

Section IV of the draft guidance describes the information that should be submitted in the PFC to enable FDA's facility assessment:

A. General information, including the planned ANDA pre-assigned number (which the applicant must request from FDA before submitting the PFC), PFC submission date, and the applicant's identifying information;

B. statement of ANDA eligibility for priority review;

C. manufacturing process and testing facility information; and

D. bioequivalence summary and site/organization information.

The Appendix of the draft guidance describes the format that should be used to submit the PFC, including a standardized format for administrative information related to manufacturing process and testing sites, and summary tables for bioequivalence sites and organizations and for bioavailability studies.

The PFC should be submitted in the PDF file format through the FDA electronic submissions gateway, and, as explained in the draft guidance, should be submitted 2 or 3 months ahead of the planned ANDA submission.

We estimate that a total of approximately 125 applicants ''number of respondents'' in table 1) will submit annually approximately 275 PFCs as described in the draft guidance (''total annual responses'' in table 1). We estimate that preparing and submitting each PFC as described in the draft guidance will take approximately 32 hours ''hours per response'' in table 1). We base our estimates for the number of applicants and the number of PFCs on information from our database of annual ANDA submissions, and on the criteria set forth in the FDA Center for Drug Evaluation's Manual of Policies and Procedures 5240.3 and the number of ''priority'' submissions. Our estimate of the time applicants would need to prepare and submit each PFC takes into consideration that much of the PFC includes information already gathered for the ANDA submission. Thus, the burden estimate for the submission of the PFC does not double-count the burden of gathering information that is accounted for under OMB control number 0910–0001, under which OMB has approved the submission of ANDAs and related amendments, supplements, and other information required under Subpart C of Part 314 in Title 21 of the CFR.

We invite comments on these estimates.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total hours
PFC	125	2.20	275	32	8,800

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

III. Electronic Access

Persons with access to the Internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov.*

Dated: June 15, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12836 Filed 6–19–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1496]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Food and Drug Administration Rapid Response Surveys (Generic Clearance)

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 July 20, 2017.

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 0910–0500. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, *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.

FDA Rapid Response Surveys (Generic Collection)

OMB Control Number 0910–0500—Extension

Section 505 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 355) requires that important safety information relating to all human prescription drug products be made available to FDA so that it can take appropriate action to protect the public health when necessary. Section 702 of the FD&C Act (21 U.S.C. 372) authorizes investigational powers to FDA for enforcement of the FD&C Act. Under section 519 of the FD&C Act (21 U.S.C. 360i), FDA is authorized to require manufacturers to report medical device-related deaths, serious injuries, and malfunctions to FDA; to require user facilities to report device-related deaths directly to FDA and to manufacturers; and to report serious injuries to the manufacturer. Section 522 of the FD&C Act (21 U.S.C. 360l) authorizes FDA to require manufacturers to conduct postmarket surveillance of medical devices. Section 705(b) of the FD&C Act (21 U.S.C. 375(b)) authorizes FDA to collect and disseminate information regarding medical products or cosmetics in situations involving imminent danger to health or gross deception of the consumer. Section 1003(d)(2) of the FD&C Act (21 U.S.C. 393(d)(2)) authorizes the Commissioner of Food and Drugs to implement general powers (including conducting research) to carry out effectively the mission of FDA. These sections of the FD&C Act enable FDA to enhance consumer protection from risks associated with medical products usage that are not foreseen or apparent during the premarket notification and review process. FDA's regulations governing application for Agency approval to market a new drug (21 CFR part 314) and regulations governing biological products (21 CFR part 600) implement these statutory provisions. Currently, FDA monitors medical product related postmarket adverse events via both the mandatory and voluntary MedWatch reporting systems using FDA Forms 3500 and 3500A (OMB control number 0910–0291) and the vaccine adverse event reporting system.

FDA is seeking OMB clearance to collect vital information via a series of rapid response surveys. Participation in these surveys will be voluntary. This request covers rapid response surveys for community based health care professionals, general type medical facilities, specialized medical facilities (those known for cardiac surgery, obstetrics/gynecology services, pediatric services, etc.), other health care professionals, patients, consumers, and risk managers working in medical facilities. FDA will use the information gathered from these surveys to quickly obtain vital information about medical product risks and interventions to reduce risks so the Agency may take appropriate public health or regulatory action including dissemination of this information as necessary and appropriate.

FDA projects 6 emergency risk related surveys per year with a sample of between 50 and 10,000 respondents per survey. FDA also projects a response time of 0.5 hour per response. These estimates are based on the maximum sample size per questionnaire that FDA may be able to obtain by working with health care professional organizations. The annual number of surveys was determined by the maximum number of surveys per year FDA has ever conducted under this collection.

In the **Federal Register** of January 13, 2017 (82 FR 4354), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
FDA Rapid Response Survey	10,000	6	60,000	0.5 (30 minutes)	30,000

[1]There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 14, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12782 Filed 6–19–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–1072]

Agency Information Collection Activities; Proposed Collection; Comment Request; Application for Participation in Food and Drug Administration Fellowship Programs

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on ''Application for Participation in FDA Fellowship Programs.''

DATES: Submit either electronic or written comments on the collection of information by August 21, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 21, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 21, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–1072 for ''Application for Participation in Food and Drug Administration Fellowship Programs.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD

20852, 301–796–8867, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Application for Participation in FDA Fellowship Programs (Formerly Application for Participation in the FDA Commissioner's Fellowship Program)

OMB Control Number 0910–0780—Extension

Sections 1104, 1302, 3301, 3304, 3320, 3361, 3393, and 3394 of Title 5 of the United States Code authorize Federal agencies to rate applicants for Federal jobs. The proposed information collection involves brief online applications completed by applicants applying to FDA's fellowship programs. These voluntary online applications will allow the Agency to easily and efficiently elicit and review information from students and healthcare professionals who are interested in becoming involved in FDA-wide activities. The process will reduce the time and cost of submitting written documentation to the Agency and lessen the likelihood of applications being misrouted within the Agency mail system. It will assist the Agency in promoting and protecting the public health by encouraging outside persons to share their expertise with FDA.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Commissioner's Fellowship Program	600	1	600	1.33	798
Regulatory Science Internship Program	250	1	250	1	250
Medical Device Fellowship Program	250	1	250	1	250
Total					1,298

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 14, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–12781 Filed 6–19–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–N–1429]

Agency Information Collection Activities: Proposed Collection; Comment Request; Guidance for Industry on Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection in the guidance on registration of human drug compounding outsourcing facilities under the Federal Food, Drug, and Cosmetic Act (the FD&C Act).

DATES: Submit either electronic or written comments on the collection of information by August 21, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before August 21, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of August 21, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are

solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–N 1429 for ''Guidance for Industry on Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry on Registration of Human Drug Compounding Outsourcing Facilities Under Section 503B of the Federal Food, Drug, and Cosmetic Act: OMB Control Number 0910–0777—Extension

A facility that compounds drugs may elect to register with FDA as an outsourcing facility under section 503B of the FD&C Act (21 U.S.C. 353b), as added by the Drug Quality and Security Act (DQSA). Drug products compounded in a registered outsourcing facility can qualify for exemptions from the FDA approval requirements in section 505 of the FD&C Act (21 U.S.C. 355), the requirement to label products with adequate directions for use under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)), and drug supply chain security requirements in section 582 of the FD&C Act (21 U.S.C. 360eee) if the requirements in section 503B are met.

After the initial registration, under section 503B(b) of the FD&C Act, a facility that elects to register with FDA as an outsourcing facility must also do so annually between October 1 and December 31. Upon registration, the outsourcing facility must provide its name, place of business, a unique facility identifier, and a point of contact email address. The outsourcing facility must also indicate whether it intends to compound, within the next calendar year, a drug that appears on FDA's drug shortage list in effect under section 506E of the FD&C Act (21 U.S.C. 356e), and whether it compounds from bulk drug substances, and, if so, whether it compounds sterile or non-sterile drugs from bulk drug substances.

Outsourcing facilities that elect to register should submit the following registration information to FDA for each facility:

• Name of the facility;
• Place of business;
• Unique facility identifier;
• Point of contact email address and phone number;
• Whether the facility intends to compound drugs that appear on FDA's drug shortage list in effect under section 506E of the FD&C Act; and

• An indication of whether the facility compounds from bulk drug substances, and if so, whether it compounds sterile or nonsterile drugs from bulk drug substances.

Registration information should be submitted to FDA electronically using the Structured Product Labeling (SPL) format and in accordance with section IV of the FDA guidance entitled ''Providing Regulatory Submissions in Electronic Format—Drug Establishment Registration and Drug Listing.'' Under the final guidance, outsourcing facilities may request a waiver from the SPL electronic submission process by submitting a written request to FDA explaining why the use of electronic means is not reasonable.

This information collection supports the Agency guidance discussed above. We estimate that approximately 62 outsourcing facilities (''number of respondents'' and ''total annual responses'' in table 1, row 1) will annually submit to FDA registration information using the SPL format as specified in the guidance, and that preparing and submitting this information will take approximately 4.5 hours per registrant (''average burden per response'' in table 1, row 1). We expect to receive no more than one waiver request from the electronic submission process annually (''number of respondents'' and ''total annual responses'' in table 1, row 2), and that each request should take approximately 1 hour to prepare and submit to us (''average burden per response'' in table 1, row 2).

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Compounding outsourcing facility	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Electronic Submission of Registration Information Using SPL Format	62	1	62	4.5	279
Waiver Request From Electronic Submission of Registration Information	1	1	1	1	1
Total					280

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: June 15, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning Legislation, and Analysis.

[FR Doc. 2017–12838 Filed 6–19–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Brandi M. Baughman, Ph.D., National Institutes of Health (NIH): Based on Respondent's admission and analysis conducted by ORI, ORI found that Dr. Brandi M. Baughman, former Intramural Research Training Awardee, National Institute of Environmental and Health Sciences (NIEHS), NIH, engaged in research misconduct in research supported by National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), NIH, grant R01 DK101645 and the NIEHS, NIH, Postdoctoral Intramural Research Training Award (IRTA).

ORI found that falsified and/or fabricated data were included in eleven (11) figures in *PLoS One* 11(10):e0164378, 2016 (hereafter referred to as ''*PLoS One* 2016'').

ORI found that Respondent falsified and/or fabricated data and text published in *PLoS One* 2016, in Figures 2, 3, 4, 5, 6, 8, S1, S2, S3, S4, and S5, by claiming that a screening strategy of the kinase focused libraries, PKIS and 5K, was performed, when original data do not exist to support the claims. Respondent also claimed that three (3) inhibitory compounds for the inositol phosphate kinase, PPIP5K, were identified from the 5K library, when these compounds, UNC10112646, UNC10225354, and UNC10225498, were not part of the data set for the 5K library. Specifically, Respondent falsified and/or fabricated the characterization of the inhibitor compounds in:

• Figures 2 and 3 results for Z'-factor, %CV, signal:background ratio, and a 10-point dose response titration experiment for inhibitor UNC10225354

• claims in the text of *PLoS One* 2016 that eight molecules from the PKIS library and fifteen molecules from the 5K library inhibited PPIP5K activity by >50%

• Figure 4D results for the inhibition by UNC10112646, UNC10225354, and UNC10225498, in dose response assays against the kinase domain of PPIP5K

• Figures 5A and 5B results for isothermal titration calorimetry (ITC) assays for quantifying intermolecular interactions between PPIP5K and the inhibitors, UNC1011264 and UNC10225498, and Figure S5 for UNC10225354

• Figure 6 results for the analysis of the mechanisms of inhibition of PPIP5K by UNC10112646 and UNC10225498

• Figures 8A and 8B results for high performance liquid chromatography (HPLC) analysis for the effects of UNC10112646 or UNC10225498 on PPIP5K activity and IP6K activity

• Figures S1–S4 for experimental results further characterizing UNC10112646, UNC10225498, and other inhibitors, when the results were not supported by the experimental records.

As a result of Respondent's admission, NIH recommended that the *PLoS One* 2016 paper be retracted.

Dr. Baughman has entered into a Voluntary Settlement Agreement with ORI, in which she voluntarily agreed:

(1) To have her research supervised for a period of three (3) years beginning on May 17, 2017; Respondent agreed to ensure that prior to the submission of an application for U.S. Public Health Service (PHS) support for a research project on which Respondent's participation is proposed and prior to Respondent's participation in any capacity on PHS-supported research, Respondent shall ensure that a plan for supervision of Respondent's duties is submitted to ORI for approval; the supervision plan must be designed to

ensure the scientific integrity of Respondent's research contribution; Respondent agreed that she will not participate in any PHS-supported research until a plan for supervision is submitted to and approved by ORI; Respondent agreed to maintain responsibility for compliance with the agreed upon supervision plan;

(2) that for a period of three (3) years beginning on May 17, 2017, any institution employing her shall submit, in conjunction with each application for PHS funds, or report, manuscript, or abstract involving PHS-supported research in which Respondent is involved, a certification to ORI that the data provided by Respondent are based on actual experiments or are otherwise legitimately derived and that the data, procedures, and methodology are accurately reported in the application, report, manuscript, or abstract;

(3) to exclude herself from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant for a period of three (3) years, beginning on May 17, 2017; and

(4) as a condition of the Agreement, to the retraction or correction of *PLoS One* 11(10):e0164378d, 2016 (PMID: 27736936).

FOR FURTHER INFORMATION CONTACT: Director, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8200.

Kathryn M. Partin,

Director, Office of Research Integrity.

[FR Doc. 2017–12744 Filed 6–19–17; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[CFDA Number: 93.085]

Office of Research Integrity; Awards Unsolicited Proposal for the Professionalism and Integrity in Research Program

AGENCY: Office of Research Integrity, Office of the Assistant Secretary for Health, Department of Health and Human Services.

ACTION: Notice of Award of a single-source unsolicited grant to Washington University in St. Louis, Missouri.

Recipient: Washington University, St. Louis, Missouri.

Purpose of the Award: Grant to provide remediation training through the Professionalism and Integrity in Research Program (PI Program) to promote research integrity and prevent research misconduct.

Amount of Award: $135,763 in Federal Fiscal Year (FFY) 2017 funds and estimated $135,665 in FFY 2018 funds subject to the enactment of appropriations and availability of funds.

Project Period: July 1, 2017—June 30, 2019.

SUMMARY: The Office of Research Integrity (ORI) announces the award of a single-source, grant in response to an unsolicited proposal from Washington University, St. Louis, Missouri. The proposal submitted was not solicited either formally or informally by any federal government official.

ORI performed an objective review of the unsolicited proposal from Washington University to expand and evaluate the Professionalism and Integrity in Research Program (PI Program), the only remediation program for researchers who violate expectations for the responsible conduct of research. Based on an external and internal review of the proposal, ORI determined that it has merit.

There is a strategic importance of access to this type of training. Research misconduct involving Public Health Service (PHS) support is contrary to the interests of PHS and the federal government, the health and safety of the public, the integrity of research, and the conservation of public funds. Participants in the PI Program will demonstrate better research compliance and integrity outcomes, such as developing better, more ethical research practices. These outcomes will promote research integrity and help prevent future research misconduct.

This award is being made non-competitively because there is no current, pending, or planned funding opportunity announcement under which this proposal could be competed. ORI has identified three additional key reasons to support rationale for awarding this unsolicited proposal:

1. ORI's federal regulation directs us to focus on remediation of Respondents who have been found to commit research misconduct, and the PI Program permits a pathway for that remediation after any sanctions have been completed.

2. Washington University is uniquely positioned to provide this type of training. As the only remediation program for researchers, the grantee has developed a comprehensive and intensive program that will improve research compliance and integrity outcomes.

3. With this experience, Washington University is well known in the research community and is an important service to PHS funded institutions. The program has a robust and unique process for assessment and data analysis.

Legislative Authority: Sec. 301 of the Public Health Service Act, 42 U.S.C. 241

FOR FURTHER INFORMATION CONTACT: Kathryn Partin at *kathryn.partin@hhs.gov* or by telephone at 240–453–8200.

Dated: June 13, 2017.

Kathryn M. Partin,

Director of the Office of Research Integrity.

[FR Doc. 2017–12747 Filed 6–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16–136: Using the NIMH Research Domain Criteria (RDoC) Approach to Understand Psychosis.

Date: July 5, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Julius Cinque, MS, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5186, MSC 7846, Bethesda, MD 20892, (301) 435–1252, *cinquej@csr.nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; Behavioral and Social Consequences of HIV/AIDS Study Section.

Date: July 13–14, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–806–6596, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: July 13–14, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz Carlton Tysons Corner, Tysons Galleria, 1700 Tysons Blvd., McLean, VA 22102.

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6009, *lin.reigh-yi@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Zika Virus Complications.

Date: July 13–14, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda North Marriott Hotel & Conference Center, 5701 Marinelli Road, Bethesda, MD 20852.

Contact Person: John C Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: AIDS and AIDS-related applications.

Date: July 14, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: InterContinental Chicago Hotel, 505 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3196, Bethesda, MD 20892, 301–451–5953, *tuoj@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; AREA applications in Infectious Diseases and Microbiology.

Date: July 14, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Cambria Suites Rockville, 1 Helen Henegham Way, Rockville, MD 20850.

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–17–086/7: Tobacco Use and HIV in Low and Middle Income Countries.

Date: July 14, 2017.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: Mark P Rubert, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5218, MSC 7852, Bethesda, MD 20892, 301–435–1775, *rubertm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Child Psychopathology and Developmental Disorders.

Date: July 14, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, MSC 7848, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Genetics, Epigenetics and Pharmacogenomics.

Date: July 17, 2017.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Luis Dettin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, Bethesda, MD 20892, 301 451 1327, *dettinle@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Vocal Fold and Larynx.

Date: July 17, 2017.

Time: 10:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Samantha Smith, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3170, Bethesda, MD 20892, 301–827–5491, *samanthasmith@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: July 17, 2017.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Robert Freund, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5216, MSC 7852, Bethesda, MD 20892, 301–435–1050, *freundr@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 14, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12751 Filed 6–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; GI Physiology and Pathology.

Date: July 12, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Meenakshisundar Ananthanarayanan, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4200, Bethesda, MD 20817, 301–435–1234, *ananth.ananthanarayanan@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Psycho/Neuropathology Lifespan Development, and STEM Education.

Date: July 13–14, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree by Hilton Chicago-Magnificent Mile, 300 E Ohio Street, Chicago, IL 60611.

Contact Person: Elia E Femia, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3108, Bethesda, md 20892, 301–827–7189, *femiaee@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Cardiovascular Sciences.

Date: July 13–14, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hotel Solamar, 435 6th Avenue, San Diego, CA 92101.

Contact Person: Margaret Chandler, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4126, MSC 7814, Bethesda, MD 20892, (301)435–1743, *margaret.chandler@nih.gov.*

Name of Committee: AIDS and Related Research Integrated Review Group; HIV/AIDS Vaccines Study Section.

Date: July 13, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Fairmont Washington, DC, 2401 M Street NW., Washington, DC 20037.

Contact Person: Barna Dey, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3184, Bethesda, MD 20892, 301–435–0000, *bdey@mil.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Neuroscience Assay, Diagnostics and Animal Model Development.

Date: July 13, 2017.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The St. Regis Washington DC, 923 16th Street NW., Washington, DC 20006.

Contact Person: Susan Gillmor, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1730, *susan.gillmor@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Biochemistry and Biophysics of Biological Macromolecules Fellowship Applications.

Date: July 13, 2017.

Time: 8:00 a.m. to 7:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Sudha Veeraraghavan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, 301–435–1504, *sudha.veeraraghavan@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; The Blood-Brain Barrier, Neurovascular Systems and CNS Therapeutics.

Date: July 13, 2017.

Time: 10:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Linda MacArthur, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4187, Bethesda, MD 20892, 301–537–9986, *macarthurlh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Molecular Neurogenetics.

Date: July 13, 2017.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paek-Gyu Lee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4201, MSC 7812, Bethesda, MD 20892, (301) 613–2064, *leepg@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Receptors, Channels and Circuits.

Date: July 13, 2017.

Time: 12:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Afia Sultana, Ph.D., Scientific Review Officer, National Institutes of Health, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, (301) 827–7083, *sultanaa@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Health Services Organization and Delivery.

Date: July 13, 2017.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Yvonne Owens Ferguson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive Room 3139, Bethesda, MD 20892, 301–827–3689, *fergusonyo@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: June 14, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12750 Filed 6–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Advancing Translational Sciences; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; CTSA Program Data to Health Coordinating Center (U24).

Date: July 17, 2017.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 206, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Victor Henriquez, Ph.D., Scientific Review Officer, Office of Scientific Director, National Center for Advancing Translational Sciences (NCATS), National Institutes of Health, 6701 Democracy Blvd., Democracy 1, Room 1080, Bethesda, MD 20892–4878, 301–451–2405, *henriquv@mail.nih.gov.*

Name of Committee: National Center for Advancing Translational Sciences Special Emphasis Panel; NCATS Pilot Program for Collaborative Drug Discovery Research using Bioprinted Skin Tissue (U18): RFA–TR–17–007.

Date: July 19, 2017.

Time: 1:00 p.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, One Democracy Plaza, Room 1087, 6701 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rahat (Rani) Khan, Ph.D., Scientific Review Officer, Office of Scientific Review, National Center for Advancing Translational Sciences, 6701 Democracy Blvd., Rm 1078, Bethesda, MD 20892, 301–894–7319, *khanr2@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.350, B—Cooperative Agreements; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: June 14, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–12752 Filed 6–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish a summary of information collection requests under OMB review, in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these documents, call the SAMHSA Reports Clearance Officer at (240) 276–1243.

Project: Strategic Prevention Framework for Prescription Drugs (SPF-Rx)—New

The Substance Abuse and Mental Health Services Administration (SAMHSA)'s Center for Substance Abuse Prevention (CSAP) aims to conduct a cross-site evaluation of the Strategic Prevention Framework for Prescription Drug (SPF-Rx) program. The SPF-Rx program is designed to address nonmedical use of prescription drugs (as well as) opioid overdoses by raising awareness about the dangers of sharing medications and by working with pharmaceutical and medical communities. The SPF-Rx program aims to promote collaboration between states/tribes and pharmaceutical and medical communities to understand the risks of overprescribing to youth age 12–17 and adults 18 years of age and older. The program also aims to enhance capacity for, and access to, Prescription Drug Monitoring Program (PDMP) data for prevention purposes.

The SPF-Rx program aims to address SAMHSA's priorities on prevention and reduction of prescription drug and illicit opioid misuse and abuse. Its indicators of success are reductions in opioid overdoses and the incorporation of PDMP data into needs assessments and strategic plans. Data collected through the tools described in this statement will be used for the national cross-site evaluation of SAMHSA's SPF-Rx program. This package covers continued data collection through 2020, as the evaluation is expected to continue through at least that time; however, the Program Evaluation for Prevention Contract (PEP–C) is scheduled to conduct a national cross-site evaluation of SPF-Rx through September 2018. The PEP–C team will systematically collect and maintain an Annual Implementation Instrument (AII) and outcomes data submitted by SPF-Rx grantees through the online PEP–C Management Reporting Tool (MRT).

SAMHSA is requesting approval for data collection for the SPF-Rx cross-site evaluation with the following four instruments:

- *Grantee Interview* to obtain the perspective of the implementing Project Directors (PDs) or their staff on important topics, including infrastructure and capacity, collaboration, leveraging funding and resources, criteria and use of evidence-informed interventions, monitoring and evaluation, collaboration, challenges, and health disparities. Information from these interviews will help inform SPF-Rx cross-site evaluation reports and will help identify lessons learned and success stories from grantees' SPF-Rx programs.
- *Grantee- and Community-Level Outcomes Modules* to collect data on key SPF-Rx program outcomes, including opioid misuse and abuse, opioid overdoses, and opioid prescribing patterns. Grantees will provide outcomes data at the grantee level for their state, tribal area, or jurisdiction, as well as at the community level for each of their subrecipient communities.
- *Substitute Data Source Request* to allow grantees to request permission from SAMHSA to use ''substitute measures'' for their outcomes data—that is, measures that differ from a list of preapproved outcomes measures.
- *Annual Implementation Instrument* to collect data completed by grantees and subrecipient community PDs. Data collected from the survey will be used to monitor subrecipient and state, tribal entity, or jurisdiction performance and to evaluate the effectiveness of the SPF-Rx program across states, tribal entities, and jurisdictions.
- *Grantee Interview* to collect semistructured telephone interview data to gather more in-depth information on organizational infrastructure, use of PDMP data, collaboration, leveraging of funds and resources, and evaluation activities
- *Evaluation Plan* to allow grantees to outline their local evaluation plan. Sections include goals and objectives, performance measures, data analysis plan, and reporting plan.

ANNUALIZED DATA COLLECTION BURDEN

Instrument	Number of respondents	Responses per respondent	Total number of responses	Hours per response	Total burden hours
Grantee-Level Outcomes Module	25	1	25	3	75
Community-Level Outcomes Module	25	1	25	3	75
Substitute Data Request Form	12	1	12	1	12
Annual Implementation Instrument	100	1	100	2.3	230
Grantee-Level Interview	17	1	17	1.5	25.5
Evaluation Plan	25	1	25	8	200
Overall Total	100	.....	204	.....	618

Note. Annualized Data Collection Burden captures the average number of respondents and responses, burden hours, and respondent cost over the 3 years (FY2018–FY2020).

Written comments and recommendations concerning the proposed information collection should be sent by July 20, 2017 to the SAMHSA Desk Officer at the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). To ensure timely receipt of comments, and to avoid potential delays in OMB's receipt and processing of mail sent through the U.S. Postal Service, commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov.* Although commenters are encouraged to

send their comments via email, commenters may also fax their comments to: 202–395–7285. Commenters may also mail them to: Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, Room 10102, Washington, DC 20503.

Summer King,

Statistician.

[FR Doc. 2017–12851 Filed 6–19–17; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0024; OMB No. 1660–0137]

Agency Information Collection Activities: Proposed Collection; Comment Request; Emergency Notification System (ENS)

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on an extension, without change, of a currently approved information collection. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the Emergency Notification System (ENS).

DATES: Comments must be submitted on or before August 21, 2017.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2017–0024. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Melton Roland, ENS Program Manager, FEMA/ORR, *Melton.Roland@fema.dhs.gov,* or telephone 540–665–6152. You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: FEMA's Office of Response & Recovery (ORR) owns and operates the Emergency Notification System (ENS). The ENS, designated by FEMA Directive 262–3 as the agency solution for all notification and alerts activities, sends electronic notifications and relays messages, whether critical in nature, routine, or for testing purposes with appropriate authorization, to DHS employees and contractors, as well as emergency response personnel. In accordance with Executive Order 12656, as amended, Presidential Policy Directive 40, and Federal Continuity Directive (FCD)-1, all DHS organizational components must have in place a viable Continuity of Operations Planning (COOP) capability and plan that ensures the performance of their essential functions during any emergency or situation that could disrupt normal operations. An effective ENS solution is a critical part of this plan.

Collection of Information

Title: Emergency Notification System (ENS).

Type of Information Collection: Extension, without change, of a currently approved information collection.

OMB Number: 1660–0137.

FEMA Forms: None.

Abstract: The ENS contains contact information for FEMA emergency team members, and for certain DHS HQ teams as well as USCIS and FLETC teams. The ENS uses this information to send email, call cell, home, work phones and SMS devices to inform team members they have been activated. Teams include FEMA HQ COOP, Hurricane Liaison Team (HLT), Urban Search & Rescue (US&R), Emergency Response Group (ERG), etc. The system can only be accessed via DHS OneNet.

Affected Public: State, Local or Tribal Government; Federal Government.

Number of Respondents: 700.

Number of Responses: 14,000.

Estimated Total Annual Burden Hours: 500.

Estimated Cost: The estimated annual cost to respondents for the hour burden is $14,410. There are no annual costs to respondents operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $173,350.96.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Dated: June 14, 2017.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–12759 Filed 6–19–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2017–0005; OMB No. 1660–0023]

Agency Information Collection Activities: Proposed Collection; Comment Request; Effectiveness of a Community's Implementation of the NFIP Community Assistance Program CAC and CAV Reports

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a reinstatement, without change, of a previously approved collection for which approval has expired. In accordance with the

Paperwork Reduction Act of 1995, this notice seeks comments concerning the effectiveness of a community's implementation of the NFIP Community Assistance Program Community Assistance Contact (CAC) and Community Assistance Visit (CAV) Reports.

DATES: Comments must be submitted on or before July 20, 2017.

ADDRESSES: Submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the Desk Officer for the Department of Homeland Security, Federal Emergency Management Agency, and sent via electronic mail to *oira.submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be made to Director, Records Management Division, 500 C Street SW., Washington, DC 20472–3100, email address *FEMA-Information-Collections-Management@fema.dhs.gov* or Bret Gates, Senior Program Specialist, Mitigation Directorate, Federal Insurance and Mitigation Administration, Federal Emergency Management Agency, (202) 646–4133.

SUPPLEMENTARY INFORMATION: The Department of Homeland Security's Federal Emergency Management Agency (FEMA) administers the National Flood Insurance Program (NFIP) (codified at 42 U.S.C. 4001, *et seq.*), and a major objective of the NFIP is to assure that participating communities are achieving the flood loss reduction objectives through implementation and enforcement of adequate land use and control measures. FEMA's authority to collect information that will allow for the evaluation of how well communities are implementing their floodplain management programs is found at 42 U.S.C. 4022 and 42 U.S.C. 4102. Title 44 CFR 59.22 directs the respondent to submit evidence of the corrective and preventive measures taken to meet the flood loss reduction objectives.

This information collection previously published in the **Federal Register** on March 7, 2017, at 82 FR 12824 with a 60 day comment period. No comments were received. This information collection expired on April 30, 2017. FEMA is requesting a reinstatement of the collection without change. The purpose of this notice is to inform the public that FEMA will submit the information collection abstracted below to the Office of Management and Budget for reinstatement and clearance.

Collection of Information

Title: Effectiveness of a Community's Implementation of the NFIP Community Assistance Program CAC and CAV Reports.

OMB Number: 1660–0023.

Type of Information Collection: Reinstatement, without change, of a previously approved collection for which approval has expired.

Abstract: Through the use of a Community Assistance Contact (CAC) or Community Assistance Visit (CAV), FEMA can make a comprehensive assessment of a community's floodplain management program. Through this assessment, FEMA can assist the community to understand the NFIP's requirements, and implement effective flood loss reductions measures. Communities can achieve cost savings through flood mitigation actions by way of insurance premium discounts and reduced property damage.

Affected Public: State, local and Tribal Government.

Number of Respondents: 3000.

Number of Responses: 3000.

Estimated Total Annual Burden Hours: 4000.

Estimated Cost: The estimated annual burden hour cost to respondents is $363,040. There are no annual costs to respondents operations and maintenance costs for technical services. There are no annual start-up or capital costs. The cost to the Federal Government is $9,123,637.00.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) 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.

Dated: June 7, 2017.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–12772 Filed 6–19–17; 8:45 am]

BILLING CODE 9111–52–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0053]

Agency Information Collection Activities; Extension, Without Change, of a Currently Approved Collection: Request for Certification of Military or Naval Service

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 30-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The purpose of this notice is to allow an additional 30 days for public comments.

DATES: The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 20, 2017. This process is conducted in accordance with 5 CFR 1320.10.

ADDRESSES: Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, must be directed to the OMB USCIS Desk Officer via email at *oira_submission@omb.eop.gov.* All submissions received must include the agency name and the OMB Control Number 1615–0053 in the subject line.

You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make. For additional information please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140,

Telephone number (202) 272–8377 (This is not a toll-free number; comments are not accepted via telephone message.). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

The information collection notice was previously published in the **Federal Register** on March 14, 2017, at 82 FR 13652, allowing for a 60-day public comment period. USCIS did receive comments in connection with the 60-day notice.

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2007–0016 in the search box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

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

(3) Enhance the quality, utility, and clarity of the information to be collected; and

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

Overview of This Information Collection

(1) *Type of Information Collection Request:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Request for Certification of Military or Naval Service.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* N–426; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. USCIS uses the information collected through Form N–426 to request a verification of the military or naval service claim by an applicant filing for naturalization on the basis of honorable service in the U.S. armed forces.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection N–426 is 10,000 and the estimated hour burden per response is .333 hours.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 3,330 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $245,000.

Dated: June 14, 2017.

Jerry Rigdon,

Deputy Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–12757 Filed 6–19–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6001–N–17]

60-Day Notice of Proposed Information Collection:

Technical Processing Requirements for Multifamily Project Mortgage Insurance

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:* August 21, 2017.

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: Sylvia Chatman, Office of Multifamily Housing, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *sylvia.s.chatman@hud.gov* or telephone 202–402–2994. 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. Chatman.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Technical Processing Requirements for Multifamily Project Mortgage Insurance.

OMB Approval Number: 2502–0594.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92466, HUD–2456, HUD–92450, HUD–92443, HUD–3305, HUD–3306, HUD–92403.1, FHA–2415, HUD–92283, FHA–2455, FHA–1710, HUD–92433, and FHA 2459.

Description of the Need for the Information and Proposed Use: The information collection is analyzed by HUD during the four technical discipline phases of an application for mortgage insurance—underwriting, valuation, architectural, and mortgage credit analysis. HUD performs each phase during the application process to ensure the financial, physical, and environmental soundness of the project, as well as the potential insurance risk. Sponsors, mortgagors and contractors are required to undergo a thorough examination to determine their solvency, reliability, past experience, and dependability to develop, build, and operate the type of multifamily housing project they propose.

Respondents (i.e. affected public): Business and other non-profit.

Estimated Number of Respondents: 2,700,895.

Estimated Number of Responses: 9,250.

Frequency of Response: Annual.

Average Hours per Response: 1.

Total Estimated Burden: 9,250.

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: June 14, 2017.

Genger Charles,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2017–12825 Filed 6–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6004–N–05]

60-Day Notice of Proposed Information Collection: Public Housing Financial Management Template

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, PIH, 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 for Applicant/Tenant's Consent to the Release of Information and the Authorization for the Release of Information/Privacy Act Notice. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date*: August 21, 2017.

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 202–402–5564 (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: Arlette Mussington, Office of Policy, Programs and Legislative Initiatives, PIH, Department of Housing and Urban Development, 451 7th Street SW., (L'Enfant Plaza, Room 2206), Washington, DC 20410; telephone 202–402–4109, (this is not a toll-free number). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Mussington.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Public Housing Financial Management Template.

OMB Approval Number: 2535–0107.

Type of Request: Extension of a currently approved collection.

Form Number: N/A.

Description of the need for the information and proposed use: To meet the requirements of the Uniform Financial Standards Rule (24 CFR part 5, subpart H) and the asset management requirements in 24 CFR part 990, the Department developed financial management templates that public housing agencies (PHAs) use to annually submit electronically financial information to HUD. HUD uses the financial information it collects from each PHA to assist in the evaluation and assessment of the PHAs' overall condition. Requiring PHAs to report electronically has enabled HUD to provide a comprehensive financial assessment of the PHAs receiving federal funds from HUD.

Respondents: Public Housing Agencies (PHAs).

Estimated Annual Reporting and Recordkeeping Burden: The estimated number of respondents is 3,916 PHAs that submit one unaudited financial management template annually and 3,538 PHAs that submit one audited financial management template annually, for a total of 7,454 responses. The average number of hours for each PHA response is 5.33 hours, for a total reporting burden of 39,721 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: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35 as amended.

Dated: June 7, 2017.

Merrie Nichols-Dixon,

Director, Office of Policy, Programs and Legislative Initiatives.

[FR Doc. 2017–12821 Filed 6–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6001–N–18]

60-Day Notice of Proposed Information Collection: Rent Schedule—Low Income Housing; Form HUD–92458

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*: August 21, 2017.

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: *Name:* Harry Messner, *Title:* Program Analyst, *Division:* Office of Asset Management and Portfolio Oversight, *Email: harry.messner@hud.gov, Phone Number*: 202–402–2626, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410. 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 of Information Collection: Rent Schedule—Low Rent Housing.

OMB Approval Number: 2502–0012.

Type of Request: Revision of currently approved collection.

Form Number: HUD–92458 Rent Schedule—Low Rent Housing.

Description of the need for the information and proposed use: This information is necessary for HUD to ensure that tenant rents are applied in accordance with HUD administrative procedures.

Respondents: Owners and managers of subsidized low income housing projects.

Estimated Number of Respondents: 2,465.

Estimated Number of Responses: 2,465.

Frequency of Response: Annually, or on occasion.

Average Hours per Response: 5.33.

Total Estimated Burden: 13,138.

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: *June 14, 2017.*

Genger Charles,

General Deputy Assistant Secretary for Housing.

[FR Doc. 2017–12824 Filed 6–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–24]

30-Day Notice of Proposed Information Collection: Application for Resident Opportunity and Self Sufficiency (ROSS) Grant Forms

AGENCY: Office of the Chief Information Officer, 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 30 days of public comment.

DATES: *Comments Due Date:* July 20, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; *fax:* 202–395–5806, *Email: OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Colette Pollard, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; *email Colette Pollard@hud.gov,* or telephone 202–402–3400. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on December 20, 2016 at 81 FR 92843.

A. Overview of Information Collection

Title of Information Collection: Application for the Resident Opportunities and Self Sufficiency (ROSS) Program.

OMB Approval Number: 2577–0229.

Type of Request: Revision of currently approved.

Form Number: ROSS Grant Application *forms:* HUD 52752; HUD 52753; HUD–52755; HUD–57268; HUD–96010; SF–424; HUD–2880; HUD–2990; HUD–2991; SF–LLL, HUD–2993, HUD–2994–A.

Description of the need for the information and proposed use: The forms are used to evaluate capacity and eligibility of applicants to the ROSS program.

Respondents: (*i.e.* affected public) Public Housing Authorities, Tribes/Tribe Designate Housing Entities, Public Housing resident associations, and nonprofit organizations.

Estimated Number of Respondents: 350.

Estimated Number of Responses: 350.

Frequency of Response: 1.
Average Hours per Response: 5 hours.
Total Estimated Burden: 1907.

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: May 23, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–12823 Filed 6–19–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2017–N067; FXES11130800000–178–FF08E00000]

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before July 20, 2017.

ADDRESSES: Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

FOR FURTHER INFORMATION CONTACT: Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests.

Applicants

Permit No. TE–28101C

Applicant: Shannon Rose Kieran

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities and genetic research throughout the range of the species in California and Oregon for the purpose of enhancing the species' survival.

Permit No. TE–009015

Applicant: Jason Berkley, Chino, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*); take (harass by survey and locate and monitor nests) the southwestern willow flycatcher (*Empidonax traillii extimus*); and take (locate and monitor nests) the least Bell's vireo (*Vireo bellii pusillus*) in conjunction with survey and population monitoring activities throughout the range of the species in California and Arizona for the purpose of enhancing the species' survival.

Permit No. TE–26551C

Applicant: Matthew Hirkala, Carmichael, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–75988A

Applicant: San Diego Natural History Museum, San Diego, California

The applicant requests a permit renewal and amendment to remove/reduce to possession on Federal lands the following plant taxa in conjunction with survey activities, establishment and maintenance of a living collection or seed bank, and research throughout the range of the species in California for the purpose of enhancing the species' survival.

- *Acanthoscyphus parishii* var. *goodmaniana* (*Oxytheca p.* var. *g.*) (Cushenbury oxytheca)
- *Acmispon dendroideus* var. *traskiae* (*Lotus d.* subsp. *traskiae*) (San Clemente Island lotus)
- *Allium munzii* (Munz's onion)
- *Ambrosia pumila* (San Diego ambrosia)
- *Arctostaphylos glandulosa* subsp. *crassifolia* (Del Mar manzanita)
- *Arenaria paludicola* (marsh sandwort)
- *Astragalus albens* (Cushenbury milk-vetch)
- *Astragalus brauntonii* (Braunton's milk-vetch)
- *Astragalus lentiginosus* var. *coachellae* (Coachella Valley milk-vetch)
- *Astragalus pycnostachyus* var. *lanosissimus* (Ventura Marsh milk-vetch)
- *Astragalus tener* var. *titi* (coastal dunes milk-vetch)
- *Astragalus tricarinatus* (triple-ribbed milk-vetch)
- *Atriplex coronata* var. *notatior* (San Jacinto Valley crownscale)
- *Berberis nevinii* (Nevin's barberry)
- *Calystegia stebbinsii* (Stebbins' morning-glory)
- *Carex albida* (white sedge)
- *Castilleja affinis* subsp. *neglecta* (Tiburon paintbrush)
- *Cercocarpus traskiae* (Catalina Island mountain-mahogany)
- *Chloropyron maritimum* subsp. *maritimum* (*Cordylanthus maritimus* subsp. *maritimus*) (salt marsh bird's-beak)

- *Chorizanthe orcuttiana* (Orcutt's spineflower)
- *Delphinium variegatum* subsp. *kinkiense* (San Clemente Island larkspur)
- *Dodecahema leptoceras* (slender-horned spineflower)
- *Eriastrum densifolium* subsp. *sanctorum* (Santa Ana River woolly-star)
- *Eriogonum ovalifolium* var. *vineum* (Cushenbury buckwheat)
- *Eryngium aristulatum* var. *parishii* (San Diego button-celery)
- *Fremontodendron mexicanum* (Mexican flannelbush)
- *Lithophragma maximum* (San Clemente Island woodland-star)
- *Malacothamnus clementinus* (San Clemente Island bush-mallow)
- *Monardella viminea* (*M. linoides* subsp. *v.*) (willowy monardella)
- *Nasturtium gambelii* (*Rorippa g.*) (Gambel's watercress)
- *Orcuttia californica* (California orcutt grass)
- *Pentachaeta lyonii* (Lyon's pentachaeta)
- *Physaria kingii* subsp. *bernardina* (*Lesquerella k.* subsp. *b.*) (San Bernardino Mountains bladderpod)
- *Poa atropurpurea* (San Bernardino bluegrass)
- *Poa napensis* (Napa bluegrass)
- *Pogogyne abramsii* (San Diego mesa-mint)
- *Pogogyne nudiuscula* (Otay mesa-mint)
- *Sibara filifolia* (Santa Cruz Island rockcress)
- *Sidalcea pedata* (pedate checker-mallow)
- *Taraxacum californicum* (California taraxacum)
- *Thelypodium stenopetalum* (slender-petaled mustard)

Permit No. TE–166490

Applicant: Heather Rodriguez, Fresno, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–27460A

Applicant: Brian Zitt, Huntington Beach, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, and release) the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) in conjunction with survey activities throughout the range of the species in California, for the purpose of enhancing the species' survival.

Permit No. TE–799570

Applicant: Carol Witham, Sacramento, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*), and remove/reduce to possession from lands under Federal jurisdiction *Tuctoria mucronata* (Solano grass) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–782703

Applicant: Michael Couffer, Corona Del Mar, California

The applicant requests a permit renewal take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California, for the purpose of enhancing the species' survival.

Permit No. TE–840619

Applicant: Jeffrey Priest, San Diego, California

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–237086

Applicant: Stillwater Sciences, Berkeley, California

The applicant requests a permit amendment to take (harass by capture, handle, release, and swab for disease) the Sierra Nevada yellow-legged frog (*Rana sierrae*) in conjunction with research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–221290

Applicant: Lee Ripma, San Diego, California

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus woottoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–089980

Applicant: Hagar Environmental Science, Loch Lomond, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the tidewater goby (*Eucyclogobius newberryi*) in Humboldt County, California, in conjunction with survey activities for the purpose of enhancing the species' survival.

Permit No. TE–29909C

Applicant: Jennie Jones Scherbinski, Arcata, California

The applicant requests a new permit to take (harass by survey utilizing fern bundles, cameras and scent detection dogs; collect genetic samples via hair snares; and insert passive integrated transponder (PIT) tags) the Point Arena mountain beaver (*Aplodontia rufa nigra*) in conjunction with survey and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–839960

Applicant: John Dicus, Black Canyon City, Arizona

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and Delhi Sands flower-loving fly (*Rhaphiomidas terminatus abdominalis*) in conjunction with survey activities throughout the range of the species for the purpose of enhancing the species' survival.

Permit No. TE–29992C

Applicant: Dominic Vitali, Stockton, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–177903

Applicant: Kathryn Simon, Redlands, California

The applicant requests a permit renewal and amendment to take (harass by survey, capture, handle, mark, and release) the San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Permit No. TE–30023C

Applicant: Joshua Zinn, La Mesa, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect adult vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), the longhorn fairy shrimp (*Branchinecta longiantenna*), the Riverside fairy shrimp (*Streptocephalus woottoni*), the San Diego fairy shrimp (*Branchinecta sandiegonensis*), and the vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

Public Comments

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

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.

Robert Krijgsman,

Acting Regional Director, Pacific Southwest Region, Sacramento, California.

[FR Doc. 2017–12786 Filed 6–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNM006200 L99110000.EK0000 XXX L4053RV]

Notice of Crude Helium Auction and Sale for Fiscal Year 2018 Delivery

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior (Secretary), through the Bureau of Land Management (BLM) New Mexico State Office, is issuing this Notice to conduct an auction and sale from the Federal Helium Program, administered by the BLM New Mexico, Amarillo Field Office. The Helium Stewardship Act of 2013 (HSA) requires the BLM to conduct an annual auction and sale of crude helium. Accordingly, the BLM will once again use the auction and sale process established in the **Federal Register** dated August 24, 2015, for a previous sale.

DATES: This Notice is effective on June 20, 2017. The schedule for the auction and sale process is:

1. July 19, 2017—FY 2018 helium auction held in Amarillo, Texas
2. July 24, 2017—FY 2018 helium auction results published on the BLM Web site
3. July 28, 2017—Invoices for auction sent on or before this date; payments due 30 days from invoice
4. August 2, 2017—Invitation for offers (IFO) posted for helium sale
5. August 17, 2017—Bids due from IFO
6. August 21, 2017—Award announcements published on the BLM Web site
7. August 25, 2017—Invoices for sale sent on or before; payments due 30 days from invoice
8. September 30, 2017—Helium transferred to buyers' storage accounts

ADDRESSES: The July 19, 2017, helium auction will be held in the main conference room of the Amarillo Field Office, 801 South Fillmore, Suite 500, Amarillo, TX 79101.

FOR FURTHER INFORMATION CONTACT: Samuel R.M. Burton, Amarillo Field Manager, at 806–356–1000. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339. The FRS is available 24 hours a day, 7 days a week, to leave a message. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION

A. Purpose and Background:

In October 2013, Congress passed the HSA. The HSA requires the Department of the Interior, through the BLM Director, to offer for auction and sale annually a portion of the helium reserves owned by the United States and stored underground at the Cliffside Gas Field, near Amarillo, Texas.

On July 23, 2014, the BLM published a ''Final Notice for Implementation of Helium Stewardship Act Sales and Auctions'' in the **Federal Register** (79 FR 42808) (2014 Final Notice). The 2014 Final Notice contained information about the HSA, definitions of terms used in the Notice, the reasons for the action, and a process for conducting the auctions and sales in FY 2014.

On August 24, 2015, the BLM published a ''Notice of Final Action: Crude Helium Sale and Auction for Fiscal Year 2016 Delivery'' in the **Federal Register** (80 FR 51304) (2015 Final Notice). The 2015 Final Notice refined the process the BLM used in 2014 for conducting the auction and sale of crude helium. The BLM will use the process set forth in the 2015 Final Notice for the auction and sale of crude helium to occur in FY 2017 for FY 2018 delivery.

Both the 2014 and 2015 Final Notices are available from the Helium Stewardship, HSA Implementation page of the BLM helium Web site at *www.blm.gov/programs/energy-and-minerals/helium.*

B. Volumes Offered in the FY 2018 Helium Auction and Sale

Table 1 identifies the volumes to be offered for auction and sale in FY 2017 for FY 2018 delivery.

TABLE 1—PROJECTED VOLUMES FOR AUCTION AND SALES FOR FY 2018 DELIVERY

Fiscal year (FY)	Forecasted production capability (NITEC study)	In-kind sales (sales to federal users)	Total remaining production available for sale/ auction or delivery	Volume available for auction	Volume available for non-allocated sale	Volume available for sale
	MMcf*	MMcf	MMcf	MMcf	MMcf	MMcf
FY 2018	1,059	159	900	500**	40	360

* MMcf means one million cubic feet of gas measured at standard conditions of 14.65 per square inch atmosphere (psia) and 60 degrees Fahrenheit.

** 55% of total production capacity after deducting in-kind (rounded).

C. FY 2018 Helium Auction

1.01 What is the minimum FY 2018 auction price and the FY 2018 sales price?

The minimum FY 2018 auction price is $100 per Mcf (one thousand cubic feet of gas measured at standard conditions of 14.65 psia and 60 degrees Fahrenheit). The BLM will announce the FY 2018 sale price after the auction has concluded, and the BLM completes its analysis of the auction information. The BLM will use this information to publish the crude helium price for FY 2018. The BLM publishes this crude helium price, effective October 1, 2017, in order to provide a consistent index to the world-wide helium market.

1.02 What will happen to the helium offered but not sold in the helium auction?

Any volume of helium offered, but not sold in the FY 2018 auction, will be added to the helium available for sale and will be offered in the FY 2019 sale.

1.03 When will the auction and sale take place?

The BLM will offer helium for FY 2018 according to the following schedule:

July 19, 2017 FY 2018 helium auction held in Amarillo, Texas

July 24, 2017 FY 2018 helium auction results published on the BLM Web site

July 28, 2017 Invoices for auction sent on or before this date; payments due 30 days from invoice

August 2, 2017 Invitation for offers (IFO) posted for helium sale

August 17, 2017 Bids due from IFO

August 21, 2017 Award announcements published on the BLM Web site

August 25, 2017 Invoices for sale sent on or before; payments due 30 days from invoice

September 30, 2017 Helium transferred to buyers' storage accounts (in accordance with Section 1.08)

1.04 What is the auction format?

The auction will be a live auction, held in the main conference room of the Amarillo Field Office at 1:00 p.m. Central Time, on July 19, 2017. The address is 801 South Fillmore, Suite 500, Amarillo, TX 79101. Anyone meeting the HSA definition of a qualified bidder may participate in the auction. The logistics for the auction and the pre-bid qualification form is included in a document entitled, ''FY 2018 Helium Auction Notice and Guide'' on the Helium Stewardship page of the BLM Helium Program Web site at *www.blm.gov/programs/energy-and-minerals/helium.* Questions related to the auction can be submitted by phone to the BLM at 806–356–1001.

1.05 Who is qualified to purchase helium at the auction?

Only qualified bidders, as defined in 50 U.S.C. 167(9), may participate in and purchase helium at the auction. The BLM will make the final determination of who is a qualified bidder using the HSA's definition of a qualified bidder, regardless of whether or not that person was previously determined to be a qualified bidder.

1.06 How many helium lots does the BLM anticipate offering at the FY 2018 auction?

The BLM anticipates auctioning 500 MMcf in a total of 30 lots for delivery in FY 2018. The lots would be divided as follows:

13 lots of 25 MMcf each;
9 lots of 15 MMcf each; and
8 lots of 5 MMcf each.

1.07 What must I do to bid at auction?

The BLM has described the live auction procedures, including detailed bidding instructions and pre-bid registration requirements, in a document entitled, ''FY 2018 Auction Notice and Guide'' available on the BLM's helium page at *www.blm.gov/programs/energy-and-minerals/helium.* The ''FY 2018 Auction Notice and Guide'' is located in the Helium Stewardship, HSA Implementation page of the BLM Federal Helium Program Web site.

1.08 When will helium that is purchased at sale or won at auction be available in the purchaser's storage account?

The BLM will transfer the volumes purchased in the FY 2018 auction and sale to the buyer's storage accounts beginning on the first day of the month following receipt of payment.

D. FY 2018 Helium Sale

2.01 Who will be allowed to purchase helium in the FY 2018 sale?

The crude helium sale will be separated into two distinct portions, a non-allocated portion and an allocated portion. The non-allocated portion will be ten percent of the total amount offered for sale for FY 2018, and will be available to those storage contract holders who do not have ability to accept delivery of crude helium from the Federal Helium Pipeline (as defined in 50 U.S.C. 167(2)) as of May 30, 2017. The allocated portion will be ninety percent of the total amount offered for sale for FY 2018, and will be available to any person (including individuals, corporations, partnerships, or other entities) with the ability to accept delivery of crude helium from the Federal Helium Pipeline (as defined in 50 U.S.C. 167(2)).

2.02 How will helium sold in the FY 2018 sale be allocated among those participating in the non-allocated sale?

The non-allocated sale will be made available to all qualified offerors not eligible to participate in the allocated sales. The minimum volume that can be requested is 1 MMcf. The total volume available for the non-allocated portion of the sale is 40 MMcf. Any volumes not sold at auction will be distributed between the non-allocated (10 percent)

and the allocated sale (90 percent). Any volumes not purchased at the non-allocated sale will be sold in the allocated portion.

2.03 How will the helium sold in the FY 2018 sale be allocated among the persons to accept delivery of crude helium from the Federal Helium Pipeline?

Any person wishing to participate in the allocated portion of the FY 2018 sale needs to report its excess refining capacity and operational capacity a minimum of 14 calendar days prior to the sale, using the Excess Refining Capacity form. The form can be downloaded at *www.blm.gov/programs/energy-and-minerals/helium.* The form is located in the Helium Stewardship, HSA Implementation page of the Web site. Each person participating in the sale will then be allocated a proportional share based upon that person's operational capacity.

2.04 How does a person apply for access to the Federal Helium Pipeline for the purpose of taking crude helium?

The steps for taking crude helium are provided in the BLM's Helium Operations Web site at *www.blm.gov/programs/energy-and-minerals/helium.* The steps are contained in a document entitled, ''How to Establish a Storage Contract and Pipeline Connection Point'' located in the Federal Helium Operations/Helium Storage page of the Web site. Reporting forms can be downloaded at the same Web site address. Reporting forms are located in the Helium Stewardship, HSA Implementation page of the BLM Federal Helium Program Web site, and show the requirements and due dates for each report. The length of time required to apply for and obtain access to the Federal Helium Pipeline can vary based on the person's plans for plant construction, pipeline metering installation, and other variables. The BLM is available to provide technical assistance, including contact information for applying for access and meeting any applicable National Environmental Policy Act requirements.

E. Delivery of Helium in FY 2018

3.01 When will I receive the helium that I purchase in a sale or win based on a successful auction bid?

Helium purchased at the FY 2018 sale or won at the FY 2018 auction will be delivered starting September 30, 2017, in accordance with the crude helium storage contract. The intent is to ensure delivery of all helium purchased at sale or auction up to the BLM's production capability for the year.

3.02 How will the BLM prioritize delivery?

The HSA gives priority to Federal in-kind helium (*i.e.,* helium sold to Federal users) (50 U.S.C. 167d(b)(1)(D)) and (b)(3)). After meeting that priority, the BLM will make delivery on a reasonable basis, as described in the crude helium storage contract, to ensure storage contract holders who have purchased or won helium at auction have the opportunity during the year to have that helium produced or refined in monthly increments.

F. Background Documents

Supplementary documents referenced in this Notice are available at the BLM helium operations Web site at: *www.blm.gov/programs/energy-and-minerals/helium.* They are located in the Helium Stewardship, HSA Implementation page of the Web site, and include the following documents:

a. This Federal Record Notice for Fiscal year 2018 Delivery;
b. The HSA (50 U.S.C. 167);
c. FY 2018 Helium Auction Notice and Guide;
d. 2016 Storage Contract (template for information only);
e. Determination of Fair Market Value Pricing of Crude Helium;
f. Storage Fees;
g. Required Forms for Helium Reporting; and
h. 2014 and 2015 Federal Records Notices for Helium Auctions and Sales.

Authority: The HSA of 2013 (Pub. L. 113–40) codified to various sections in 50 U.S.C. 167–167q.

Amy Lueders,

State Director.

[FR Doc. 2017–12813 Filed 6–19–17; 8:45 am]

BILLING CODE 4310–FB–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Node.js Foundation

Notice is hereby given that, on May 26, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Node.js Foundation (''Node.js Foundation'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, SafetyCulture, Townsville, AUSTRALIA; and ^Lift Security, Richland, WA, have been added as parties to this venture.

Also, StrongLoop, Inc., San Mateo, CA, has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Node.js Foundation intends to file additional written notifications disclosing all changes in membership.

On August 17, 2015, Node.js Foundation filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 28, 2015 (80 FR 58297).

The last notification was filed with the Department on March 6, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2017 (82 FR 15239).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–12816 Filed 6–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in the Permian Strata of Texas and New Mexico: Implications for Exploitation of the Permian Basin

Notice is hereby given that, on May 17, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Southwest Research Institute—Cooperative Research Group on Mechanical Stratigraphy and Natural Deformation in the Permian Strata of Texas and New Mexico: Implication for Exploitation of the Permian Basin (''Permian Basin'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Pioneer Natural Resources

USA Inc., Irving, TX; and Marathon Oil Company, Houston, TX, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Permian Basin intends to file additional written notifications disclosing all changes in membership.

On April 18, 2017, Permian Basin filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on May 12, 2017 (82 FR 22159).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–12815 Filed 6–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association

Notice is hereby given that, on May 25, 2017, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AutoChips Inc., Hefei, PEOPLE'S REPUBLIC OF CHINA, has been added as a party to this venture.

Also, DongGuan Evervictory Electronic Co., Ltd., DongGuan City, PEOPLE'S REPUBLIC OF CHINA; NXP B.V., Eindhoven, THE NETHERLANDS; Samwin Hong Kong Limited, Kowloon, HONG KONG–CHINA; and Smart Electronics Manufacturing Service Philippine, City of Calamba, PHILIPPINES, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on February 24, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 27, 2017 (82 FR 15239).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–12817 Filed 6–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

AGENCY: Foreign Claims Settlement Commission of the United States, Department of Justice.

ACTION: Notice. Commencement of Claims Program.

SUMMARY: This notice announces the commencement by the Foreign Claims Settlement Commission (''Commission'') of a program to adjudicate claims of certain individuals, as defined below, for compensation under the Guam World War II Loyalty Recognition Act.

DATES: These claims can now be filed with the Commission and the deadline for filing will be June 20, 2018.

FOR FURTHER INFORMATION CONTACT: Brian M. Simkin, Chief Counsel, Foreign Claims Settlement Commission of the United States, 600 E Street NW., Room 6002, Washington, DC 20579, Tel. (202) 616–6975, FAX (202) 616–6993.

SUPPLEMENTARY INFORMATION:

Notice of Commencement of Claims Adjudication Program and of Deadline for Filing of Claims

Pursuant to the authority conferred under section 1705(b)(2) of the Guam World War II Loyalty Recognition Act (Title XVII, Pub. L. 114–328, 114th Cong., approved December 23, 2016) (''Act''), the Foreign Claims Settlement Commission (''Commission'') hereby gives notice of the commencement of a program for adjudication of claims of certain individuals for compensation under the Act for harms suffered as a result of the attack and occupation of Guam by Imperial Japanese military forces during World War II, or incident to the liberation of Guam by United States military forces.

This program is open to two categories of claimants—(1) survivors of ''compensable Guam decedents'' and (2) ''compensable Guam victims.'' The first category includes survivors (*i.e.,* the spouse, children, or parents) of a Guam resident who died as a result of the attack and occupation of Guam by Imperial Japanese forces during World War II, or incident to the liberation of Guam by U.S. forces, and whose death would have been eligible for compensation under the Guam Meritorious Claim Act of 1945. The second category, ''compensable Guam victims,'' includes individuals who, as a result of the attack and occupation of Guam by Imperial Japanese forces during World War II or incident to the liberation of Guam by U.S. forces, suffered any of the following: Rape or serious personal injury (such as loss of a limb, dismemberment, or paralysis), forced labor or personal injury (such as disfigurement, scarring, or burns), forced march, internment, and hiding to evade internment. Both compensable Guam victims and survivors of compensable Guam decedents must have been living on the date of enactment of the Act (December 23, 2016) to be eligible for payments.

Any person wishing to file a claim must request and complete an official claim form. Completed claim forms and supporting documentation must be submitted no later than June 20, 2018.

The Commission will administer this claims adjudication program in accordance with section 1705 of the Act and the Commission's regulations, which are published in Chapter V of Title 45, Code of Federal Regulations (45 CFR 500 *et seq.*). In particular, attention is directed to subsection 500.3(c) of these regulations which, based on section 1705(b)(6) of the Act, limits the amount of attorney's fees that may be charged for legal representation before the Commission. Copies of the regulations and official claim forms are available electronically at *https://www.justice.gov/fcsc/.* Paper copies of these materials will also be available from the Commission upon request. After a decision approving a claim becomes final, the Commission will certify such decision to the Secretary of the Treasury for authorization of a payment.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2017–12574 Filed 6–19–17; 8:45 am]

BILLING CODE 4410–01–P

DEPARTMENT OF JUSTICE

[OMB Number 1121–0220]

Agency Information Collection Activities; Proposed New E-Collection; Bureau of Justice Assistance Application Form: Public Safety Officers' Benefits (PSOB) Program Applications Package

AGENCY: Bureau of Justice Assistance, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until August 21, 2017.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Michelle Martin, Senior Management Analyst, Bureau of Justice Assistance, 810 Seventh Street NW., Washington, DC 20531 (phone: 202 514–9354).

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Bureau of Justice Assistance, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Evaluate whether and if so how the quality, utility, and clarity of the information to be collected can be enhanced; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

1. *Type of Information Collection:* Substantive change to a currently approved collection.

2. *The Title of the Form/Collection:* Public Safety Officers' Benefits (PSOB) Program Applications Package (including currently approved collections: Public Safety Officers' Death Benefits Applications (1121–0024 and 1121–0025), Public Safety Officers' Disability Benefits Application (1121–0166), Public Safety Officers' Educational Assistance Application (1121–0220), and a new form titled: Public Safety Officers' Appeal Request Application.)

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. The applicable component within the Department of Justice is the Bureau of Justice Assistance, in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Public Safety Officers who were permanently and totally disabled in the line of duty; eligible survivors of Public Safety Officers who were killed in the line of duty; eligible spouses and children who receive PSOB death benefits, or whose spouse or parent received the PSOB disability benefit.

Abstract: BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officers' Benefits Program Applications Package (including: The Public Safety Officers' Death Benefits Application, the Public Safety Officers' Disability Benefits Application, the Public Safety Officers' Educational Assistance Application, the Public Safety Officers' Appeal Request Application) to collect and confirm the following:

• *Public Safety Officer Death Benefits Application:* BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officer Death Benefits Application information to confirm the eligibility of applicants to receive Public Safety Officers' Death Benefits. Eligibility is dependent on several factors, including Public Safety Officer status, an injury sustained in the line of duty, and the claimant status in the beneficiary hierarchy according to the PSOB Act. In addition, information to help the PSOB Office identify an individual is collected, such as a Social Security number for the Public Safety Officer, telephone numbers, and email addresses.

Public Safety Officer Disability Benefits Application: BJA's Public Safety Officers' Benefits (PSOB) Office will use the PSOB Disability Application information to confirm the eligibility of applicants to receive Public Safety Officers' Disability Benefits. Eligibility is dependent on several factors, including Public Safety Officer status, injury sustained in the line of duty, and the total and permanent nature of the line of duty injury. In addition, information to help the PSOB Office identify individuals is collected, such as Social Security number for the Public Safety Officer, telephone numbers, and email addresses.

• *Public Safety Officer Educational Assistance Application:* BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officer Educational Assistance Application information to confirm the eligibility of applicants to receive Public Safety Officer Educational Assistance benefits. Eligibility is dependent on several factors, including the applicant having received or being eligible to receive a portion of the PSOB Death Benefit, or having a spouse or parent who received the PSOB Disability Benefit. Also considered are the applicant's age and the schools being attended. In addition, information to help BJA identify an individual is collected, such as contact numbers and email addresses.

• *Public Safety Officer Appeal Request Application:* BJA's Public Safety Officers' Benefits (PSOB) Office will use the Public Safety Officer Appeal Request Application information to confirm the eligibility of applicants who wish to appeal a previous Public Safety Officers' Death and Disability Benefit determination. Changes to the report form have been made in an effort to streamline the application process and eliminate requests for information that are either irrelevant or already being collected by other means.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

• *Public Safety Officer Death Benefits Application:* An estimate of the total number of respondents and the amount of time needed for an average respondent to respond is as follows: It is estimated that no more than 350 respondents will apply a year. Each application takes approximately 360 minutes to complete.

• *Public Safety Officer Disability Benefits Application:* An estimate of the total number of respondents and the amount of time needed for an average respondent to respond is as follows: It is estimated that no more than 100 respondents will apply a year. Each

application takes approximately 300 minutes to complete.

• *Public Safety Officer Educational Assistance Application:* It is estimated that no more than 200 respondents will apply a year. Each application takes approximately 30 minutes to complete.

• *Public Safety Officer Appeal Request Application:* It is estimated that no more than 75 respondents will apply a year. Each application takes approximately 30 minutes to complete.

6. *An estimate of the total public burden (in hours) associated with the collection:*

• *Public Safety Officer Death Benefits Application:* An estimate of the total public burden (in hours) associated with the collection: Total Annual Reporting Burden: 350 × 360 minutes per application = 126,000 minutes/by 60 minutes per hour = 2,100 hours.

• *Public Safety Officer Disability Benefits Application:* An estimate of the total public burden (in hours) associated with the collection: Total Annual Reporting Burden: 100 × 300 minutes per application = 30,000 minutes/by 60 minutes per hour = 500 hours.

• *Public Safety Officer Educational Assistance Application:* The estimated public burden associated with this collection is 100 hours. It is estimated that respondents will take 30 minutes to complete an application. The burden hours for collecting respondent data sum to 100 hours (200 respondents × 0.5 hours = 100 hours).

• *Public Safety Officer Appeal Request Application:* An estimate of the total public burden (in hours) associated with the collection: Total Annual Reporting Burden: 75 × 30 minutes per application = 2,250 minutes/by 60 minutes per hour = 37.5 hours.

If additional information is required contact: Hope D. Janke, Director, Public Safety Officers' Benefits Office, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street NW., Washington, DC 20531.

Dated: June 15, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–12778 Filed 6–19–17; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act

On June 15, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the District of New Jersey in the lawsuit entitled *United States* v. *NVR, Inc.,* Civil Action No. 2:17–cv–04346.

The United States, on behalf of the United States Environmental Protection Agency, filed a Complaint against NVR, Inc., alleging NVR violated the Clean Water Act. NVR engages in residential home construction in a number of states, including New Jersey and New York. The Complaint alleges that NVR discharged pollutants in storm water without permit coverage in violation of the Clean Water Act and failed to comply with the conditions of permits (state general permits) issued under Clean Water Act at a number of construction sites in New Jersey and New York.

The proposed Consent Decree provides for NVR to perform injunctive relief consisting of a nationwide management, inspection, reporting and training program to improve compliance with storm water requirements at NVR's current and future construction sites. The Consent Decree also provides for NVR to pay a civil penalty of $425,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *NVR, Inc.,* D.J. Ref. No. 90–5–1–1–10429. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $21.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–12835 Filed 6–19–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Revision of Information Collection Request Submitted for Public Comment; Draft Model Non-Quantitative Treatment Limitations Form

AGENCY: Employee Benefits Security Administration, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration is soliciting comments on a revision of the Notices under the Mental Health Parity and Addiction Equity Act of 2008 information collection request (ICR) to add a model form participants and authorized representatives can use to request certain information from their health plans that is discussed below.

A copy of the information collection request (ICR) may be obtained by contacting the office listed in the **ADDRESSES** section of this notice. The ICR is also available on the Department's Web site at: *https://www.dol.gov/agencies/ebsa.*

DATES: Written comments must be submitted to the office shown in the Addresses section on or before September 1, 2017.

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to the Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–5718, Washington, DC 20210. Telephone:

(202) 693–8410; Fax: (202) 219–4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet email address: *ebsa.opr@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA) was enacted on October 3, 2008 and amended by the Affordable Care Act and the 21st Century Cures Act (Cures Act). Generally, MHPAEA requires that the financial requirements and treatment limitations imposed on mental health and substance use disorder (MH/SUD) benefits cannot be more restrictive than the predominant financial requirements and treatment limitations that apply to substantially all medical and surgical benefits. As discussed below, MHPAEA includes several disclosure requirements for group health plans and health insurance issuers.

The Cures Act [1] was enacted on December 13, 2016. Among its requirements, the Cures Act contains provisions that are intended to improve compliance with MHPAEA by requiring the Departments to solicit feedback from the public on how to improve the process for group health plans and issuers to disclose the information required under MHPAEA and other laws.

The statutory MHPAEA provisions and implementing regulations expressly provide that a plan or issuer must disclose the criteria for medical necessity determinations with respect to MH/SUD benefits to any current or potential participant, beneficiary, or contracting provider upon request and must disclose the reason for any denial of reimbursement or payment for services with respect to MH/SUD benefits to the participant or beneficiary.

On October 27, 2016, the Departments of Labor, Health and Human Services, and the Treasury (the Departments) issued Affordable Care Act Implementation FAQs Part 34, which, among other things, solicited feedback regarding disclosures with respect to MH/SUD benefits under MHPAEA and other laws. In the FAQs, the Departments indicated that they had received questions and suggestions regarding disclosures with respect to Nonquantitative Treatment Limitation (NQTLs) applicable to medical/surgical and MH/SUD benefits under the plan. The feedback also included requests from various stakeholders for model forms that group health plan participants, beneficiaries, covered individuals in the individual market, or persons acting on their behalf could use to request relevant disclosures. Stakeholders also requested guidance on other ways in which disclosures, or the process for requesting disclosures, could be more uniform, streamlined, or otherwise simplified.

In addition, the Departments indicated that they had received requests to explore ways to encourage uniformity among State reviews of health insurance issuers' compliance with the NQTL standards. Various stakeholders stated that model forms to report NQTL information will help facilitate uniform implementation and enforcement of MHPAEA, and relieve some complexity that MHPAEA compliance poses for issuers operating in multiple States. Furthermore, other stakeholders highlighted that the use of such model forms may also benefit consumers, as consumers will be entitled to request the analysis performed to complete the model forms.

The Cures Act requires the Departments, by June 13, 2017, to solicit feedback from the public on how the disclosure request process for documents containing information that health plans and health insurance issuers are required under Federal or State law to disclose to participants, beneficiaries, contracting providers or authorized representatives to ensure compliance with existing mental health parity and addiction equity requirements can be improved while continuing to ensure consumers' rights to access all information required by Federal or State law to be disclosed.[2] The Cures Act requires the Departments to make this feedback publicly available by December 13, 2017.[3]

The Departments recently issued Affordable Care Act Implementation FAQs Part 38, which again solicited comments on FAQs Part 34 as required by the Cures Act. The Departments also solicited comments on a draft model form that participants, enrollees, or their authorized representatives could use to request information from their health plan or issuer regarding NQTLs that may affect their MH/SUD benefits, or to obtain documentation after an adverse benefit determination involving MH/SUD benefits to support an appeal. The draft model form is an information collection subject to the PRA. The model from and instructions are available at *https://www.dol.gov/agencies/ebsa.*

II. Current Actions

This notice requests public comment on the draft model form discussed above. The Department notes that an agency may not conduct or sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Type of Review: Revised Collection.

Agency: DOL–EBSA.

Title: Notices under the Mental Health Parity and Addiction Equity Act of 2008—Draft Model Non-Qualitative Treatment Limitations Form.

OMB Numbers: 1210–0138.

Affected Public: Private Sector—Not for profit organizations; businesses or other for profits.

Total Respondents: 1,204,215 (combined with Treasury the total is 2,404,430).

Total Responses: 1,204,215 (combined with Treasury the total is 2,404,430).

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 26,295 (combined with Treasury the total is 52,590 hours.

Estimated Total Annual Burden Cost: $3,424,759 (combined with Treasury the total is $6,849,519).

III. Desired Focus of Comments

The Department of Labor (Department) is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or

[1] Public Law 114–255.

[2] Cures Act section 13001(c)(1).

[3] Cures Act section 13001(c)(2). The Departments must also share this feedback with the National Association of Insurance Commissioners (NAIC) to the extent the feedback includes recommendations for the development of simplified information disclosure tools to provide consistent information to consumers. Such feedback may be taken into consideration by the NAIC and other appropriate entities for the voluntary development and voluntary use of common templates and other sample standardized forms to improve consumer access to plan information. *See* Cures Act section 13001(c)(3).

other forms of information technology, *e.g.,* by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the revision of the information collection; they will also become a matter of public record.

Dated: June 9, 2017.

Joseph S. Piacentini,

Director, Office of Policy and Research, Employee Benefits Security Administration.

[FR Doc. 2017–12773 Filed 6–19–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Representative of Miners, Notification of Legal Identity, and Notification of Commencement of Operations and Closing of Mines

AGENCY: Office of the Secretary, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Representative of Miners, Notification of Legal Identity, and Notification of Commencement of Operations and Closing of Mines,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before July 20, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201608-1219-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor–OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Representative of Miners, Notification of Legal Identity, and Notification of Commencement of Operations and Closing of Mines information collection. Identification of the miner representative, notification of mine owner and operator legal identity, and notification of commencement of operations and closing of mines provide information to help ensure the health and safety of mine workers by identifying responsibility for mining operations. Federal Mine Safety and Health Act of 1977 section 103(h) authorizes this information collection. *See* 30 U.S.C. 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0042.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on August 31, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on March 7, 2017 (82 FR 12853).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0042. The OMB is particularly interested in comments that:

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

Agency: DOL–MSHA.

Title of Collection: Representative of Miners, Notification of Legal Identity, and Notification of Commencement of Operations and Closing of Mines.

OMB Control Number: 1219–0042.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 10,481.

Total Estimated Number of Responses: 10,481.

Total Estimated Annual Time Burden: 2,027 hours.

Total Estimated Annual Other Costs Burden: $842.

Dated: June 14, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–12774 Filed 6–19–17; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2011–0029]

Underground Construction Standard Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA is soliciting public comments concerning its proposal to extend the Office of Management and Budget's (OMBs') approval of the information collection requirements specified in its standard on Underground Construction.

DATES: Comments must be submitted (postmarked, sent, or received) by August 21, 2017.

ADDRESSES:

Electronically: You may submit comments and attachments electronically at *www.regulations.gov,* the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using these methods, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2011–0029, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10 a.m. to 3 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number (Docket No. OSHA 2011–0029) for the Information Collection Request (ICR). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION**.

Docket: To read or download comments or other material in the docket, go to *www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download from the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may also contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen, Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) (authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act, or for developing information regarding the causes and prevention of occupational injuries, illnesses and accidents (29 U.S.C. 657). The OSH Act also requires OSHA to obtain such information with minimum burden to employers, especially those operating small businesses, and to reduce to the maximum extent feasible unnecessary duplication of efforts in obtaining information (29 U.S.C. 657).

Seven paragraphs in the Underground Construction Standard (''the Standard''), 29 CFR 1926.800, require employers to post warning signs or notices during underground construction; these paragraphs are (b)(3), (i)(3), (j)(1)(vi)(A), (m)(2)(ii), (o)(2), (q)(11), and (t)(1)(iv)(B). The warning signs and notices required by these paragraphs enable employers to effectively alert workers to the presence of hazards or potential hazards at the job site, thereby preventing worker exposure to hazards or potential hazards associated with underground construction that could cause death or serious harm.

Paragraph (t)(3)(xxi) of the Standard requires employers to inspect and load test hoists when they install them, and at least annually thereafter. They must also inspect and load test a hoist after making any repairs or alterations to it that affect its structural integrity, and after tripping a safety device on the hoist. Employers must also prepare a certification record of each inspection and load test that includes specified information, and maintain the most recent certification record until they complete the construction project.

Establishing and maintaining a written record of the most recent inspection and load test alerts equipment mechanics to problems identified during the inspection. Prior to returning the equipment to service, employers can review the records to ensure that the mechanics performed the necessary repairs and maintenance. Accordingly, by using only equipment that is in safe working order, employers will prevent severe injury and death to the equipment operators and other workers who work near the equipment. In addition, these records provide the most efficient means for OSHA compliance officers to determine that an employer performed the required inspections and load tests, thereby assuring that the equipment is safe to operate.

Paragraph (j)(3) of the Standard mandates that employers develop records for air quality tests performed under paragraph (j), including air quality tests required by paragraphs (j)(1)(ii)(A) through (j)(1)(iii)(A), (j)(1)(iii)(B), (j)(1)(iii)(C), (j)(1)(iii)(D), (j)(1)(iv), (j)(1)(v)(A), (j)(1)(v)(B), and (j)(2)(i) through (j)(2)(v). Paragraph (j) also requires that air quality records include specified information, and that employers maintain the records until the underground construction project is complete. They must also make the records available to OSHA compliance officers on request.

Maintaining records of air quality tests allows employers to document atmospheric hazards, ascertain the effectiveness of controls (especially ventilation) and implement additional controls if necessary. Accordingly, these requirements prevent serious injury and death to workers who work on underground construction projects. In addition, these records provide an efficient means for workers to evaluate the accuracy and effectiveness of an employer's exposure reduction program, and for OSHA compliance officers to

determine that employers performed the required tests and implemented appropriate controls.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply, for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements specified in the Underground Construction Standard (29 CFR 1926.800). The Agency requests an adjustment increase of 9,546 burden hours (from 66,931 to 76,477 hours). The increase in burden hours results from an increase in the number of construction sites based on updated data. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently-approved collection.

Title: Underground Construction Standard (29 CFR 1926.800).

OMB Control Number: 1218–0067.

Affected Public: Business or other for-profits; not-for-profit institutions; Federal Government; State, Local or Tribal governments.

Number of Respondents: 461.

Total Responses: 1,171,439.

Frequency of Responses: On occasion.

Average Time: Various.

Estimated Total Burden Hours: 76,477.

Estimated Cost (Operation and Maintenance): $165,600.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *www.regulations.gov,* the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number (OSHA Docket No. 2011–0029) for the ICR. You may supplement submissions by uploading documents electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments and include your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information, such as social security numbers and dates of birth. Although all submissions are listed in the *www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download from this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available from the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 1–2012 (77 FR 3912).

Signed at Washington, DC, on June 14, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–12809 Filed 6–19–17; 8:45 am]

BILLING CODE 4510–26–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Meeting of National Council on the Humanities

AGENCY: National Endowment for the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the National Council on the Humanities will meet to advise the Chairman of the National Endowment for the Humanities (NEH) with respect to policies, programs and procedures for carrying out his functions; to review applications for financial assistance under the National Foundation on the Arts and Humanities Act of 1965 and make recommendations thereon to the Chairman; and to consider gifts offered to NEH and make recommendations thereon to the Chairman.

DATES: The meeting will be held on Thursday, July 13, 2017, from 10:30 a.m. until 12:30 p.m., and Friday, July 14, 2017, from 9:00 a.m. until adjourned.

ADDRESSES: The meeting will be held at Constitution Center, 400 7th Street SW., Washington, DC 20506. See **SUPPLEMENTARY INFORMATION** section for room numbers.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., 4th Floor, Washington, DC 20506; (202) 606–8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The National Council on the Humanities is meeting pursuant to the National Foundation on the Arts and Humanities Act of 1965 (20 U.S.C. 951–960, as amended). The Committee meetings of the National Council on the Humanities will be held on July 13, 2017, as follows: The policy discussion session (open to the public) will convene at 10:30 a.m. until approximately 11:30 a.m., followed by the discussion of specific grant applications and programs before the Council (closed to the public) from 11:30 a.m. until 12:30 p.m.

Challenge Grants: Room 4089.

Digital Humanities: Room 4085.

Education Programs: Room 2002.

Federal/State Partnership: Conference Room C.

Preservation and Access: Room 4002.

Public Programs/Federal/State Partnership: Room P002.

Research Programs: Room P003.

The plenary session of the National Council on the Humanities will convene on July 14, 2017, at 9:00 a.m. in the Conference Center at Constitution

Center. The agenda for the morning session (open to the public) will be as follows:

A. Minutes of the Previous Meeting

B. Reports

1. Acting Chairman's Remarks
2. Senior Advisor to the Chairman's Remarks
3. Presentation by guest speaker Carla Hayden, Librarian of Congress
4. Congressional Affairs Report
5. Budget Report
6. Reports on Policy and General Matters

a. Challenge Grants

b. Digital Humanities

c. Education Programs

d. Federal/State Partnership

e. Preservation and Access

f. Public Programs

g. Research Programs

The remainder of the plenary session will be for consideration of specific applications and therefore will be closed to the public.

As identified above, portions of the meeting of the National Council on the Humanities will be closed to the public pursuant to sections 552b(c)(4), 552b(c)(6) and 552b(c)(9)(b) of Title 5 U.S.C., as amended. The closed sessions will include review of personal and/or proprietary financial and commercial information given in confidence to the agency by grant applicants, and discussion of certain information, the premature disclosure of which could significantly frustrate implementation of proposed agency action. I have made this determination pursuant to the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings dated April 15, 2016.

Please note that individuals planning to attend the public sessions of the meeting are subject to security screening procedures. If you wish to attend any of the public sessions, please inform NEH as soon as possible by contacting Ms. Katherine Griffin at (202) 606–8322 or *kgriffin@neh.gov.* Please also provide advance notice of any special needs or accommodations, including for a sign language interpreter.

Dated: June 15, 2017.

Elizabeth Voyatzis,

Committee Management Officer.

[FR Doc. 2017–12850 Filed 6–19–17; 8:45 am]

BILLING CODE 7536–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Arts and Artifacts Indemnity Panel Advisory Committee

AGENCY: National Foundation on the Arts and the Humanities.

ACTION: Notice of meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, notice is hereby given that the Federal Council on the Arts and the Humanities will hold a meeting of the Arts and Artifacts Domestic Indemnity Panel.

DATES: The meeting will be held on Tuesday, July 18, 2017, from 12:00 p.m. to 5:00 p.m.

ADDRESSES: The meeting will be held by teleconference originating at the National Endowment for the Arts, Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: Elizabeth Voyatzis, Committee Management Officer, 400 7th Street SW., Room 4060, Washington, DC 20506, (202) 606 8322; *evoyatzis@neh.gov.*

SUPPLEMENTARY INFORMATION: The purpose of the meeting is for panel review, discussion, evaluation, and recommendation on applications for Certificates of Indemnity submitted to the Federal Council on the Arts and the Humanities, for exhibitions beginning before, on, or after October 1, 2017. Because the meeting will consider proprietary financial and commercial data provided in confidence by indemnity applicants, and material that is likely to disclose trade secrets or other privileged or confidential information, and because it is important to keep the values of objects to be indemnified, and the methods of transportation and security measures confidential, I have determined that the meeting will be closed to the public pursuant to subsection (c)(4) of section 552b of Title 5, United States Code. I have made this determination under the authority granted me by the Chairman's Delegation of Authority to Close Advisory Committee Meetings, dated April 15, 2016.

Dated: June 15, 2017.

Elizabeth Voyatzis,

Committee Management Officer .

[FR Doc. 2017–12848 Filed 6–19–17; 8:45 am]

BILLING CODE 7536–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of June 19, 26, July 3, 10, 17, 24, 2017.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of June 19, 2017

Thursday, June 22, 2017

2:00 p.m. Briefing on Human Capital and Equal Employment Opportunity (Public Meeting) (Contact: Tanya Parwani-Jaimes: 301–287–0730)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of June 26, 2017—Tentative

There are no meetings scheduled for the week of June 26, 2017.

Week of July 3, 2017—Tentative

There are no meetings scheduled for the week of July 3, 2017.

Week of July 10, 2017—Tentative

There are no meetings scheduled for the week of July 10, 2017.

Week of July 17, 2017—Tentative

There are no meetings scheduled for the week of July 17, 2017.

Week of July 24, 2017—Tentative

There are no meetings scheduled for the week of July 24, 2017.

* * * * *

The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by

email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Brenda.Akstulewicz@nrc.gov* or *Patricia.Jimenez@nrc.gov.*

Dated: June 16, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–12931 Filed 6–16–17; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0145]

Applications for Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory guide; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft regulatory guide (DG), DG–1325, ''Applications for Nuclear Power Plants.'' This guidance is proposed Revision 1 to Regulatory Guide (RG) 1.206, ''Combined License Applications for Nuclear Power Plants (LWR Edition),'' dated June 2007. This proposed revision of RG 1.206 provides revised guidance for prospective applicants regarding the format and content of applications for new nuclear power plants. The proposed revision reflects the lessons learned regarding the review of nuclear power plant applications since 2007. The major change in this revision is the removal of detailed technical information on the format and content of a safety analysis report. Guidance on moving that information to NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition,'' is included in DG–1325.

DATES: Submit comments by September 18, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Although a time limit is given, comments and suggestions in connection with items for inclusion in guides currently being developed or improvements in all published guides are encouraged at any time.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0145. 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.
- *Mail comments to:* Cindy Bladey, Office of Administration, Mail Stop: TWFN–8D36M, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. For additional direction on accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Mark Notich, Office of New Reactors, 301–415–3053, email: *Mark.Notich@nrc.gov* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0145 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document, by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0145.
- *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 (if available in ADAMS), is provided the first time that a document is referenced. The DG is electronically available in ADAMS under Accession No. ML15233A056.
- *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–2017–0145 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 posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. 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 also 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 submissions into ADAMS.

II. Additional Information

The NRC is issuing for public comment a DG in the NRC's ''Regulatory Guide'' series. This series was developed to describe and make available to the public information regarding methods that are acceptable to the NRC staff for implementing specific parts of the NRC's regulations, techniques that the staff uses in evaluating specific issues or postulated events, and data that the staff needs in its review of applications for permits and licenses.

The DG, entitled ''Applications for Nuclear Power Plants,'' is a proposed revision temporarily identified by its task number, DG–1325, and is proposed Revision 1 of RG 1.206, currently titled ''Combined License Applications for Nuclear Power Plants.'' The guide provides revised guidance for prospective applicants regarding the format and content of applications for new nuclear power plants under the provisions in part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

The DG–1325 reflects changes based on lessons learned regarding the review of nuclear power plant design certification (DC), early site permit (ESP), and combined license (COL) applications under 10 CFR part 52, since the initial issuance of RG 1.206 in 2007. The scope of the proposed revision has been expanded beyond combined license (COL) applications to more explicitly address the current application process related to applications for DC, ESP, and limited work authorizations and the title has been changed accordingly. It provides more integrated guidance regarding the overall format and content for COL, DC, and ESP applications and additionally reflects the NRC staff's position that, although the guidance therein is intended for applicability to power reactors with light-water reactor (LWR) technology, the revised RG will be generally applicable to other types of power reactors (*i.e.,* non-LWRs).

The DG–1325 also satisfies the two remaining action items from the NRC's April 2013, Lessons Learned Report (ADAMS Accession No. ML13059A240) by (1) revising RG 1.206 to reflect lessons learned and (2) incorporating DC/COL ISG11, ''Finalizing Licensing Basis Information,'' (ADAMS Accession No. ML092890623) in the revised RG 1.206.'' This proposed revision also reflects the removal of technical information relative to the 2007 version of RG 1.206. The NRC staff intends that NUREG–0800, ''Standard Review Plan for the Review of Safety Analysis reports for Nuclear Power Plants: LWR Edition,'' be used by applicants relative to the technical information and level of detail to be included in safety analysis reports for applications for COLs, DCs, and ESPs.

The guidance in DG–1325 is divided into two parts: Section C.1 provides guidance for the organization, content, and format of an application under 10 CFR part 52; and Section C.2 contains information and guidance on a number of application regulatory topics related to the preparation, submittal, acceptance, and review of applications. The application regulatory topics include updated guidance that will allow the withdrawal of interim staff guidance. The NRC staff intends to withdraw the following four documents upon issuance of the revised RG 1.206:

- DC/COL–ISG–011, ''Interim Staff Guidance Finalizing Licensing Basis Information'' (ADAMS Accession No. ML092890623),
- ESP/DC/COL–ISG–015, ''Interim Staff Guidance on Post Combined License Commitments'' (ADAMS Accession No. ML091671355),
- COL/ESP–ISG–04, ''Interim Staff Guidance on the Definition of Construction and on Limited Work Authorizations'' (ADAMS Accession No. ML082970729), and
- DC/COL ISG–08, ''Final Interim Staff Guidance Necessary Content of Plant-Specific Technical Specifications When a Combined License is Issued'' (ADAMS Accession No. ML083310259).

The NRC staff's periodic review of related guidance in RG 1.70, Revision 3 (ADAMS Accession No. ML14272A331), ''Standard Format and Content of Safety Analysis Reports for Nuclear Power Plants (LWR),'' in September 2014, recommended the withdrawal of RG 1.70 once information relevant to the licensing of nuclear power plants under 10 CFR part 50 is included in an update to RG 1.206. The additional scope related to construction permits and operating licenses was envisioned for a later update to RG 1.206 and is not included in the current proposed revision.

III. Backfitting and Issue Finality

Draft regulatory guide DG–1325, if finalized as a new regulatory guide, would provide guidance for applicants regarding the format and content of applications for new ESPs, DCs, and COLs under 10 CFR part 52. Issuance of this DG in final form would not constitute backfitting under 10 CFR part 50 and would not otherwise be inconsistent with the issue finality provisions in 10 CFR part 52. As discussed in the ''Implementation'' section of this DG, the NRC has no current intention to impose the DG, if finalized, on current holders of ESPs or COLs or a DC applicant under 10 CFR part 52.

The DG, if finalized, could be applied to applications for 10 CFR part 52 ESPs, COLs, and DCs. Such action would not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) or be otherwise inconsistent with the applicable issue finality provision in 10 CFR part 52, inasmuch as such applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. This is because neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions discussed below—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants. The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit), the NRC regulatory approval (*e.g.,* a design certification rule), or both, with specified issue finality provisions. The staff does not, at this time, intend to impose the positions represented in DG–1325 (if finalized) in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in DG–1325 (if finalized) in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

Dated at Rockville, Maryland, this 15th day of June, 2017.

For the Nuclear Regulatory Commission.

Joseph Colaccino,

Chief, New Reactor Rulemaking and Guidance Branch, Division of Engineering and Infrastructure, Office of New Reactors.

[FR Doc. 2017–12837 Filed 6–19–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80923; File No. SR–ISE–2017–32]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Harmonize the Corporate Governance Framework With That of the NASDAQ Stock Market LLC, NASDAQ PHLX LLC, and NASDAQ BX, Inc.

June 14, 2017

On April 11, 2017, Nasdaq ISE, LLC (''ISE'' 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 harmonize its board and committee structure, and all related corporate governance processes, with that of the three other registered national securities exchanges and self-regulatory organizations owned by the Exchange's indirect parent company, Nasdaq, Inc., namely: The NASDAQ Stock Market LLC, NASDAQ PHLX LLC, and NASDAQ BX, Inc. The proposed rule change was published for comment in the **Federal Register** on May 2, 2017.[3] The Commission has received no comment letters on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80530 (April 26, 2017), 82 FR 20508.

[4] 15 U.S.C. 78s(b)(2).

change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day for this filing is June 16, 2017.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider and take action on the Exchange's proposed rule change.

Accordingly, pursuant to Section 19(b)(2) of the Act [5] and for the reasons stated above, the Commission designates July 31, 2017, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ISE–2017–32).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman.

Assistant Secretary.

[FR Doc. 2017–12764 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80926; File No. SR–CBOE–2017–019]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Withdrawal of Proposed Rule Change Related to Complex Orders

June 14, 2017.

On March 7, 2017, the Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its rules with respect to orders in open outcry to set forth applicable ratios for an order to be eligible for complex order priority within applicable priority rules, make explicit the priority applicable when there are other complex orders or quotes represented at the same net price, and clarify the applicable minimum increment. The Exchange also proposed to simplify the definitions of the complex order types that may be made available on a class-by-class basis. The proposed rule change was published for comment in the **Federal Register** on March 24, 2017.[3] On May 5, 2017, the Commission issued a notice designating a longer period of time to act on the proposed rule change.[4] The Commission has not received any comments on the proposed rule change. On June 6, 2017, CBOE withdrew the proposed rule change (SR–CBOE–2017–019).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[5]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12767 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80924; File No. SR–BX–2017–028]

Self-Regulatory Organizations; NASDAQ BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Rule 7018

June 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2017, NASDAQ BX, Inc. (''BX'' 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 the Exchange's transaction fees at Rule 7018 to reduce the amount of one of the credits for entering an order that accesses liquidity in the Exchange's Equities System, as described further below.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqbx.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 proposed rule change is to amend the Exchange's transaction fees at Rule 7018 to reduce a credit for entering an order that accesses liquidity in the Exchange's Equities System for ''all other orders,'' *i.e.,* orders that do not qualify for other available credits for removing liquidity.

The Exchange operates on the ''taker-maker'' model, whereby it pays credits to members that take liquidity and charges fees to members that provide liquidity. Currently, the Exchange offers five different credits for orders that access liquidity on the Exchange. First, the Exchange pays a credit of $0.0016 per share executed for an order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.10% of total Consolidated Volume during a month. Second, the Exchange pays a credit of $0.0015 per share executed to an order that accesses liquidity (excluding orders with Midpoint pegging and excluding orders that receive price improvement and execute against an order with a Non-displayed price) entered by a member that accesses liquidity equal to or exceeding 0.05% of total

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80279 (March 20, 2017), 82 FR 15085 (''Notice'').

[4] *See* Securities Exchange Act Release No. 80609, 82 FR 22035.

[5] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Consolidated Volume during month. Third, the Exchange pays a credit of $0.0000 per share executed for an order that receives price improvement and executes against an order with a Non-displayed price. Fourth, the Exchange pays a credit of $0.0000 per share executed for an order with Midpoint pegging that removes liquidity. Finally, the Exchange pays a credit of $0.0006 per share executed for ''all other orders.''

The Exchange now proposes to reduce the credit for ''all other orders'' from $0.0006 per share executed to $0.0003 per share executed. All of the other credits and charges will remain the same.

The Exchange is making this change because it believes that the amount of the new credit is more closely aligned to the requirements necessary to qualify for that credit and the behavior that the credit is designed to incentivize. The Exchange notes that, while it does pay credits of $0.0015 and $0.0016 per share executed for accessing liquidity, a member must also meet also meet a volume threshold of accessing liquidity equal to or exceeding 0.05% or 0.10% of total Consolidated Volume during that month, respectively. Unlike other credits the Exchange offers for accessing liquidity, a member does not have to meet any volume requirements in order to qualify for this credit. In contrast, the Exchange pays a credit of $0.0000 per share executed for an order that receives price improvement and executes against an order with a Non-displayed price, and for an order with Midpoint pegging that removes liquidity. In comparison to these other credits and their attendant requirements, and given that the Exchange is limited in the amount of credits that it provides to members, the Exchange believes the new credit amount is appropriate.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[3] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[4] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [5]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [6] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[7] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [8]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [9]

The Exchange believes that reducing the credit for ''all other orders'' from $0.0006 to $0.0003 is reasonable because the amount of the new credit is more closely aligned to the requirements necessary to qualify for the credit and the behavior that it is designed to incentivize, especially given that the Exchange is limited in the amount of credits that it provides to members. Unlike other credits the Exchange offers for accessing liquidity, a member does not have to meet any volume requirements in order to qualify for this credit. While the Exchange does pay credits of $0.0015 and $0.0016 per share executed for accessing liquidity, a member must also meet also meet a volume threshold of accessing liquidity equal to or exceeding 0.05% or 0.10% of total Consolidated Volume during a month, respectively. In contrast, the Exchange pays a credit of $0.0000 for an order that receives price improvement and executes against an order with a Non-displayed price, and for an order with Midpoint pegging that removes liquidity. The Exchange believes that the new credit amount is more closely aligned to the requirements for qualifying for that credit, especially in comparison to the other credits offered by the Exchange and their attendant requirements.

The Exchange believes that the proposed change is equitably allocated among members, and is not designed to permit unfair discrimination. BX notes that participation on the Exchange, and eligibility for this credit, is voluntary, and that the Exchange continues to offer other credits for which members may attempt to qualify instead of the proposed credit. Additionally, the proposed change to the credit amount applies to all members that otherwise qualify for the credit. The Exchange believes that it is equitable and not unfairly discriminatory to amend the amount of the credit for ''all other orders,'' and not other credits, because the new credit amount is more closely aligned to the requirements for qualifying for that credit, especially in comparison to the other credits offered by the Exchange and their attendant requirements.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable.

In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(4) and (5).

[5] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[6] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[7] *See NetCoalition,* at 534–535.

[8] *Id.* at 537.

[9] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

burden on competition is extremely limited.

In this instance, the proposed change to the credit available to member firms for accessing liquidity for ''all other orders'' does not impose a burden on competition because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. The new credit applies equally to all members that otherwise meet the requirements, *e.g.,* accessing liquidity on the Exchange using an order that does not qualify for one of the other available credits, and all similarly situated members are equally capable of qualifying for the credit if they choose to meet the requirements.

In sum, if the change proposed herein is unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed change will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

The foregoing rule 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: (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–BX–2017–028 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–2017–028. 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–BX–2017–028 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12765 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission Investor Advisory Committee will hold a meeting on Thursday, June 22, 2017, in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC 20549. The meeting will begin at 9:30 a.m. (ET) and will be open to the public. Seating will be on a first-come, first-served basis. Doors will open at 9:00 a.m. Visitors will be subject to security checks. The meeting will be webcast on the Commission's Web site at *www.sec.gov.*

On May 25, 2017, the Commission issued notice of the Committee meeting (Release No. 33–10366), indicating that the meeting is open to the public (except during that portion of the meeting reserved for an administrative work session during lunch), and inviting the public to submit written comments to the Committee. This Sunshine Act notice is being issued because a quorum of the Commission may attend the meeting.

The agenda for the meeting includes: Remarks from Commissioners; nominations for open officer positions; a discussion regarding capital formation, smaller companies, and the declining number of initial public offerings; an announcement of election results for open officer positions on the Investor Advisory Committee; an overview of certain provisions of the Financial CHOICE Act of 2017 relating to the SEC; and a nonpublic administrative work session during lunch.

For further information, please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: June 15, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–12897 Filed 6–16–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80920; File No. SR–NYSEArca–2017–64]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services

June 14, 2017.

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 June 1, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Fee Schedule''). 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 the Cross-Asset Tier 2 and Cross-Asset Tier 3 pricing in the Fee Schedule. Specifically, for Cross-Asset Tier 2, for securities with a per share price $1.00 or above, the Exchange proposes to: (1) Reduce the volume threshold requirement to be eligible for the tier, and (2) remove the alternate way to qualify for the Cross-Asset Tier 2 pricing. Further, for Cross-Asset Tier 3, for securities with a per share price $1.00 or above, the Exchange proposes to adopt an incremental credit. The Exchange proposes to implement the fee changes effective June 1, 2017.

Cross-Asset Tier 2

Currently, Cross-Asset Tier 2 fees and credits apply to ETP Holders and Market Makers that provide liquidity an average daily volume share per month of 0.30% or more of the US Consolidated Average Daily Volume (''CADV''), and are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 0.75% of total Customer equity and ETF option ADV as reported by the Options Clearing Corporation (''OCC''). ETP Holders, including Market Makers, can currently alternatively qualify for the Cross-Asset Tier 2 fees and credits if they provide liquidity an ADV share per month of 0.40% or more of the US CADV, and are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions for the account of a market maker in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 0.65% of total Customer equity and ETF option ADV, as reported by OCC. Such ETP Holders and Market Makers currently receive a credit of $0.0031 per share for orders that provide liquidity to the order book in Tape A Securities; a credit of $0.0030 per share for providing liquidity to the order book and a fee of $0.0029 per share for taking liquidity from the order book in Tape B Securities; and a credit of $0.0032 per share for providing liquidity to the order book and a fee of $0.0030 per share for taking liquidity from the order book in Tape C Securities.

The Exchange proposes to reduce the current 0.75% of total Customer equity and ETF option ADV requirement on NYSE Arca Options (excluding mini options) to 0.55% of total Customer equity and ETF option ADV requirement on NYSE Arca Options (excluding mini options). The Exchange also proposes to replace the words ''Penny Pilot'' with ''all'' within the text of current Cross Asset Tier 2 criteria. This proposed change to the rule would make the options volume requirement, in terms of which options issues are used for purposes of calculating the requirement, consistent with the requirements currently found in Cross-Asset Tier 1 and Cross-Asset Tier 3. The Exchange is not proposing any change to the 0.30% or more of the US CADV requirement, or to the level of fees and credits currently applicable to Cross-Asset Tier 2.

The Exchange also proposes to remove the current alternative method to qualify for the fees and credits for the Cross-Asset Tier 2 pricing as the alternative method has not had a meaningful effect of incentivizing order flow to the Exchange as originally designed. The Exchange notes that ETP Holders that previously qualified for fees and credits under the alternate method may achieve the same range of fees and credits by satisfying the revised threshold proposed to current Cross-Asset Tier 2.

Cross-Asset Tier 3

Currently, the Exchange provides ETP Holders and Market Makers with a credit of $0.0030 per share for orders that provide liquidity to the order book in Tape A, Tape B and Tape C Securities if such ETP Holders and Market Makers (a) provide liquidity of 0.30% or more of the US CADV per month and (b) are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted Customer and Professional Customer executions in all issues on NYSE Arca Options (excluding mini options) of at least 0.80% of total Customer equity and ETF option ADV as reported by OCC, of which at least 0.20% of total Customer equity and ETF option ADV as reported by OCC is from Customer and Professional Customer executions in non-Penny Pilot issues on NYSE Arca Options.

The Exchange proposes to adopt an incremental credit of $0.0004 per share for orders that provide liquidity to the order book in Tape C Securities that would be payable to ETP Holders and Market Makers who meet the requirements of Cross-Asset Tier 3 and execute providing volume in Tape C Securities during the billing month equal to at least 0.35% of Tape C CADV. ETP Holders and Market Makers that qualify for the proposed incremental Tape C credit shall not qualify for any

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

fees or credits under Tape C Tier 1, Tape C Tier 2, and Tape C Tier 3.

The proposed changes are not otherwise intended to address any other issues, and the Exchange is not aware of any significant problems that market participants would have in complying with the proposed changes.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and (5) of the Act,[5] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

Cross-Asset Tier 2

The Exchange believes the proposed amendments to Cross-Asset Tier 2 are reasonable and equitably allocated because they would apply to ETP Holders and Market Makers equally and are designed to incentivize these market participants to send their orders to the Exchange and therefore provide liquidity that supports the quality of price discovery and promotes market transparency. The Exchange believes the Cross-Asset Tier 2 pricing tier is equitable because it is applicable to all similarly situated ETP Holders and Market Makers on an equal and non-discriminatory basis and provides fees and credits that are reasonably related to the value of an exchange's market quality associated with higher volumes.

The Exchange believes that the proposed revised threshold for qualifying for Cross-Asset Tier 2 is reasonable because it is designed to encourage increased trading activity on the NYSE Arca options market. The Exchange believes it is reasonable, equitable and not unfairly discriminatory to require ETP Holders and Market Makers to meet the revised threshold to qualify for Cross-Asset Tier 2 because doing so would allow ETP Holders and Market Makers to more easily qualify for the fees and credits applicable to such participants.

The Exchange believes that the proposed modification to eliminate the alternate method to qualify for Cross-Asset Tier 2 is reasonable, fair, and equitable because the alternate method was not providing the desired result of incentivizing ETP Holders and Market Makers to increase their participation on the NYSE Arca equity and option markets. Therefore, eliminating the alternative method will have a negligible effect on order flow and market behavior. The Exchange believes the proposed change is not unfairly discriminatory because it will apply equally to all participants. Further, as described above, the Exchange notes that ETP Holders and Market Makers that previously qualified for the fees and credits under the alternative method would achieve the same fees and credits by satisfying what the Exchange believes to be similar or lower criteria as the existing and revised Cross-Asset Tier 2 discussed above. Specifically, the proposed 0.55% of total Customer equity and ETF option ADV requirement in all issues on NYSE Arca Options (excluding mini options) is lower than the 0.65% of total Customer equity and ETF option ADV requirement in Penny Pilot issues on NYSE Arca Options (excluding mini options) under the alternative method that the Exchange is proposing to eliminate. Similarly, the current 0.30% or more of the US CADV requirement is lower than the 0.40% or more of the US CADV requirement for the alternative method that the Exchange is proposing to eliminate.

The Exchange believes the proposed change to replace the words ''Penny Pilot'' with ''all'' issues within the text of current Cross Asset Tier 2 is reasonable, equitable and not unfairly discriminatory. This proposed change to the rule would make the options volume requirement, in terms of which options issues are used for purposes of calculating the requirement, consistent with the requirements currently found in Cross-Asset Tier 1 and Cross-Asset Tier 3, and would therefore provide consistency and clarity to the Fee Schedule.

The Exchange believes that the proposal is equitable and not unfairly discriminatory because all ETP Holders would be subject to the same fee structure. Moreover, the Cross-Asset Tier 2 fees and credits are available for all ETP Holders to satisfy, except for those ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm. ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm are still eligible for fees and credits by means other than the Cross-Asset Tier. NASDAQ similarly charges certain fees based on both equity and options volume.[6]

Cross-Asset Tier 3

The Exchange believes that the proposed modification to add the additional Tape C credit of $0.0004 per share for ETP Holders and Market Makers that execute providing volume in Tape C Securities during the billing month equal to at least 0.35% of Tape C CADV is reasonable, fair, and equitable because the because it is designed to encourage increased trading activity in Tape C Securities. The Exchange notes that ETP Holders and Market Makers that do not execute providing volume of at least 0.35% of Tape C CADV in the billing month can still qualify for Cross-Asset Tier 3 if they meet the Cross-Asset Tier 3 requirements.

The Exchange believes that the proposed change is equitable and not unfairly discriminatory because providing incentives for orders in exchange-listed securities that are executed on a registered national securities exchange (rather than relying on certain available off-exchange execution methods) would contribute to investors' confidence in the fairness of their transactions and would benefit all investors by deepening the Exchange's liquidity pool, supporting the quality of price discovery, promoting market transparency and improving investor protection.

The Exchange further believes the proposed incremental credit is reasonable and appropriate in that it is based on the amount of business transacted on the Exchange. The Exchange believes the proposed incremental credit for adding liquidity is also reasonable because it will encourage liquidity and competition in Tape C securities quoted and traded on the Exchange.

The Exchange believes the proposed incremental credits are equitable and not unfairly discriminatory because they are open to all ETP Holders and Market Makers on an equal basis and provide discounts that are reasonably related to the value to the Exchange's market quality associated with higher volumes. The Exchange further believes that the proposed incremental rebate is not unfairly discriminatory because the magnitude of the additional rebate is not unreasonably high in comparison to the rebate paid with respect to other displayed liquidity-providing orders. The Exchange does not believe that it is unfairly discriminatory to offer increased rebates to ETP Holders and Market Makers as these participants would be subject to additional volume requirements in Tape C Securities.

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] *See* NASDAQ Rule 7018.

The Exchange believes that prohibiting Cross-Asset Tier 3 ETP Holders and Market Makers from qualifying for the Tape C Tier 1, Tape C Tier 2, and Tape C Tier 3 tiers is reasonable, equitable and not unfairly discriminatory because ETP Holders and Market Makers that qualify for Cross-Asset Tier 3 and execute providing volume in Tape C Securities during the billing month equal to at least 0.35% of Tape C CADV would already receive an incremental Tape C credit of $0.0004 before the Tape C Tier 1, Tape C Tier 2, and Tape C Tier 3 tiers, which is as equal to or higher than the those credits associated with the Tape C tiers.

Further, with regards to Cross-Asset pricing in general, the Exchange believes that the proposal is reasonable and would continue to directly relate to the activity of an ETP Holder and the activity of an affiliated OTP Holder or OTP Firm on NYSE Arca Options, thereby encouraging increased trading activity on both the NYSE Arca equity and option markets. In this regard, the proposal is designed to bring additional posted order flow to NYSE Arca Options, so as to provide additional opportunities for all OTP Holders and OTP Firms to trade on NYSE Arca Options.

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[7] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would encourage the submission of additional liquidity to a public exchange, thereby promoting price discovery and transparency and enhancing order execution opportunities for ETP Holders and Market Makers. The Exchange believes that this could promote competition between the Exchange and other execution venues, including those that currently offer similar order types and comparable transaction pricing, by encouraging additional orders to be sent to the Exchange for execution.

Further, the proposal to amend the requirements to qualify for Cross-Asset Tier 2 and Cross-Asset Tier 3 will not place an undue burden on competition because both tiers would remain available for all ETP Holders to satisfy, except those ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm. ETP Holders that are not affiliated with an NYSE Arca Options OTP Holder or OTP Firm are eligible for similar fees and credits by others means than the Cross-Asset pricing tiers.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[8] of the Act and subparagraph (f)(2) of Rule 19b–4[9] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[10] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2017–64 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–NYSEArca-2017–64. 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

[7] 15 U.S.C. 78f(b)(8).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4(f)(2).

[10] 15 U.S.C. 78s(b)(2)(B).

submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2017–64 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12761 Filed 6–19–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80944; File No. SR–ISE–2017–42)

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding Market Maker Quotations

June 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 12, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''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 804, entitled ''Market Maker Quotations.''

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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 Exchange proposes to amend ISE Rule 804, entitled ''Market Maker Quotations'' to amend the current rule text at ISE Rule 804(g)(1) and (2) to adopt a revised description of the manner in which ISE removes market maker quotes when certain risk parameters have been triggered. The Exchange believes that the proposed new rule text will provide more detailed information to participants concerning the manner in which these risk features will remove quotes from the Order Book.

Today, ISE Rule 804(g)(1) provides that a market maker must provide parameters by which the Exchange will automatically remove a market maker's quotations in all series of an options class. If a market maker does not provide parameters then the Exchange will apply default parameters announced to members. The Exchange will automatically remove a market maker's quotation when, during a time period established by the market maker, the market maker exceeds: (i) The specified number of total contracts in the class, (ii) the specified percentage of the total size of the market maker's quotes in the class, (iii) the specified absolute value of the net between contracts bought and contracts sold in the class, or (iv) the specified absolute value of the net between (a) calls purchased plus puts sold in the class, and (b) calls sold plus puts purchased in the class.

The Exchange proposes to adopt new rule text, which continues to require a market maker to provide parameters by which the Exchange will automatically remove a market maker's quotations in all series of an options class. If a market maker does not provide parameters then the Exchange will apply default parameters announced to members. This is not being amended, rather it is being expanded.

The proposed rule text in 804(g)(1) makes clear that market makers are required to utilize the Percentage, Volume, Delta and Vega Thresholds, each a Threshold, described in subsections (A)–(D) in the new rule text. These are the same risk parameters that are offered today by ISE. The Exchange is seeking to identify each risk parameter specifically and describe the function of each parameter in Rule 804(g)(1)(A)–(D). For each feature, the Exchange's system (''System'') will continue to automatically remove quotes in all series in an options class when a certain threshold for any of the parameters has been exceeded.

The Exchange elaborates in the proposed rule that a market maker is required to specify a period of time not to exceed 30 seconds (''Specified Time Period'') during which the system will automatically remove a Market Maker's quotes in all series of an options class. The limitation of not to exceed 30 seconds is new for ISE Members. In order to establish a reasonable limit to the allowable Specified Time Period, an ISE Member will be limited to the [sic] setting their Specified Time period to no more than 30 seconds for these Thresholds. A Specified Time Period will commence for an options class every time an execution occurs in any series in such options class and will continue until the System removes quotes as described in proposed ISE Rule 804(g)(2) or (3) or the Specified Time Period expires. This is the case today, and is not changing. The Specified Time Periods will be the same value described in subsections (A)–(D). Also, as is the case today, a Specified Time Period operates on a rolling basis among all series in an options class in that there may be Specified Time Periods occurring simultaneously for each Threshold and such Specified Time Periods may overlap. If a Market Maker does not provide parameters, the Exchange will apply default parameters, which default settings will be announced to Members via an Options Trader Alert.

Proposed Rule 804(g)(1)(A) describes in greater detail the operation of the Percentage Threshold. As is the case today, a Market Maker must provide a specified percentage of quote size (''Percentage Threshold''), of not less than 1%, by which the System will automatically remove a Market Maker's quotes in all series of an options class. The Exchange is adding more detail about the manner in which the System will calculate percentages and amending the current rule to change its operation. For each series in an options class, the System will determine (i) during a Specified Time Period and for each side in a given series, a percentage calculated by dividing the size of a Market Maker's quote size executed in a particular series (the numerator) by the Marker Maker's quote size available at the time of execution plus the total number of the Market Marker's quote

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

size previously executed during the unexpired Specified Time Period (the denominator) (''Series Percentage''); and (ii) the sum of the Series Percentages in the options class (''Issue Percentage'') during a Specified Time Period. The System will track and calculate the net impact of positions in the same option issue; long call percentages are offset by short call percentages, and long put percentages are offset by short put percentages in the Issue Percentage. The Exchange also notes that in calculating the Percentage the System will compare the number of contracts executed in that series relative to the size of the quote at the time of the execution plus the number of executed contracts that have occurred in the current time period. The current system calculates the Percentage risk parameter by comparing the number of contracts executed in that series relative to the size of the original quote only at the time of the execution. This difference is captured within the proposed rule text. The Exchange notes that with the upcoming migration from ISE's current system to the INET system the manner in which the System offsets will change. The current ISE system does not offset, in that long call percentages are not offset by short call percentages, and long put percentages are not offset by short put percentages. The proposed System however will track and calculate the net impact.[3] The Exchange notes this difference in the calculation and seeks to memorialize the change in the process upon the migration to INET. The proposed rule will provide participants with greater clarity as to the operation of the Percentage risk feature on INET. The proposed text indicates that if the Issue Percentage exceeds the Percentage Threshold the System will automatically remove a market maker's quotes in all series of the options class.

Proposed Rule 804(g)(1)(B) describes in greater detail the operation of the Volume Threshold. As is the case today on ISE's current system, a market maker must provide a Volume Threshold by which the System will automatically remove a market maker's quotes in all series of an underlying security when the market maker executes a number of contracts which exceeds the designated number of contracts in all options series in an options class.

Proposed Rule 804(g)(1)(C) describes in greater detail the operation of the Delta Threshold. As is the case today on ISE's current system, a market maker must provide a Delta Threshold by which the System will automatically remove a market maker's quotes in all series of an underlying security. For each class of options, the System will maintain a Delta counter, which tracks the absolute value of the difference between (i) purchased call contracts plus sold put contracts and (ii) sold call contracts plus purchased put contracts. If the Delta counter exceeds the Delta Threshold established by the Member, the System will automatically remove a market maker's quotes in all series of the options class.

Proposed Rule 804(g)(1)(D) describes in greater detail the operation of the Vega Threshold. As is the case today on ISE's system, a market maker must provide a Vega Threshold by which the System will automatically remove a Market Maker's quotes in all series of an options class. For each class of options, the System will maintain a Vega counter, which tracks the absolute value of purchased contracts minus sold contracts. If the Vega counter exceeds the Vega Threshold established by the Member, the System will automatically remove a Market Maker's quotes in all series of the options class.

Proposed Rule 804(g)(2) provides more detail about the System's current operation with respect to quote removal. The System will automatically remove quotes in all options in an underlying security when the Percentage Threshold, Volume Threshold, Delta Threshold or Vega Threshold has been exceeded. The System will send a Purge Notification Message to the Market Maker for all affected series when any of the above thresholds have been exceeded. The Percentage Threshold, Volume Threshold, Delta Threshold and Vega Threshold are considered independently of each other. Quotes will be automatically executed up to the Market Maker's size regardless of whether the execution of such quotes would cause the Market Maker to exceed the Percentage Threshold, Volume Threshold, Delta Threshold or Vega Threshold.

Proposed Rule 804(g)(3) provides more detail about the manner in which the System resets the counting of the various risk parameters. Notwithstanding the automatic removal of quotes described in the rule, if a market maker requests the System to remove quotes in all options series in an options class, the System will automatically reset all Thresholds.

Proposed Rule 804(g)(4) provides more detail about the process to re-initiate quoting. When the System removes quotes because the Percentage Threshold, Volume Threshold, Delta Threshold or Vega Threshold were exceeded, the market maker must send a re-entry indicator to re-enter the System.

Proposed Rule 804(g)(5) provides more detail about default parameters as mentioned above. If a market maker does not provide a parameter for each of the automated quotation removal Thresholds described in Rule 804(g)(1)(A–D) above, the Exchange will apply default parameters, which are announced to Members. This language exists today in the current text and is being memorialized herein.

Finally, proposed Rule 804(g)(6) describes the interaction between the four Thresholds and the market wide parameter. In addition to the Thresholds described in Rule 804(g)(1)(A)–(D) above, a market maker must provide a market wide parameter by which the Exchange will automatically remove a market maker's quotes in all classes when, during a time period established by the market maker, the total number of quote removal events specified in Rule 804(g)(1)(A)–(D) exceeds the market wide parameter provided to the Exchange by the market maker. As is the case today, Market Makers may request the Exchange to set the market wide parameter to apply to just Nasdaq ISE or across Nasdaq ISE and GEMX.

Below are some illustrative examples of the Percentage and Volume risk parameters.

Example #1: Describes the Percentage risk parameter. Presume the following Order Book:

Series of underlying XYZ	Size on bid x offer for MM1
100 Strike Call	300x300
100 Strike Put	50x50
110 Strike Call	200x200
110 Strike Put	150x150

In this example, assume the Specified Time Period designated by the Market Maker #1 is 10 seconds and the Percentage Threshold is set to 100%. Assume at 12:00:00, Market Maker #1 executes 100 contracts of his offer size, 200 contracts, in the 110 Strike Calls. This represents an execution equaling 50% (100 contracts of the 200 contract quote size) of the 100% Percentage Threshold. Assume at 12:00:01, Market Maker #1 executes 50 additional contracts in the same 110 Strike Calls. This execution equates to an additional 25% ((50 contracts/(100 remaining quote size +100 contracts already executed within the Specified Time Period)) for a net 75% Series Percentage count toward the 100% Percentage Threshold. If at 12:00:03, Market Maker #1 executes the full size of his bid (50 contracts) in the 100 Strike Put, the System will automatically remove all of

[3] The net impact of positions takes into account the offsets noted herein.

Market Maker #1's quotes in Underlying XYZ since the execution caused his 100% Percentage Threshold to be exceeded; the execution in the 100 Strike Put added 100% Series Percentage to his previously calculated Series Percentage of 75% totaling 175% Issue Percentage. No further quotes for Market Maker #1 in Underlying XYZ will be available until re-entry. The Specified Time Period will be reset for Market Maker #1 in options class XYZ and Market Maker #1 will need to send a re-entry indicator in order to re-enter quotes in options series for options class XYZ into the System.

Example #2 is another example of the Percentage Threshold. Presume the following Order Book:

In this example, assume Market Maker #1 has Percentage Threshold set at 100% with a Specified Time Period over 5 seconds. Assume at 12:00:00, Market Maker #1 is quoting the XYZ 20 strike calls at 1.00 (10) − 1.20 (10). An incoming Order to buy 5 contracts for 1.20 trades against Market Maker #1's quote. Based on this trade, the Series Percentage Threshold calculation is 5/[(10) + (0)] = 5/10 = 50%. Since this is the only execution during the Time Period, 50% also represents the Issue Percentage, therefore Market Maker #1's quote is now 1.00 (10) − 1.20 (5).

Next, assume at 12:00:01 an Incoming Order to buy 2 contracts for 1.20 trades against Market Maker #1's quote. Based on this trade, the Series Percentage Threshold calculation is 2/[(5) + (5)] = 2/10 = 20%. The Issue Percentage calculation is the sum of Series Percentages during the time period, or 50% + 20% = 70%.

Finally, presume Market Maker #1's quote is now 1.00 (10) − 1.20 (3). At 12:00:02, Market Maker #1 updates his quote in the XYZ 20 strike calls to increase his offer size back to 10 contracts, 1.00 (10) − 1.20 (10). An incoming Order to buy 6 contracts for 1.20 trades against Market Maker #1's quote. Based on this trade, the Series Percentage Threshold calculation: 6/[(10) + (7)] = 6/17 = 35.29%. The Issue Percentage calculation is the sum of Series Percentages during the time period, or 50% + 20% + 35.29% = 105.29%. In this scenario, Market Maler [sic] #1's quotes are removed in all series of XYZ since his setting of 100% over 5 seconds has been exceeded.

Example #3 describes the Volume Threshold. Presume the following Order Book:

Series of underlying XYZ	Size on bid x offer for MM1
100 Strike Call	300x300
100 Strike Put	50x50
110 Strike Call	200x200
110 Strike Put	150x150

In this example, assume the Specified Time Period designated by the Market Maker #1 is 10 seconds and the designated number of contracts permitted for the Volume-Based Threshold is 250 contracts. Assume at 12:00:00, the Market Maker #1 executes all of his offer size, 200 contracts, in the 110 Strike Calls. The System will initiate the Specified Time Period and for 10 seconds the System will count all volume executed in series of options class XYZ. If at any point during that 10 second period, the Market Maker #1 executes additional contracts in any series of the options class XYZ, those contracts will be added to the initial execution of 200 contracts. To illustrate, assume at 12:00:05 the Market Maker #1 executes 60 contracts of his offer in the 100 Strike Calls. The total volume executed is now 260 contracts. Since that volume exceeds the Market Maker #1's designated number of contracts for the Volume Threshold (250 contracts), all of his quotes in all series of the options class XYZ over the Specialized Quote Feed [4] will be removed from the System; no further quotes will be executed until re-entry. The Volume Specified Time Period will be reset for Market Maker #1 in options class XYZ and Market Maker #1 will need to send a re-entry indicator in order to re-enter quotes in options series for options class XYZ into the System.

Implementation

The Exchange will begin a system migration to Nasdaq INET in Q2 of 2017.[5] The migration will be on a symbol by symbol basis as specified by the Exchange in a notice to Members. The Exchange is proposing to implement this rule change on the INET platform as the symbols migrate to that platform.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(5) of the Act [7] 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 memorializing, with greater detail, the risk protections available to market makers. The described Thresholds serve to decrease risk and increase stability. Additionally, because the Exchange offers these risk tools 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 protects investors and the public interest. The Exchange believes that amending Rule 804(g) to add more clarifying text, which explains in greater detail the manner in which the four Thresholds operate, will bring more transparency to the rule which serves to protect investors and the public interest, because market makers will be more informed about the manner in which the functionality operates.

In addition, the Exchange's proposal to amend the current Percentage Threshold to: (i) Calculate offsets; and (ii) calculate the Percentage Threshold during a Specified Time Period and for each side in a given series, a percentage, by dividing the size of a Market Maker's quote size executed in a particular series (the numerator) by the Marker Maker's quote size available at the time of execution plus the total number of the Market Marker's quote size previously executed during the unexpired Specified Time Period, will provide Market Makers with greater precision in calculating quoting risks. The Exchange believes that providing Market Makers with tools to calculate risk serves to perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest because Market Makers are better able to manage risks with this risk tool.

The Exchange further represents that its proposal will continue to operate consistently with the firm quote obligations of a broker-dealer pursuant

[4] The Specialized Quote Feed interface that allows market makers to connect and send quotes, sweeps and auction responses into GEMX. Data includes the following: (1) Options Auction Notifications (*e.g.,* opening imbalance, Flash, PIM, Solicitation and Facilitation or other information); (2) Options Symbol Directory Messages; (3) System Event Messages (*e.g.,* start of messages, start of system hours, start of quoting, start of opening); (4) Option Trading Action Messages (*e.g.,* halts, resumes); (5) Execution Messages; and (6) Quote Messages (quote/sweep messages, risk protection triggers or purge notifications).

[5] *See* Securities Exchange Act Release No. 80432 (April 11, 2017), 82 FR 18191 (April 17, 2017) (SR–ISE–2017–03) (Order Approving Proposed Rule Change, as Modified by Amendment No. 1, to Amend Various Rules in Connection with a System Migration to Nasdaq INET Technology).

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

to Rule 602 of Regulation NMS and that the functionality is mandatory. Specifically, any interest that is executable against a market maker's quotes that are received [8] by the Exchange prior to the time any of these functionalities are engaged will be automatically executed at the price up to the market maker's size, regardless of whether such execution results in executions in excess of the market maker's pre-set parameters.

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. Specifically, the proposal will not impose a burden on intra-market or inter-market competition, rather it provides market makers with the continued opportunity to avail themselves of risk tools, [sic] The proposal does not impose a burden on inter-market competition, because participants may choose to become market makers on a number of other options exchanges, which may have similar but not identical features.[9] The proposed rule change is meant to continue to protect market makers from inadvertent exposure to excessive risk. Accordingly, the proposed rule change will have no impact on competition. The Exchange's proposal to amend the current Percentage Based risk feature to: (i) Calculate offsets; and (ii) calculate the Percentage Threshold during a Specified Time Period and for each side in a given series, a percentage, by dividing the size of a Market Maker's quote size executed in a particular series (the numerator) by the Market Maker's quote size available at the time of execution plus the total number of the Market Marker's quote size previously executed during the unexpired Specified Time Period,, [sic] does not impose an undue burden on competition and is non-controversial because the Exchange offers a Percentage Threshold today. The proposed changes to the Percentage risk tool simply add more precision to the existing calculation to permit Market Makers to better control their risk with respect to quoting.

Further, the Exchange is memorializing more detail concerning the function of the Thresholds with this rule proposal and making clear the method in which the Percentage risk tool is calculated. The risk tools will continue to reduce risk for market makers in the event of a systems issue or due to the occurrence of unusual or unexpected market activity.

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 [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

In its filing, ISE requests that the Commission waive the 30-day operative delay in order to enable the Exchange to coordinate the implementation of the proposed rule changes with its planned migration to the INET platform, which has commenced.[12] Although the Exchange proposes certain technical changes to how the risk parameters will operate (*e.g.,* limiting the Specified Time Period to 30 seconds), the proposed changes are largely intended to provide more detail about the operation of the existing risk parameters. Accordingly, the Commission believes that granting a waiver of the operative delay is consistent with the protection of investors and the public interest and therefore designates the proposed rule change to be operative upon filing.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors; or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–ISE–2017–42 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–ISE–2017–42. 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–ISE–2017–42 and should be submitted on or before July 11, 2017.

[8] The time of receipt is the time such message is processed by the Order Book.

[9] *See* BATS Rule 21.16, BOX Rules 8100 and 8110, C2 Rule 8.12, CBOE Rule 8.18, MIAX Rule 612, NYSE MKT Rule 928NY and NYSE Arca Rule 6.40.

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 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.

[12] *See supra* note 5 and accompanying text.

[13] 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).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12893 Filed 6–19–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80937; File No. SR–MRX–2017–01]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing of Proposed Rule Change, as Modified by Amendment No. 2 Thereto, To Amend the Opening Process

June 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 31, 2017, Nasdaq MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. On June 14, 2017, the Exchange filed Amendment No. 1 to the proposal. On June 14, 2017, the Exchange withdrew Amendment No.1 and filed Amendment No. 2 to the proposal, which replaced and superseded the original filing in its entirety. The Commission is publishing this notice to solicit comments on the proposed rule change, as modified by Amendment No. 2, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to mend the opening process. This Amendment No. 2 supersedes the original filing in its entirety.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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 this rule change is to amend the MRX opening process in connection with a technology migration to a Nasdaq, Inc. (''Nasdaq'') supported architecture. INET is the proprietary core technology utilized across Nasdaq's global markets and utilized on The NASDAQ Options Market LLC (''NOM''), NASDAQ PHLX LLC (''Phlx'') and NASDAQ BX, Inc. (''BX'') (collectively ''Nasdaq Exchanges''). The migration of MRX to the Nasdaq INET architecture would result in higher performance, scalability, and more robust architecture. With this system migration, the Exchange intends to adopt the Phlx opening process.

The Exchange intends to begin implementation of the proposed rule change in Q3 2017. The migration will be on a symbol by symbol basis, and the Exchange will issue an alert to Members to provide notification of the symbols that will migrate and the relevant dates.

Generally

With the re-platform, the Exchange will now be built on the Nasdaq INET architecture, which allows certain trading system functionality to be performed in parallel. The Exchange believes that this architecture change will improve the Member experience by reducing overall latency compared to the current MRX system because of the manner in which the system is segregated into component parts to handle processing.

Opening Rotation

MRX will replace its current opening process at Rule 701 with Phlx's Opening Process.[3] The Exchange believes that the proposed opening process will provide a similar experience for Members and investors that trade on MRX to the experience that they receive on Phlx today.

Current Opening Process

Today, for each class of options that has been approved for trading, the opening rotation is conducted by the Primary Market Maker (''PMM'') appointed to such class of options pursuant to MRX Rule 701(b)(1). The Exchange may direct that one or more trading rotations be employed on any business day to aid in producing a fair and orderly market pursuant to MRX Rule 701(a)(1). For each rotation so employed, except as the Exchange may direct, rotations are conducted in the order and manner the PMM determines to be appropriate under the circumstances pursuant to MRX Rule 701(a)(2). The PMM, with the approval of the Exchange, has the authority to determine the rotation order and manner and may also employ multiple trading rotations simultaneously pursuant to MRX Rule 701(a)(3).

Trading rotations are employed at the opening of the Exchange each business day and during the reopening of the market after a trading halt pursuant to MRX Rule 701(b). The opening rotation in each class of options is held promptly following the opening of the market for the underlying security.[4] The opening rotation for options contracts in an underlying security is delayed until the market for such underlying security has opened unless the Exchange determines that the interests of a fair and orderly market are best served by opening trading in the options contracts pursuant to MRX Rule 701(b)(3).

Market Makers on MRX are held to quoting obligations as outlined in MRX Rule 803. Further, Market Makers quotes prior to the opening rotation, including PMM quotes, are permitted with spread differential of no more than $0.25 between the bid and offer for each options contract for which the bid is less than $2, no more than $0.40 where the bid is at least $2 but does not exceed $5, no more than $0.50 where the bid is more than $5 but does not exceed $10, no more than $0.80 where the bid is more than $10 but does not exceed $20, and no more than $1 where the bid is $20 or greater, provided that the Exchange may establish differences other than the above for one or more options series, as specified in MRX Rule

[14] 17 CFR 200.30–3(a)(12) and (59).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Phlx Rule 1017. *See also* Securities Exchange Act Release No. 79274 (November 9, 2016), 81 FR 80694 (November 16, 2016) (SR–Phlx–2017–79) (notice of Filing of Partial Amendment No. 2 and Order Granting Approval of a Proposed Rule Change, as Modified by Partial Amendment No. 2, to Amend PHLX Rule 1017, Openings in Options).

[4] The ''market for the underlying security'' is either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis. *See* MRX Rule 701(b)(2).

803(b)(4). These differentials are defined as Valid Width Quotes for purposes of this rule proposal.

The PMM appointed to an option class can initiate the rotation process by sending a rotation request to the Exchange or by authorizing the Exchange to auto-rotate the class. In addition, there are instances where the PMM is unable to initiate the rotation process. In such instances the Exchange may initiate the rotation process by using the Exchange's ''Delayed Opening Process,'' which provides an alternative method for opening an option class when the PMM is unable to initiate the rotation process.[5] Once the PMM or Exchange initiates the opening rotation, the Exchange will automatically process displayed quotes and orders via a process that determines the price at which the maximum number of contracts can trade within certain established boundary prices. In order to protect interest from trading at bad prices, quotes and orders are not executed outside of the established boundary prices. If there are no quotes or orders that lock or cross each other, the Exchange will open a series by disseminating the Exchange's best bid and offer among quotes and orders under certain conditions.

The Exchange proposes to replace this process with an opening process similar to a recently approved Phlx opening process as noted above.[6]

Opening Process

The Exchange will adopt a ''Definitions'' section at proposed MRX Rule 701(a), similar to Phlx Rule 1017(a), to define several terms that are used throughout the opening rule. Similar to today, the Exchange will conduct an electronic opening for all option series traded on the Exchange using its trading system (hereinafter ''system'').

The Exchange proposes to define the following terms, which are described below: ''ABBO,'' ''market for the underlying security,'' ''Opening Price,'' ''Opening Process,'' ''Pre-Market BBO,'' ''Potential Opening Price,'' ''Quality Opening Market,'' ''Valid Width Quote,'' and ''Zero Bid Market.''

The Exchange proposes to define ''Opening Process'' at proposed Rule 701(a)(4) by cross-referencing proposed Rule 701(c). The Exchange proposes to define ''Opening Price'' at proposed Rule 701(a)(3) by cross-referencing proposed Rule 701(h) and (j). The Exchange proposes to define ''Potential Opening Price'' at proposed Rule 701(a)(5) by cross-referencing proposed Rule 701(g). The Exchange proposes to define ''ABBO'' at proposed Rule 701(a)(1) as the Away Best Bid or Offer. The ABBO does not include MRX's market. The Exchange proposes to define ''market for the underlying security'' at proposed Rule 702(a)(2) as either the primary listing market or the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), as determined by the Exchange by underlying and announced to the membership on the Exchange's Web site.[7] The Exchange notes that the term ''Market Makers'' is currently defined in MRX Rule 100(a)(25) as referring to Primary Market Makers or ''PMMs'' and Competitive Market Makers or ''CMMs,'' collectively. The next definition is ''Pre-Market BBO'' defined at proposed Rule 701(a)(6) as the highest bid and the lowest offer among Valid Width Quotes.[8] The Pre-Market BBO does not include orders. The term ''Quality Opening Market'' is defined at proposed Rule 701(a)(7) as a bid/ask differential applicable to the best bid and offer from all Valid Width Quotes defined in a table to be determined by the Exchange and published on the Exchange's Web site.[9] This calculation of Quality Opening Market is based on the best bid and offer of Valid Width Quotes. The differential between the best bid and offer are compared to reach this determination. The allowable differential, as determined by the Exchange, takes into account the type of security (for example, Penny Pilot versus non-Penny Pilot issue), volatility, option premium, and liquidity. The Quality Opening Market differential is intended to ensure the price at which the Exchange opens reflects current market conditions. The Exchange utilizes its experience with products to make this determination. Next, a ''Valid Width Quote'' is defined at proposed Rule 701(a)(8) as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4). The term ''Zero Bid Market'' is defined at proposed Rule 701(a)(9) where the best bid for an options series is zero. The Exchange believes that these definitions will bring additional clarity to the proposed rule.

Eligible Interest

The first part of the Opening Process determines what constitutes eligible interest. Eligible interest during the Opening Process includes Valid Width Quotes, Opening Sweeps and orders. The Exchange proposes to adopt in proposed paragraph (b) of Rule 701 a provision that quotes,[10] other than Valid Width Quotes, will not be included in the Opening Process. All-or-None Orders that can be satisfied, and the displayed and non-displayed portions of Reserve Orders are considered for execution and in determining the Opening Price throughout the Opening Process.

The Exchange notes that only Public Customer interest is routable during the Opening Process. All other non-Public Customer interest will not be routed during the Opening Process. Unlike the regular session where orders route if they cannot execute on MRX, the Opening Process is a price discovery process which considers interest, both on MRX and away markets, to determine the optimal bid and offer with which to open the market. The Opening Process seeks the price point at which the most number of contracts may be executed while protecting away market interest. The Exchange only routes Public Customer interest at this time rather than all interest because this type of interest always receives priority on MRX and this process ensures that Public Customer interest will be executed with priority during the Opening Process. Other interest is not routable until after the Exchange has completed the Opening Process.

The Exchange notes that Opening Sweeps may be submitted through the new Specialized Quote Feed or ''SQF'' protocol which permits one-sided orders to be entered by a Market Maker. Today, orders are entered by all participants through FIX and/or DTI on MRX. After the re-platform the INET architecture, all participants will continue to be able to submit orders through FIX, however, DTI will no longer be available. An Opening Sweep is a Market Maker order submitted for execution against eligible interest in the system during the Opening Process.[11] It is similar to an Opening Only Order[12]

[5] Certain conditions must be met for the Delayed Opening Process to be used to initiate the opening process.

[6] *See* note 3 above. Nasdaq ISE, LLC (''ISE'') and Nasdaq GEMX, LLC (''GEMX'') have similar opening processes. *See* ISE and GEMX Rules 701.

[7] Today, all are the primary listing market. The Exchange would consider switching to primary volume market if a different market begins to trade more volume than the primary listing market and the primary volume market becomes a more reliable source of prices with more liquidity.

[8] Valid Width Quotes is defined at proposed Rule 701(a)(8).

[9] Phlx maintains a table on its Web site with this information. *See http://www.nasdaqtrader.com/content/phlxxl/phlxiisys_overview.pdf.* MRX will publish similar details on its Web site.

[10] The term quotes shall refer to a two-sided quote.

[11] *See* proposed MRX Rule 715(t).

[12] *See* MRX Rule 715(o).

that can be entered for the opening rotation only and any portion of the order that is not executed during the opening rotation is cancelled. However, it should also be noted that an Opening Sweep may only be submitted by a Market Maker when he/she has a Valid Width Quote in the affected series whereas, there is no such restriction on Opening Only Orders. Since the protocol over which an Opening Sweep is submitted is used for Market Maker quoting, the acceptance of an Opening Sweep was structured to rely on the Valid Width Quote. If a Market Maker does not want to submit or is unable to maintain a Valid Width Quote, the Market Maker can submit Opening Only Order instead.

Opening Sweep

Proposed Rule 701(b)(1) provides that a Market Maker assigned in a particular option may only submit an Opening Sweep if, at the time of entry of the Opening Sweep, that Market Maker has already submitted and maintains a Valid Width Quote. All Opening Sweeps in the affected series entered by a Market Maker will be cancelled immediately if that Market Maker fails to maintain a continuous quote with a Valid Width Quote in the affected series. Opening Sweeps may be entered at any price with a minimum price variation applicable to the affected series, on either side of the market, at single or multiple price level(s), and may be cancelled and re-entered. A single Market Maker may enter multiple Opening Sweeps, with each Opening Sweep at a different price level. If a Market Maker submits multiple Opening Sweeps, the system will consider only the most recent Opening Sweep at each price level submitted by such Market Maker in determining the Opening Price. Unexecuted Opening Sweeps will be cancelled once the affected series is open.[13]

Proposed Rule 701(b)(2) states that the system will aggregate the size of all eligible interest for a particular participant category [14] at a particular price level for trade allocation purposes pursuant to MRX Rule 713. Eligible interest may be submitted into MRX's system and will be received starting at the times noted herein. Proposed Rule 701(c) provides that Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time will be included in the Opening Process.[15] Orders entered at any time before an option series opens are included in the Opening Process. This proposed language adds specificity to the rule regarding the submission of Valid Width Quotes and Opening Sweeps. The 9:25 a.m. Eastern Time trigger is intended to tie the option Opening Process to quoting in the majority of the underlying securities; [16] it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. Therefore, the Exchange has chosen a reasonable timeframe at which to begin utilizing option quotes, based on the Exchange's experience when underlying quotes start becoming available.[17]

Proposed Rule 701(c)(1) describes when the Opening Process can begin with specific time-related triggers. The proposed rule provides that the Opening Process for an option series will be conducted pursuant to proposed Rule 701(f) though (j) on or after 9:30 a.m. Eastern Time if: The ABBO, if any is not crossed and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site), or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site) [18] any of the following: (i) The PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two CMMs; or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote.[19] These three requirements are intended to tie the option Opening Process to receipt of liquidity. If one of the above three conditions are not met, the Exchange will not initiate the Opening Process or continue an ongoing Opening Process if we do not have one of the three conditions (i, ii or iii); thus, a Forced Opening pursuant to proposed Rule 701(j)(5) could not occur.

The Exchange is proposing to state in proposed Rule 701(c)(2) that for all options, the underlying security, including indexes, must be open on the primary market for a certain time period to be determined by the Exchange for the Opening Process to commence. The Exchange is proposing that the time period be no less than 100 milliseconds and no more than 5 seconds.[20] This proposal is intended to permit the price of the underlying security to settle down and not flicker back and forth among prices after its opening. It is common for a stock to fluctuate in price immediately upon opening; such volatility reflects a natural uncertainty about the ultimate Opening Price, while the buy and sell interest is matched. The Exchange is proposing a range of no less than 100 milliseconds and no more than 5 seconds in order to ensure that it has the ability to adjust the period for which the underlying security must be open on the primary market. The Exchange may

[13] *See* proposed MRX Rule 701(b)(1)(ii). *See also* proposed MRX Rule 715(t).

[14] MRX allocates first to Priority Customers and then to all other Members by pro-rata. This is different from Phlx which allocates to Customers first, then to market makers pro-rata and then to all others pro-rata. *See* MRX Rule 713 and Phlx Rule 1014(g)(vii).

[15] The Opening Process for foreign currency options will also include Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time.

[16] For purposes of this rule, the underlying security can also be an index. With respect to foreign currency options, the Exchange notes that those markets open prior to 9:30 a.m. Eastern Time. The Exchange proposes to open the foreign currency options at the same time as other options on the Exchange merely to conform the timeframe for the open. Today, on Phlx, foreign currency options trade similar to other options. With this proposal all products would trade during the same session.

[17] *Id.*

[18] The Exchange anticipates initially setting the timeframe during which a PMM Valid Width quote or the presence of at least two CMM Valid Width Quotes will initiate the Opening Process at 30 seconds. The timeframe is consistent with the current timeframe utilized on Phlx. The Exchange believes 30 seconds is the appropriate amount of time as it provides time for the PMM and CMMs to assess the underlying security or index price and submit Valid Width Quotes as well as ample time for the underlying security or index price to stabilize. After this 30 second period, the Exchange will initiate the Opening Process provided one CMM has submitted a Valid Width Quote since the market for the underlying security or index has had opportunity to stability. The Exchange may reduce this timeframe if it is determined that the Opening Process is taking longer to initiate than the marketplace expects. The Exchange will provide notice of the initial setting to Members. The Exchange will provide notice of the shorter time period to Members if the Exchange determines to reduce the timeframe.

[19] *See* proposed Rule 701(c)(1)(i)–(iii).

[20] The Phlx Opening Process is set at 100 milliseconds. The Exchange believes that 100 milliseconds is the appropriate amount of time given the experience with the Phlx market. The Exchange would set the timer for MRX initially at 100 milliseconds. The Exchange will issue a notice to provide the initial setting and would thereafter issue a notice if it were to change the timing, which may be between 100 milliseconds and 5 seconds. If the Exchange were to select a time not between 100 milliseconds and 5 seconds it would be required to file a rule proposal with the Commission.

determine that in periods of high/low volatility that allowing the underlying to be open for a longer/shorter period of time may help to ensure more stability in the marketplace prior to initiating the Opening Process.

Proposed Rule 701(c)(3) states that the PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. PMMs are required to promptly enter a Valid Width Quote in the remainder of their assigned series, which were not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price. Furthermore, a CMM that submits a quote pursuant to proposed Rule 701 in any option series when the PMM's quote has not been submitted shall be required to submit continuous, two-sided quotes [21] in such option series until such time as the PMM submits his/her quote, after which the Market Maker that submitted such quote shall be obligated to submit quotations pursuant to Rule 804(e). The Opening Process will stop and an option series will not open if the ABBO becomes crossed or a Valid Width Quote(s) pursuant to proposed Rule 701(c)(1) is no longer present. Once each of these conditions no longer exists, the Opening Process in the affected option series will start again pursuant to proposed Rule 701(e)–(j) as proposed in Rule 701(c)(5). All eligible opening interest will continue to be considered during the Opening Process when the process is re-started. The proposed rule reflects that the ABBO cannot be crossed because it is indicative of uncertainty in the marketplace of where the option series should be valued. In this case, the Exchange will wait for the ABBO to become uncrossed before initiating the Opening Process to ensure that there is stability in the marketplace in order to assist the Exchange in determining the Opening Price.

[21] The Exchange has regulatory surveillances in place with respect to Market Maker continuous quoting obligations both at the opening and during the other trading sessions. *See* MRX Rule 804 regarding quoting obligations.

The Exchange is requiring a PMM to enter a Valid Width Quote in 90% of his or her assigned series not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM would be required to enter a Valid Width Quote the remaining assigned series promptly. Specifically, the PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. The Exchange notes that with the proposed rule change, the Opening Process will be conducted with receipt, within the specified timeframe, of either the PMM's Valid Width Quote, the Valid Width Quotes of two CMMs or if neither the PMM or two CMM's have submitted Valid Width Quotes within the specified time frame then one CMM Valid Width Quote.[22]

Reopening After a Trading Halt

This section is intended to provide information regarding the manner in which a trading halt would impact the Opening Process. Proposed Rule 701(d) states that the procedure described in this Rule may be used to reopen an option after a trading halt. The Exchange is adding that if there is a trading halt or pause in the underlying security, the Opening Process will start again irrespective of the specific times listed in proposed Rule 701(c)(1). This is because these times relate to the normal market opening in the morning.

Opening With a BBO

This next section describes when the Exchange may open with a quote on its market. Proposed Rule 701(e), ''Opening with a BBO (No Trade),'' provides that if there are no opening quotes or orders that lock or cross each other and no routable orders locking or crossing the ABBO, the system will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''BBO'') that exist in the system at that time, unless all three of the following conditions exist: (i) A Zero Bid Market; (ii) no ABBO; and (iii) no Quality Opening Market. A Quality Opening Market is determined by reviewing all Valid Width Quotes and determining if the difference of the best bid of those Valid Width Quotes and the best offer of those Valid Width Quotes are of no more than a certain width.[23] The Exchange utilizes the quotes to assist in determining a fair and reasonable Opening Price. Quotes are utilized because Members are obligated to provide both a bid and sell price, providing a reasonable baseline of where the marketplace views fair value.

If all three of these conditions exist, the Exchange will calculate an Opening Quote Range pursuant to paragraph (i) and conduct the Price Discovery Mechanism or ''PDM'' pursuant to paragraph (j). The Exchange believes that when all three of these conditions exist, further price discovery is warranted to validate or perhaps update the Potential Opening Price and to attract additional interest to perhaps render an opening trade possible, because: (i) A Zero Bid Market reflects a lack of buying interest that could benefit from price discovery; (ii) the lack of an ABBO means there is no external check on the Exchange's market for that options series; and (iii) the lack of a Quality Opening Market indicates that the Exchange's market is wide. If no quotes or orders lock/cross each other, nothing matches and there can be no trade. The Exchange believes that when these conditions exist, it is difficult to arrive at a reasonable and expected price. If the provisions in proposed Rule 701(e)(i) through (iii) exist, an Opening Quote Range is calculated pursuant to proposed Rule 701(i) and thereafter, the PDM in proposed Rule 701(j) will initiate.[24]

Further Opening Processes

If an opening did not occur pursuant to proposed Rule 701(e) and there are opening Valid Width Quotes, or orders, that lock or cross each other, the system will calculate the Pre-Market BBO.[25] The Exchange notes that the Pre-Market BBO only uses quotes, which provide both a bid and offer as compared to orders which are one sided.

Proposed Rule 701(g) describes the general concept of how the system calculates the Potential Opening Price under all circumstances once the Opening Process is triggered. Specifically, the system will take into consideration all Valid Width Quotes and orders (including Opening Sweeps and displayed and non-displayed

[22] *See* proposed Rule 701(c)(1)(i)–(iii).

[23] Phlx maintains a table on its Web site with this information. *See http://www.nasdaqtrader.com/content/phlxxl/phlxiisys_overview.pdf.* MRX will publish similar details on its Web site.

[24] OQR and PDM processes may also initiate pursuant to proposed Rule 701(h).

[25] *See* proposed Rule 701(f).

portions of Reserve Orders), except All-or-None Orders that cannot be satisfied, for the option series and identify the price at which the maximum number of contracts can trade (''maximum quantity criterion''). Proposed Rule 701(h)(3)(i) and proposed Rule 701(i) at paragraphs (5) through (7) contain additional provisions related to Potential Opening Price which are discussed in further detail herein. The proposal attempts to maximize the number of contracts that can trade, and is intended to find the most reasonable and suitable price, relying on the maximization to reflect the best price.

Proposed Rule 701(g)(1) presents the scenario for more than one Potential Opening Price. When two or more Potential Opening Prices would satisfy the maximum quantity criterion and leave no contracts unexecuted, the system takes the highest and lowest of those prices and takes the mid-point; if such mid-point is not expressed as a permitted minimum price variation, it will be rounded to the minimum price variation that is closest to the closing price for the affected series from the immediately prior trading session. If there is no closing price from the immediately prior trading session, the system will round up to the minimum price variation to determine the Opening Price.

If two or more Potential Opening Prices for the affected series would satisfy the maximum quantity criterion and leave contracts unexecuted, the Opening Price will be either the lowest executable bid or highest executable offer of the largest sized side.[26] This, again, bases the Potential Opening Price on the maximum quantity that is executable. The Potential Opening Price calculation is bounded by the better away market price that cannot be satisfied with the Exchange routable interest.[27] The Exchange does not open with a trade that trades through another market. This process, importantly, breaks a tie by considering the largest sized side and away markets, which are relevant to determining a fair Opening Price.

The system applies certain boundaries to the Potential Opening Price to help ensure that the price is a reasonable one by identifying the quality of that price; if a well-defined, fair price can be found within these boundaries, the option series can open at that price without going through a further PDM. Proposed Rule 701(h), ''Opening with Trade,'' provides the Exchange will open the option series for trading with a trade of Exchange interest only at the Opening Price, if certain conditions described below take place. The first condition is provided in proposed Rule 701(h)(1), the Potential Opening Price is at or within the best of the Pre-Market BBO and the ABBO. The second condition is provided for in Rule 701(h)(2), the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed. The third provision is provided for in proposed Rule 701(h)(3), where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO which is also a Quality Opening Market. For the purposes of calculating the midpoint the Exchange will use the better of the Pre-Market BBO or ABBO as a boundary price.

These boundaries serve to validate the quality of the Opening Price. Proposed Rule 701(h) provides that the Exchange will open the option series for trading with an execution at the resulting Potential Opening Price, as long as it is within the defined boundaries regardless of any imbalance. The Exchange believes that since the Opening Price can be determined within a well-defined boundary and not trading through other markets, it is fair to open the market immediately with a trade and to have the remaining interest available to be executed in the displayed market. Using a boundary-based price counterbalances opening faster at a less bounded and perhaps less expected price and reduces the possibility of leaving an imbalance.

Proposed Rule 701(h)(3)(i) provides that if there is more than one Potential Opening Price which meets the conditions set forth in proposed Rule 701(h)(1), (2) or (3), where (A) no contracts would be left unexecuted and (B) any value used for the mid-point calculation (which is described in proposed Rule 701(g)) would cross either: (I) The Pre-Market BBO or (II) the ABBO, then the Exchange will open the option series for trading with an execution and use the best price which the Potential Opening Price crosses as a boundary price for the purpose of the mid-point calculation. If these aforementioned conditions are not met, an Opening Quote Range is calculated as described in proposed Rule 701(i) and the PDM, described in proposed Rule 701(j), would commence. The proposed rule explains the boundary as well as the price basis for the mid-point calculation for immediate opening with a trade, which improves the detail included in the rule. The Exchange believes that this process is logical because it seeks to select a fair and balanced price.

Proposed Rule 701(i) provides that the system will calculate an Opening Quote Range (''OQR'') for a particular option series that will be utilized in the PDM if the Exchange has not opened subject to any of the provisions described above. Provided the Exchange has been unable to open the option series under Rule 701(e) or (h), the OQR would broaden the range of prices at which the Exchange may open. This would allow additional interest to be eligible for consideration in the Opening Process. The OQR is an additional type of boundary beyond the boundaries mentioned in proposed Rule 701(g) and (h). OQR is intended to limit the Opening Price to a reasonable, middle ground price and thus reduce the potential for erroneous trades during the Opening Process. Although the Exchange applies other boundaries such as the BBO, the OQR provides a range of prices that may be able to satisfy additional contracts while still ensuring a reasonable Opening Price. The Exchange seeks to execute as much volume as is possible at the Opening Price.

Specifically, to determine the minimum value for the OQR, an amount, as defined in a table to be determined by the Exchange,[28] will be subtracted from the highest quote bid among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i) paragraphs (3) and (4). To determine the maximum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be added to the lowest quote offer among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i) paragraphs (3) and (4).[29] However, if one or more away markets are collectively disseminating a BBO that is not crossed, and there are Valid Width Quotes on the Exchange that are executable against each other or that cross the away market ABBO, then the minimum value for the OQR will be the highest away bid.[30] It should be noted that the Opening Process would stop and an option series will not open if the ABBO becomes crossed pursuant to proposed Rule 701(c)(5). In addition, the maximum value for the OQR will be the lowest away offer.[31] And if, however, there are Valid Width Quotes on the Exchange that are executable against each other, and there is no away market disseminating a BBO in the affected

[26] *See* proposed Rule 701(g)(2).

[27] *See* proposed Rule 701(g)(3).

[28] *See* note 26 above.

[29] *See* proposed Rule 701(i)(2).

[30] *See* proposed Rule 701(i)(3)(i).

[31] *See* proposed Rule 701(i)(3)(ii).

option series, the minimum value for the OQR will be the lowest quote bid among Valid Width Quotes on the Exchange, and the maximum value for the OQR will be the highest quote offer among Valid Width Quotes on the Exchange.[32]

If there is more than one Potential Opening Price possible where no contracts would be left unexecuted, any price used for the mid-point calculation (which is described in proposed Rule 701(g)(1)) that is outside of the OQR will be restricted to the OQR price on that side of the market for the purposes of the mid-point calculation. Rule 701(i)(5) continues the theme of relying on both maximizing executions and looking at the correct side of the market to determine a fair price.

Proposed Rule 701(i)(6) deals with the situation where there is an away market price involved. If there is more than one Potential Opening Price possible where no contracts would be left unexecuted, pursuant to proposed Rule 701(g)(3), when contracts will be routed, the system will use the away market price as the Potential Opening Price. The Exchange is seeking to execute the maximum amount of volume possible at the Opening Price. The Exchange will enter into the Order Book any unfilled interest at a price equal to or inferior to the Opening Price. It should be noted, the Exchange will not trade through an away market.

Finally, proposed Rule 701(i)(7) provides if the Exchange determines that non-routable interest can execute the maximum number of Exchange contracts against Exchange interest, after routable interest has been determined by the system to satisfy the away market, then the Potential Opening Price is the price at which the maximum number of contracts can execute, excluding the interest which will be routed to an away market, which may be executed on the Exchange as described in proposed Rule 701(g). The system will route Public Customer interest in price/time priority to satisfy the away market. This continues the theme of trying to satisfy the maximum amount of interest during the Opening Process.

Price Discovery Mechanism

If the Exchange has not opened pursuant to proposed Rule 701(e) or (h), and after the OQR is calculated pursuant to proposed Rule 701(i), the Exchange will conduct a PDM pursuant to proposed Rule 701(j). The PDM is the process by which the Exchange seeks to identify an Opening Price having not been able to do so following the process outlined thus far herein. The principles behind the PDM are, as described above, to satisfy the maximum number of contracts possible by identifying a price that may leave unexecuted contracts. However, the PDM applies a proposed, wider boundary to identify the Opening Price and the PDM involves seeking additional liquidity.

The Exchange believes that conducting the price discovery process in these situations protects opening orders from receiving a random price that does not reflect the totality of what is happening in the markets on the opening and also further protects opening interest from receiving a potentially erroneous execution price on the opening. Opening immediately has the benefit of speed and certainty, but that benefit must be weighed against the quality of the execution price and whether orders were left unexecuted. The Exchange believes that the proposed rule strikes an appropriate balance.

The proposed rule attempts to open using Exchange interest only to determine an Opening Price, provided certain conditions contained in proposed Rule 701(i) are present to ensure market participants receive a quality execution in the opening. The proposed rule does not consider away market liquidity for purposes of routing interest to other markets until the PDM, rather the away market prices are considered for purposes of avoiding trade-throughs. As a result, the Exchange might open without routing if all of the conditions described above are met. The Exchange believes that the benefit of this process is a more rapid opening with quality execution prices.

Specifically, proposed Rule 701(j)(1) provides that the system will broadcast an Imbalance Message for the affected series (which includes the symbol, side of the imbalance (unmatched contracts), size of matched contracts, size of the imbalance, and Potential Opening Price bounded by the Pre-Market BBO) to participants, and begin an ''Imbalance Timer,'' not to exceed three seconds. The Imbalance Timer would initially be set 200 milliseconds.[33] The Imbalance Message is intended to attract additional liquidity, much like an auction, using an auction message and timer.[34] The Imbalance Timer would be for the same number of seconds for all options traded on the Exchange. Pursuant to this proposed rule, as described in more detail below, the Exchange may have up to 4 Imbalance Messages which each run its own Imbalance Timer.

Proposed Rule 701(j)(2), states that any new interest received by the system will update the Potential Opening Price. If during or at the end of the Imbalance Timer, the Opening Price is at or within the OQR the Imbalance Timer will end and the system will open with a trade at the Opening Price if the executions consist of Exchange interest only without trading through the ABBO and without trading through the limit price(s) of interest within OQR which is unable to be fully executed at the Opening Price. If no new interest comes in during the Imbalance Timer and the Potential Opening Price is at or within OQR and does not trade through the ABBO, the Exchange will open with a trade at the end of the Imbalance Timer at the Potential Opening Price. This reflects that the Exchange is seeking to identify a price on the Exchange without routing away, yet which price may not trade through another market and the quality of which is addressed by applying the OQR boundary.

Provided the option series has not opened pursuant to proposed Rule 701(j)(2),[35] pursuant to proposed Rule 701(j)(3) the system will send a second Imbalance Message with a Potential Opening Price that is bounded by the OQR (and would not trade through the limit price(s) of interest within OQR which is unable to be fully executed at the Opening Price) and includes away market volume in the size of the imbalance to participants; and concurrently initiate a Route Timer, not to exceed one second.[36] The Route Timer is intended to give Exchange users an opportunity to respond to an Imbalance Message before any opening interest is routed to away markets and, thereby, maximize trading on the Exchange. If during the Route Timer, interest is received by the system which

[32] *See* proposed Rule 701(i)(4)(i) and (ii).

[33] The Phlx timer is set at 200 milliseconds. The Exchange will issue a notice to provide the initial setting and would thereafter issue a notice if it were to change the timing. If the Exchange were to select a time which exceeds 3 seconds it would be required file a rule proposal with the Commission.

[34] For example, *see* COOP and COLA descriptions in Phlx Rule 1098.

[35] The Exchange notes that the system would not open pursuant to proposed Rule 701(j)(2) if the Potential Opening Price is outside of the OQR or if the Potential Opening Price is at or within the OQR, but would otherwise trade through the ABBO or through the limit price(s) of interest within the OQR which is unable to be fully executed at the Potential Opening Price.

[36] The Route Timer would be a brief timer that operates as a pause before an order is routed to an away market. Currently, the Phlx Route Timer is set to one second. The MRX Route Timer will also be initially set to one second. The Exchange will issue a notice to Members to provide the initial setting and would thereafter issue a notice to Members if it were to change the timing within the range of up to one second. If the Exchange were to select a time beyond one second it would be required file a rule proposal with the Commission.

would allow the Opening Price to be within OQR without trading through away markets and without trading through the limit price(s) of interest within OQR which is unable to be fully executed at the Opening Price, the system will open with a trade at the Opening Price and the Route Timer will simultaneously end. The system will monitor quotes received during the Route Timer period and make ongoing corresponding changes to the permitted OQR and Potential Opening Price to reflect them.[37] This proposal serves to widen the boundary of available Opening Prices, which should similarly increase the likelihood that an Opening Price can be determined. The Route Timer, like the Imbalance Timer, is intended to permit responses to be submitted and considered by the system in calculating the Potential Opening Price. The system does not route away until the Route Timer ends.

Proposed Rule 701(j)(3)(iii) provides, if no trade occurred pursuant to proposed Rule 701(j)(3)(ii), when the Route Timer expires, if the Potential Opening Price is within OQR (and would not trade through the limit price(s) of interest within OQR that is unable to be fully executed at the Opening Price), the system will determine if the total number of contracts displayed at better prices than the Exchange's Potential Opening Price on away markets (''better priced away contracts'') would satisfy the number of marketable contracts available on the Exchange. This provision protects the unexecuted interest and should result in a fairer price. The Exchange will open the option series by routing and/or trading on the Exchange, pursuant to proposed Rule 701(j)(3)(iii) paragraphs (A) through (C).

Proposed Rule 701(j)(3)(iii)(A) provides if the total number of better priced away contracts would satisfy the number of marketable contracts available on the Exchange on either the buy or sell side, the system will route all marketable contracts on the Exchange to such better priced away markets as Intermarket Sweep Order (''ISO'') designated as Immediate-or-Cancel (''IOC'') order(s), and determine an opening Best Bid or Offer (''BBO'') that reflects the interest remaining on the Exchange. The system will price any contracts routed to away markets at the Exchange's Opening Price or pursuant to proposed Rule 701(j)(3)(iii)(B) or (C) described hereinafter. Routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.

Proposed Rule 701(j)(3)(iii)(B) provides if the total number of better priced away contracts would not satisfy the number of marketable contracts the Exchange has, the system will determine how many contracts it has available at the Exchange Opening Price. If the total number of better priced away contracts plus the number of contracts available at the Exchange Opening Price would satisfy the number of marketable contracts on the Exchange on either the buy or sell side, the system will contemporaneously route, based on price/time priority of routable interest, a number of contracts that will satisfy interest at away markets at prices better than the Exchange Opening Price, and trade available contracts on the Exchange at the Exchange Opening Price. The system will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price pursuant to Rule 701(j)(vi)(C)(3)(ii). This continues with the theme of maximum possible execution of the interest on the Exchange or away markets.

Proposed Rule 701(j)(3)(iii)(C) provides if the total number of better priced away contracts plus the number of contracts available at the Exchange Opening Price plus the contracts available at away markets at the Exchange Opening Price would satisfy the number of marketable contracts the Exchange has on either the buy or sell side, the system will contemporaneously route, based on price/time priority of routable interest, a number of contracts that will satisfy interest at away markets at prices better than the Exchange Opening Price (pricing any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price), trade available contracts on the Exchange at the Exchange Opening Price, and route a number of contracts that will satisfy interest at other markets at prices equal to the Exchange Opening Price. This provision is intended to introduce routing to away markets potentially both at a better price than the Exchange Opening Price as well as at the Exchange Opening Price to access as much liquidity as possible to maximize the number of contracts able to be traded as part of the Opening Process. The Exchange routes at the better of the Exchange's Opening Price or the order's limit price to first ensure the order's limit price is not violated. Routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.

Proposed Rule 701(j)(4) provides that the system may send up to two additional Imbalance Messages [38] (which may occur while the Route Timer is operating) bounded by OQR and reflecting away market interest in the volume. These boundaries are intended to assist in determining a reasonable price at which an option series might open.

This provision is proposed to further state that after the Route Timer has expired, the processes in proposed Rule 701(j)(3) will repeat (except no new Route Timer will be initiated). No new Route Timer is initiated because the Exchange believes that after the Route Timer has been initiated and subsequently expired, no further delay is needed before routing contracts if at any point thereafter the Exchange is able to satisfy the total number of marketable contracts the Exchange has by executing on the Exchange and routing to other markets.

Proposed Rule 701(j)(5), entitled ''Forced Opening,'' will describe what happens as a last resort in order to open an options series when the processes described above have not resulted in an opening of the options series. Under this process, called a Forced Opening, after all additional Imbalance Messages have occurred pursuant to proposed Rule 701(j)(4), the system will open the series executing as many contracts as possible by routing to away markets at prices better than the Exchange Opening Price for their disseminated size, trading available contracts on the Exchange at the Exchange Opening Price bounded by OQR (without trading through the limit price(s) of interest within OQR which is unable to be fully executed at the Opening Price). The system will also route contracts to away markets at prices equal to the Exchange Opening Price at their disseminated size. In this situation, the system will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price. Any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book.

[37] *See* proposed Rule 701(j)(3)(ii).

[38] The first two Imbalance Messages always occur if there is interest which will route to an away market. If the Exchange is thereafter unable to open at a price without trading through the ABBO, up to two more Imbalance Messages may occur based on whether or not the Exchange has been able to open before repeating the Imbalance Process. The Exchange may open prior to the end of the first two Imbalance Messages provided routing is not necessary.

The boundaries of OQR and limit prices within the OQR are intended to ensure a quality Opening Price as well as protect the unexecutable interest entered with a limit price which may not be able to be fully executed. There is some language in the Phlx rule that is not applicable to the MRX opening because MRX does not have automatic re-pricing of orders resting in the Rulebook. Phlx's rule permits members to provide instructions to re-enter the remaining size of an unexecuted order for automatic submission as a new order, the MRX rule will not permit this submission.

Proposed Rule 701(j)(6) provides the system will execute orders at the Opening Price that have contingencies (such as without limitation, All-or-None and Reserve Orders) and non-routable orders such as ''Do-Not-Route'' or ''DNR'' Orders,[39] to the extent possible. The system will only route non-contingency Public Customer orders, except that the full volume of Public Customer Reserve Orders may route. The Exchange is adding this detail to memorialize the manner in which the system will execute orders at the opening. The Exchange desires to provide certainty to market participants as to which contingency orders will execute and which orders will route during the Opening Process.

Proposed Rule (j)(6)(i) provides the system will cancel (1) any portion of a Do-Not-Route order that would otherwise have to be routed to the exchange(s) disseminating the ABBO for an opening to occur, or (2) any order that is priced through the Opening Price. All other interest will remain in the system and be eligible for trading after opening. The Exchange cancels these orders since it lacks enough liquidity to satisfy these orders on the opening yet their limit price gives the appearance that they should have been executed. The Exchange believes that participants would prefer to have these orders returned to them for further assessment rather than have these orders immediately entered onto the order book at a price which is more aggressive than the price at which the Exchange opened.

Proposed Rule 701(k) provides during the opening of the option series, where there is an execution possible, the system will give priority to Market Orders[40] first, then to resting Limit Orders[41] and quotes. The allocation provisions of MRX Rule 713 and the Supplementary Material to that rule apply with respect to other orders and quotes with the same price. The Exchange is providing certainty to market participants as to the priority scheme during the Opening Process. Market Orders will be immediately executed first because these orders have no specified price and Limit Orders will be executed thereafter in accordance with the prices specified.

Finally, proposed Rule 701(l) provides upon opening of the option series, regardless of an execution, the system disseminates the price and size of the Exchange's best bid and offer (BBO).[42] This provision simply makes known the manner in which the Exchange establishes the BBO for purposes of reference upon opening.

There are some differences between the Phlx and MRX rules. MRX has a Reserve Order and Phlx does not have this order type. With Reserve Orders, the displayed and non-displayed portions of Reserve Orders are considered for execution and in determining the Opening Price throughout the Opening Process. Today, MRX permits orders to route during regular trading, however, the Exchange does not perform away market routing during the opening rotation. With this proposal, routing is considered during the Opening Process.

With respect to the Opening Sweep, the Exchange proposes to adopt an order type at new Rule 715(t) entitled ''Opening Sweep.'' This order type is proposed to be a Market Maker order submitted for execution against eligible interest in the system during the Opening Process pursuant to Rule 701(b)(i). The Exchange believes that describing this order type within Rule 715 will provide clarity to the introduction of Opening Sweeps.

Opening Process Examples

The following examples are intended to demonstrate the Opening Process.

Example 1. Proposed Rule 701(e) Opening with an Exchange BBO (No Trade). Suppose the PMM in an option enters a quote, 2.00 (100) bid and 2.10 (100) offer and a buy order to pay 2.05 for 10 contracts is present in the system. The System also observes an ABBO is present with CBOE quoting a spread of 2.05 (100) and 2.15 (100). Given the Exchange has no interest which locks or crosses each other and does not cross the ABBO, the option opens for trading with an Exchange BBO of 2.05 (10) × 2.10 (100) and no trade. Since there is an ABBO and no Zero Bid Market, the System does not conduct the PDM and the option opens without delay.

Example 2a. Proposed Rule 701(h) Opening with Trade. Suppose the PMM enters the same quote in an option, 2.00 (100) bid and 2.10 (100) offer. This quote defines the pre-market BBO. CBOE disseminates a quote of 2.01 (100) by 2.09 (100), making up the ABBO. Firm A enters a buy order at 2.04 for 50 contracts. Firm B enters a sell order at 2.04 for 50 contracts. The Exchange opens with the Firm A and Firm B orders fully trading at an Opening Price of 2.04 which satisfies the condition defined in proposed Rule 701(h)(i), the Potential Opening Price is at or within the best of the Pre-Market BBO and the ABBO.

Example 2b. Proposed Rule 701(h) Opening with Trade. Similarly, suppose the PMM enters the same quote in an option, 2.00 (100) bid and 2.10 (100) offer. A Market Maker enters a quote of 2.00 (100) × 2.12 (100). The pre-market BBO is therefore 2.00 bid and 2.10 offer. CBOE disseminates a quote of 2.05 (100) by 2.15 (100), making up the ABBO. Firm A enters a buy order at 2.11 for 300 contracts. Firm B enters a sell order at 2.11 for 100 contracts. The option does not open for trading because the Potential Opening Price of 2.11 does not satisfy the condition defined in proposed Rule 701(h)(i), as the Potential Opening Price is outside the Pre-Market BBO. The System thereafter calculates the OQR and initiates the PDM, as discussed in proposed Rule 701(j), to facilitate the Opening Process for the option.

Example 3. Proposed Rule 701(j)(2) Price Discovery Mechanism and first iteration. Assume the set up described in Example 2b and an allowable OQR of 0.04. When the PDM is initiated, the System broadcasts an Imbalance Message. At the end of the Imbalance Timer, the option opens with an Opening Price of 2.11 because it is within OQR and the ABBO. The maximum value for OQR is the lowest quote offer of 2.10 plus 0.04.

Example 4. Proposed Rule 701(j)(3) Price Discovery Mechanism and second iteration with routing. Suppose the PMM enters a quote, 2.00 (100) bid and 2.10 (100) offer and the defined allowable OQR is 0.04. If CBOE disseminates a quote of 2.00 (100) by

[39] A Do-Not-Route order is a market or limit order that is to be executed in whole or in part on the Exchange only. Due to prices available on another options exchange (as provided in Chapter 19 (Order Protection; Locked and Crossed Markets)), any balance of a do-not-route order that cannot be executed upon entry, or placed on the Exchange's limit order book, will be automatically cancelled. *See* Rule 715(m).

[40] A Market Orders is defined as an order to buy or sell a stated number of options contracts that is to be executed at the best price obtainable when the order reaches the Exchange. *See* MRX Rule 715(a).

[41] A Limit Order is an order to buy or sell a stated number of options contracts at a specified price or better. *See* MRX Rule 715(b).

[42] *See* proposed Rule 701(j)(F).

2.09 (100), the away offer is better than the PMM quote. Customer A enters a routable buy order at 2.10 for 150 contracts. The PDM initiates because the Potential Opening Price (2.10) is equal to the Pre-Market BBO but outside of the ABBO. The Potential Opening Price is 2.10 because there is both buy and sell interest at that price point. The System is unable to open after the first iteration of Imbalance since the Potential Opening Price is within the OQR but outside of the ABBO. The System proceeds with the PDM and initiates a Route Timer and broadcasts a second Imbalance Message (assume no additional interest is received during the imbalance period). The System opens the option for trading after the Route Timer has expired and the Imbalance Timer has completed since the Potential Opening Price is within OQR. The System routes 100 contracts of the Customer order to the better priced away offer at CBOE. The Exchange would route to CBOE at an Opening Price of 2.10 to execute against the interest at 2.09 on CBOE. The 50 options contracts open and execute on the Exchange with an Opening Price of 2.10. The Exchange routes to CBOE using the Exchange's Opening Price to ensure, if there is market movement, that the routed order is able to access any price point equal to or better than the Exchange's Opening Price.

Example 5. Proposed Rule 701(j)(5) Forced Opening. Suppose the PMM enters a quote, 2.00 (100) bid and 2.10 (100) offer and the defined allowable OQR is 0.04. A Market Maker enters a quote for 2.05 (100) × 2.14 (100). Firm A enters a buy order of 250 contracts for 2.15 which is more aggressive than the expected OQR of 2.14. The PDM initiates because the Potential Opening Price of 2.15 is outside the Pre-Market BBO (2.05 × 2.10). Assume no additional interest is received during the PDM. After the final Imbalance Timer, the System opens the option for trading with an execution of 200 contracts at an Opening Price of 2.14, which is the boundary of OQR. The residual 50 contracts from Firm A are cancelled back to the participant because the limit order price of 2.15 is priced through the Opening Price of 2.14.

After-hours Trading Rotations

The Exchange notes that no after-hours trading rotation will be offered with the proposed Opening Process. The current MRX rule describes a manual process related to after-hours trading rotations that does not exist in the automated Opening Process described in the proposed rule. Today, MRX Rule 701(c)(2)–(4) permits the Exchange to employ a manual trading rotation if the conditions specified in MRX Rule 701(c)(1) permit such a trading rotation and notice was provided prior to such rotation for a non-expiring options contract. MRX has not employed after-hours trading rotations for several years. With the proposed opening rule, there will be no after-hours trading.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[43] in general, and furthers the objectives of Section 6(b)(5) of the Act,[44] 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 for the reasons stated below.

The Exchange's proposal to adopt the Phlx Opening Process is consistent with the Act because the new rule seeks to find the best price. The proposal permits the price of the underlying security to settle down and not flicker back and forth among prices after its opening. It is common for a stock to fluctuate in price immediately upon opening; such volatility reflects a natural uncertainty about the ultimate Opening Price, while the buy and sell interest is matched. The proposed rule provides for a range of no less than 100 milliseconds and no more than 5 seconds in order to ensure that it has the ability to adjust the period for which the underlying security must be open on the primary market. The Exchange may determine that in periods of high/low volatility that allowing the underlying to be open for a longer/shorter period of time may help to ensure more stability in the marketplace prior to initiating the Opening Process.

Definitions

The Exchange's proposal to adopt a ''Definitions'' section is consistent with the Act because the terms will assist market participants in understanding the meaning of terms used throughout the proposed Rule. The Exchange added the definitions to provide clarity and consistency throughout the proposed rule.

Eligible Interest

The first part of the Opening Process determines what constitutes eligible interest. The Exchange's proposal seeks to make clear what type of eligible opening interest is included. The Exchange notes that Valid Width Quotes; Opening Sweeps; and orders are included. The Exchange further notes that Market Makers may submit quotes, Opening Sweeps and orders, but quotes other than Valid Width Quotes will not be included in the Opening Process. Finally, All-or-None Orders that can be satisfied, and the displayed and non-displayed portions of Reserve Orders are considered for execution and in determining the Opening Price throughout the Opening Process. The Exchange believes that defining what qualifies as eligible interest is consistent with the Act because market participants will be provided with certainty when submitting interest as to which type of interest will be considered in the Opening Process.

The system will only route Public Customer orders during the Opening Process. Other non-Public Customer orders will not route. Unlike the regular session where orders route if they cannot execute on MRX, the Opening Process is a price discovery process which considers interest, both on MRX and away markets, to determine the optimal bid and offer with which to open the market. The Opening Process seeks the price point at which the most number of contracts may be executed while protecting away market interest. The Exchange only routes Public Customer interest at this time rather than all interest because this type of interest always receives priority on MRX and this process ensures that Public Customer interest will be executed with priority during the Opening Process. Other interest is not routable until after the Exchange has completed the Opening Process.

Opening Sweep

The Exchange believes that it is consistent with the Act to introduce the concept of an Opening Sweep and memorialize this order type within Rule 715(t). While the Opening Sweep is similar to an Opening Only Order,[45] it can be entered for the Opening Process only and any portion of the order that is not executed during the Opening Process is cancelled. An Opening Sweep may only be submitted by a Market Maker when he/she has a Valid Width Quote in the affected series[46] whereas, there is no such restriction on Opening Only Orders. The Exchange believes the addition of this order type is consistent

[43] 15 U.S.C. 78f(b).

[44] 15 U.S.C. 78f(b)(5).

[45] *See* MRX Rule 715(o).

[46] All Opening Sweeps in the affected series entered by a Market Maker will be cancelled immediately if that Market Maker fails to maintain a continuous quote with a Valid Width Quote in the affected series.

with the Act because it provides for a specific type of order that may be entered during the Opening Process similar to Phlx for proposes of qualifying as eligible interest. The Exchange notes that this order type would be not valid outside of the opening in other trading sessions. The Exchange is providing definitive rules that concern the manner in which Opening Sweeps may be entered into the system. For example, an Opening Sweep may be entered at any price with a minimum price variation applicable to the affected series, on either side of the market, at single or multiple price level(s), and may be cancelled and re-entered. A single Market Maker may enter multiple Opening Sweeps, with each Opening Sweep at a different price level. If a Market Maker submits multiple Opening Sweeps, the system will consider only the most recent Opening Sweep at each price level submitted by such Market Maker. Unexecuted Opening Sweeps will be cancelled once the affected series is open.[47] The Exchange believes that the addition of Opening Sweeps will also provide certainty to market participants as to the manner in which the system will handle such interest.

With respect to trade allocation, the proposal notes at Rule 701(b)(2) that the system will aggregate the size of all eligible interest for a particular participant category [48] at a particular price level for trade allocation purposes pursuant to MRX Rule 713. The Exchange believes that this allocation is consistent with the Act because it mirrors the current allocation process on MRX in other trading sessions.

The proposed rule notes the specific times that eligible interest may be submitted into MRX's system. The Exchange's proposed time for entering Market Maker Valid Width Quotes and Opening Sweeps (9:25 a.m. Eastern Time) eligible to participate in the Opening Process, are consistent with the Act because the times are intended to tie the option Opening Process to quoting in certain underlying securities; [49] it presumes that option quotes submitted before any indicative quotes have been disseminated for the underlying security may not be reliable or intentional. The Exchange believes the time represents a reasonable timeframe at which to begin utilizing option quotes, based on the Exchange's experience when underlying quotes start becoming available. With respect to foreign currency options, the Exchange notes that those markets open prior to 9:30 a.m. Eastern Time. The Exchange proposes to open the foreign currency options at the same time as other options. The Exchange believes that conforming the Opening Process and trading hours for foreign currency options to that of other options will conform the trading rules so all products would trade during the same session. Also, this proposed language adds specificity to the rule regarding the submission of orders.

The Exchange's proposal at Rule 701(c)(1) describes when the Opening Process can begin with specific time-related triggers. The proposed rule, which provides that the Opening Process for an option series will be conducted on or after 9:30 a.m. Eastern Time provided the ABBO, if any, is not crossed and the system has received within specified time periods certain specified interest,[50] is consistent with the Act because this requirement is intended to tie the option Opening Process to receipt of liquidity. If one of the above three conditions specified in proposed Rule 701(c)(1)(i)–(iii) is not met, the Exchange will not initiate the Opening Process or continue an ongoing Opening Process. The Exchange's proposed rule considers the liquidity present on its market before initiating other processes to obtain additional pricing information. The Exchange's proposal to adopt the Phlx Opening Process is consistent with the Act because the new rule seeks to find the best price.

The Exchange's proposed rule considers the underlying security, including indexes, which must be open on the primary market for a certain time period for all options to be determined by the Exchange for the Opening Process to commence. The Exchange proposes a time period be no less than 100 milliseconds and no more than 5 seconds to permit the price of the underlying security to settle down and not flicker back and forth among prices after its opening. Since it is common for a stock to fluctuate in price immediately upon opening, the Exchange accounts for such volatility in its process. The volatility reflects a natural uncertainty about the ultimate Opening Price, while the buy and sell interest is matched. The Exchange's proposed range is consistent with the Act because it ensures that it has the ability to adjust the period for which the underlying security must be open on the primary market. The Exchange may determine that in periods of high/low volatility that allowing the underlying to be open for a longer/shorter period of time may help to ensure more stability in the marketplace prior to initiating the Opening Process.

The Exchange's proposal at Rule 701(c)(3) requires the PMM assigned in a particular equity or index option to enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, also not later than one minute after the announced market opening. The Exchange's proposal with respect to a PMM's requirement to enter Valid Width Quotes is consistent with the Act because the 90% requirement to provide a Valid Width Quote in a series to which the PMM is assigned will continue to ensure that options series are opened in a timely manner, while not imposing an burdensome requirement on market participants. PMMs would be required to promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute of the dissemination of a quote or trade by the market for the underlying security or in the case of index options, following the receipt of the opening price or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. The Exchange would monitor PMMs to ensure that they promptly provided a Valid Width Quote for the remainder of the series within a reasonable amount of time. The Exchange notes that market conditions could cause a PMM to experience circumstances where opening 100% of their assigned series within one minute of the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening is not possible. The Exchange believes that the proposed 90% Valid Width Quoting obligation, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of

[47] *See* proposed MRX Rule 701(b)(1)(ii). *See also* proposed MRX Rule 715(t).

[48] MRX allocates first to Priority Customers and then to all other Members by pro-rata. This is different from Phlx which allocates to Customers first, then to market makers pro-rata and then to all others pro-rata. *See* MRX Rule 713 and Phlx Rule 1014(g)(vii).

[49] For purposes of this rule, the underlying security can also be an index.

[50] *See* proposed Rule 701(c)(1)(i)–(iii).

index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening, along with the ''prompt'' standard for the remaining 10% will ensure all series are opened in a timely manner. The Exchange believes that the time frame for PMMs to provide a Valid Width Quote in 90% of their assigned series not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening will ensure liquidity on MRX during the Opening Process. The Exchange desires to encourage PMMs to continue to make markets on MRX at the Opening. The Exchange believes that requiring PMMs to provide a Valid Width Quote in 90% of their assigned options not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening along with the ''prompt'' standard for the remaining 10% will enhance the market making functions for PMMs and serve to maintain a fair and orderly market thereby promoting the protection of investors and the public interest.

Furthermore, the Exchange proposes that a CMM that submits a quote pursuant to proposed Rule 701 in any option series when the PMM's quote has not been submitted shall be required to submit continuous, two-sided quotes in such option series until such time as the PMM submits his/her quote, after which the Market Maker that submitted such quote shall be obligated to submit quotations pursuant to Rule 804(e). This proposal is consistent with the Act because the Exchange will not open if the ABBO becomes crossed or a Valid Width Quote(s) pursuant to proposed Rule 701(c)(1) is no longer present. Instead the process would restart and all eligible opening interest will continue to be considered during the Opening Process when the process is re-started. The Exchange's proposal is consistent with the Act and promotes just and equitable principles of trade because the rule reflects that the ABBO cannot be crossed because it is indicative of uncertainty in the marketplace of where the option series should be valued. The Exchange will wait for the ABBO to become uncrossed before initiating the Opening Process to ensure that there is stability in the marketplace in order to assist the Exchange in determining the Opening Price.

Reopening After a Trading Halt

In order to provide certainty to market participants in the event of a trading halt, the Exchange provides in its proposal information regarding the manner in which a trading halt would impact the Opening Process. Proposed Rule 701(d) provides if there is a trading halt or pause in the underlying security, the Opening Process will start again irrespective of the specific times listed in Rule 701(c)(1). The Exchange's proposal to restart in the event of a trading halt is consistent with the Act and promotes just and equitable principles of trade because the proposed rule ensures that there is stability in the marketplace in order to assist the Exchange in determining the Opening Price.

Opening With a BBO

The Exchange's proposed rule accounts for a situation where there are no opening quotes or orders that lock or cross each other and no routable orders locking or crossing the ABBO. In this situation, the system will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''BBO'') that exist in the system at that time, unless all three of the following conditions exist: (i) A Zero Bid Market; (ii) no ABBO; and (iii) no Quality Opening Market.[51] The Exchange utilizes the quotes to assist in determining a fair and reasonable Opening Price, which is consistent with the Act because Members are obligated to provide both a bid and sell price. The Exchange believes that this measure provides a reasonable baseline of where the marketplace views fair value.

If all three of these conditions exist, the Exchange will calculate an OQR pursuant to paragraph (i) and conduct the PDM pursuant to paragraph (j). This approach is consistent with the Act because the [sic] when all three of these conditions exist, further price discovery is warranted to validate or perhaps update the Exchange's BBO and to attract additional interest to perhaps render an opening trade possible. The Exchange notes that a Zero Bid Market reflects a lack of buying interest to assist in validating a reasonable opening BBO, the lack of an ABBO means there is no external check on the Exchange's market for that options series; and the lack of a Quality Opening Market indicates that the Exchange's market is wide. For these reasons, the Exchange believes that when these conditions exist, it is difficult to determine if the Exchange BBO is reasonable and therefore an OQR is calculated pursuant to proposed Rule 701(i) and thereafter, the PDM in proposed Rule 701(j) will initiate.

The Exchange believes that proposed rule promotes just and equitable principles of trade, because the proposed conditions involving Zero Bid Markets, no ABBO and no Quality Opening Market trigger the PDM rather than an immediate opening in order to validate the Opening Price against away markets or by attracting additional interest to address the specific condition. This is consistent with the Act because it should avoid opening executions in very wide or unusual markets where an opening execution price cannot be validated.

Further Opening Processes and Price Discovery Mechanism

The proposed rule promotes just and equitable principles of trade because in arriving at the Potential Opening Price the rule considers the maximum number of contracts that can be executed, which results in a price that is logical and reasonable in light of away markets and other interest present in the system. As noted herein, the Exchange's Opening Price is bounded by the OQR without trading through the limit price(s) of interest within OQR which is unable to fully execute at the Opening Price in order to provide participants with assurance that their orders will not be traded through. Although the Exchange applies other boundaries such as the BBO, the OQR provides a range of prices that may be able to satisfy additional contracts while still ensuring a reasonable Opening Price. The Exchange seeks to execute as much volume as is possible at the Opening Price. When choosing between multiple Opening Prices when some contracts would remain unexecuted, using the lowest bid or highest offer of the largest sized side of the market promotes just and equitable principles of trade because it uses size as a tie breaker. The Exchange's method for determining the Potential Opening Price and Opening Price is consistent with the Act because the proposed process seeks to discover a reasonable price and considers both interest present in MRX's

[51] The Exchange notes herein that a Quality Opening Market is determined by reviewing all Valid Width Quotes and determining if the difference of the best bid of those Valid Width Quotes and the best offer of those Valid Width Quotes are of no more than a certain width.

system as well as away market interest. The Exchange's method seeks to validate the Opening Price and avoid opening at aberrant prices. The rule provides for opening with a trade, which is consistent with the Act because it enables an immediate opening to occur within a certain boundary without need for the price discovery process. The boundary provides protections while still ensuring a reasonable Opening Price.

The proposed rule considers more than one Potential Opening Price, which is consistent with the Act because it forces the Potential Opening Price to fall within the OQR boundary, thereby providing price protection. Specifically, the mid-point calculation balances the price among interest participating in the Opening when there is more than one price at which the maximum number of contracts could execute. Limiting the mid-point calculation to the OQR when a price would otherwise fall outside of the OQR ensures the final mid-point price will be within the protective OQR boundary. If there is more than one Potential Opening Price possible where no contracts would be left unexecuted and any price used for the mid-point calculation is an away market price when contracts will be routed, the system will use the away market price as the Potential Opening Price.

The PDM reflects what is generally known as an imbalance process and is intended to attract liquidity to improve the price at which an option series will open as well as to maximize the number of contracts that can be executed on the opening. This process will only occur of the Exchange has not been able to otherwise open an option series utilizing the other processes available in proposed Rule 701. The Exchange believes the process presented in the PDM is consistent with just and equitable principles of trade because the process applies a proposed, wider boundary to identify the Opening Price and seeks additional liquidity. The PDM also promotes just and equitable principles of trade by taking into account whether all interest can be fully executed, which helps investors by including as much interest as possible in the Opening Process. The Exchange believes that conducting the price discovery process in these situations protects opening orders from receiving a random price that does not reflect the totality of what is happening in the markets on the opening and also further protects opening interest from receiving a potentially erroneous execution price on the opening. Opening immediately has the benefit of speed and certainty, but that benefit must be weighed against the quality of the execution price and whether orders were left unexecuted. The Exchange believes that the proposed rule strikes an appropriate balance.

It is consistent with the Act to not consider away market liquidity, *i.e.* away market volume, until the PDM occurs because this proposed process provides for a swift, yet conservative opening. The Exchange is bounded by the Pre-Market BBO when determining an Opening Price. The away market prices would be considered, albeit not immediately. It is consistent with the Act to consider interest on the Exchange prior to routing to an away market because the Exchange is utilizing the interest currently present on its market to determine a quality Opening Price. The Exchange will attempt to match interest in the system, which is within the OQR, and not leave interest unsatisfied that was otherwise at that price. The Exchange will not trade-through the away market interest in satisfying this interest at the Exchange. The proposal attempts to maximize the number of contracts that can trade, and is intended to find the most reasonable and suitable price, relying on the maximization to reflect the best price.

With respect to the manner in which the Exchange sends an Imbalance Message as proposed within Rule 701(j)(1), the Imbalance Message is intended to attract additional liquidity, much like an auction, using an auction message and timer. The Imbalance Timer is consistent with the Act because it would provide a reasonable time for participants to respond to the Imbalance Message before any opening interest is routed to away markets and, thereby, maximize trading on the Exchange. The Imbalance Timer would be for the same number of seconds for all options traded on the Exchange. This process will repeat, up to four iterations, until the options series opens. The Exchange believes that this process is consistent with the Act because the Exchange is seeking to identify a price on the Exchange without routing away, yet which price may not trade through another market and the quality of which is addressed by applying the OQR boundary.

Proposed Rule 701(j)(3)(iii)(C) provides if the total number of better priced away contracts plus the number of contracts available at the Exchange Opening Price plus the contracts available at away markets at the Exchange Opening Price would satisfy the number of marketable contracts the Exchange has on either the buy or sell side, the system will contemporaneously route a number of contracts that will satisfy interest at away markets at prices better than the Exchange Opening Price (pricing any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price), trade available contracts on the Exchange at the Exchange Opening Price, and route a number of contracts that will satisfy interest at other markets at prices equal to the Exchange Opening Price. This provision is consistent with the Act because it considers routing to away markets potentially both at a better price than the Exchange Opening Price as well as at the Exchange Opening Price to access as much liquidity as possible to maximize the number of contracts able to be traded as part of the Opening Process. The Exchange routes at the better of the Exchange's Opening Price or the order's limit price to first ensure the order's limit price is not violated. Routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.

Proposed Rule 701(j)(5), entitled ''Forced Opening,'' provides for the situation where, as a last resort, in order to open an options series when the processes described above have not resulted in an opening of the options series. Under a Forced Opening, the system will open the series executing as many contracts as possible by routing to away markets at prices better than the Exchange Opening Price for their disseminated size, trading available contracts on the Exchange at the Exchange Opening Price bounded by OQR (without trading through the limit price(s) of interest within OQR which is unable to be fully executed at the Opening Price). The system will also route contracts to away markets at prices equal to the Exchange Opening Price at their disseminated size. In this situation, the system will price any contracts routed to away markets at the better of the Exchange Opening Price or the order's limit price. Any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price, otherwise orders will remain in the Order Book. The Exchange believes that this process is consistent with the Act because after attempting to open by soliciting interest on MRX and considering other away market interest and considering interest responding to Imbalance Messages, the Exchange could not otherwise locate a fair and reasonable price with which to open options series.

The Exchange's proposal to memorialize the manner in which proposed rule will cancel and prioritize interest provides certainty to market participants as to the priority scheme during the Opening Process.[52] The Exchange's proposal to execute Market Orders first and then Limit Orders is consistent with the Act because these orders have no specified price and Limit Orders will be executed thereafter in accordance with the prices specified due to the nature of these order types. This is consistent with the manner in which these orders execute after the opening today.

Finally, proposed Rule 701(l) provides upon opening of the option series, regardless of an execution, the system dissemination of the price and size of the Exchange's BBO is consistent with the Act because it clarifies the manner in which the Exchange establishes the BBO for purposes of reference upon opening.

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 proposal does not change the intense competition that exists among the options markets for options business including on the opening. Nor does the Exchange believe that the proposal will impose any burden on intra-market competition; the Opening Process involves many types of participants and interest.

The Exchange's proposal to require a PMM to enter a Valid Width Quote in 90% of their assigned series not later than one minute time following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening and promptly enter a Valid Width quote for the remaining 10% their assigned series does not create an undue burden on competition. The proposal will continue to ensure that options series are opened in a timely manner, while not imposing a burdensome requirement on market participants. PMMs would be required to promptly enter a Valid Width Quote in the remainder of their assigned series which were not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening. The Exchange would monitor PMMs to ensure that they promptly entered a Valid Width Quote for the remainder of their assigned series within a reasonable amount of time. The Exchange notes that market conditions could cause a PMM to experience circumstances where entering a Valid Width Quote for 100% of their assigned series within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or with respect to U.S. dollar-settled foreign currency options within one minute after the announced market opening is not possible. The Exchange believes that the proposed 90% timeframe to enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening for the underlying security along with the ''prompt'' standard for the remaining series will ensure all series are opened in a timely manner.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as modified by 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–MRX–2017–01 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–MRX–2017–01. 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–MRX–2017–01 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[53]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12887 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

[52] *See* proposed Rule 701(j)(6)(i) and (k).

[53] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80946; File No. SR–NASDAQ–2017–039)]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing of Amendment No. 1, and Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Guggenheim Limited Duration ETF

June 15, 2017.

I. Introduction

On April 13, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade the common shares of beneficial interest (''Shares'') of the Guggenheim Limited Duration ETF (''Fund''), a series of Claymore Exchange-Traded Fund Trust (''Trust'') under Nasdaq Rule 5735 (''Rule 5735''). The proposed rule change was published for comment in the **Federal Register** on May 3, 2017.[3] On June 1, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has not received any comments on the proposed rule change. The Commission is publishing this notice to solicit comments on Amendment No. 1 from interested persons, and is approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

II. The Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 1

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 list and trade the Shares of the Fund under Rule 5735, which rule governs the listing and trading of Managed Fund Shares [5] on the Exchange.[6] The Shares will be offered by the Fund, which will be an actively managed exchange-traded fund (''ETF''). The Fund is a series of the Trust. The Trust was established as a Delaware statutory trust on May 24, 2006. The Trust is registered with the Commission as an open-end management investment company and has filed a post-effective amendment to its registration statement on Form N–1A (the ''Registration Statement'') with the Commission to register the Fund and its Shares under the 1940 Act and the Securities Act of 1933.[7]

Guggenheim Partners Investment Management, LLC will serve as the investment adviser (the ''Adviser'') to the Fund. Guggenheim Funds Distributors, LLC will serve as the principal underwriter and distributor of the Fund's Shares (the ''Distributor''). The Bank of New York Mellon will act as the custodian, transfer agent and fund accounting agent for the Fund (the ''Custodian''). MUFG Investor Services, LLC will serve as the administrator for the Fund (the ''Administrator'').

Paragraph (g) of Rule 5735 provides that, if the investment adviser to an investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company's portfolio.[8] In addition,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80540 (Apr. 27, 2017), 82 FR 20673.

[4] In Amendment No. 1, which amended and replaced the original filing in its entirety, the Exchange: (i) Clarified that, if any new sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a registered broker-dealer, the sub-advisor will implement and maintain a fire wall with respect to its relevant personnel and/or its broker-dealer affiliate, if applicable, regarding access to information concerning the composition of and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio; (ii) clarified that the Fund may invest in both secured and unsecured bank loans; (iii) added that the Fund may invest in the following derivatives: Exchange-traded and OTC options on commodities and interest rates, and forwards on securities, commodities, indices, and futures; (iv) specified that the OTC total return swaps that the Fund will invest in will be total return swaps on securities, commodities, indices, and futures; (v) clarified that the exchange-traded and OTC credit default swaps in which the Fund may invest will be single name and index credit default swaps; (vi) clarified that the options on the Fund's swap investments described in this filing will include both OTC and exchange-traded options; (vii) added that price information for exchange-traded step-up bonds will generally be available from the applicable exchange or from major market data vendors; and (viii) made technical changes to the proposed rule change. Amendment No. 1 is available on the Commission's Web site at: *https://www.sec.gov/comments/sr-nasdaq-2017-039/nasdaq2017039-1782218-152905.pdf*.

[5] A ''Managed Fund Share'' is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (the ''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Index Fund Shares, listed and traded on the Exchange under Nasdaq Rule 5705, seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[6] The Commission approved Nasdaq Rule 5735 (formerly Nasdaq Rule 4420(o)) in Securities Exchange Act Release No. 57962 (June 13, 2008), 73 FR 35175 (June 20, 2008) (SR–NASDAQ–2008–039). There are already multiple actively managed funds listed on the Exchange; *see, e.g.,* Securities Exchange Act Release Nos. 69464 (April 26, 2013), 78 FR 25774 (May 2, 2013) (SR–NASDAQ–2013–036) (order approving listing and trading of First Trust Senior Loan Fund); 66489 (February 29, 2012), 77 FR 13379 (March 6, 2012) (SR–NASDAQ–2012–004) (order approving listing and trading of WisdomTree Emerging Markets Corporate Bond Fund); and 78533 (August 10, 2016), 81 FR 54634 (August 16, 2016) (SR–NASDAQ–2016–086) (order approving listing and trading of VanEck Vectors Long/Flat Commodity ETF). Additionally, the Commission has previously approved the listing and trading of a number of actively-managed funds on NYSE Arca, Inc. pursuant to Rule 8.600 of that exchange. *See, e.g.,* Securities Exchange Act Release No. 68870 (February 8, 2013), 78 FR 11245 (February 15, 2013) (SR–NYSEArca–2012–139) (order approving listing and trading of First Trust Preferred Securities and Income ETF). Moreover, the Commission previously approved the listing and trading of other actively managed funds within the Guggenheim family of ETFs. *See, e.g.,* Security Exchange Act Release Nos. 64550 (May 26, 2011), 76 FR 32005 (June 2, 2011) (SR–NYSEArca–2011–11) (order approving listing of Guggenheim Enhanced Core Bond ETF and Guggenheim Enhanced Ultra-Short Bond ETF); 76719 (December 21, 2015), 80 FR 248 (December 28, 2015) (SR–NYSEArca–2015–73) (order approving listing of Guggenheim Total Return Bond ETF). The Exchange believes the proposed rule change raises no significant issues not previously addressed in those prior Commission orders.

[7] *See* Registration Statement for the Trust, filed on April 12, 2016 (File Nos. 333–134551 and 811–21906). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 29271 (May 18, 2010) (File No. 13534) (''Exemptive Order'').

[8] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with the

paragraph (g) of Rule 5735 further requires that personnel who make decisions on such investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the investment company's portfolio.

Rule 5735(g) is similar to Nasdaq Rule 5705(b)(5)(A)(i), which applies to index-based funds and requires ''fire walls'' between affiliated broker-dealers and investment advisers regarding the index-based fund's underlying benchmark index. Rule 5735(g), however, applies to the establishment of a ''fire wall'' between affiliated investment advisers and the broker-dealers with respect to the investment company's portfolio and not with respect to an underlying benchmark index, as is the case with index-based funds.

The Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer. The Adviser has therefore implemented and will maintain a fire wall with the Distributor with respect to the access of information concerning the composition and/or changes to the Fund's portfolio.

In the event (a) the Adviser or any sub-adviser becomes newly affiliated with a different broker-dealer, or (b) any new adviser or any new sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, each will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Guggenheim Limited Duration ETF

The Fund will be an actively-managed ETF, and its investment objective is to seek to provide a level of income consistent with preservation of capital.

Principal Investments

The Fund will seek to achieve its investment objective by investing, under normal market conditions,[9] at least 80% of its net assets (plus the amount of any borrowings for investment purposes) in a diversified portfolio of ''Debt Instruments'' (as described below) of any interest rate, credit quality,[10] maturity or duration; however, the Fund expects, under normal market conditions, to maintain a dollar-weighted average duration [11] of generally less than 3.5 years (the ''80% Policy''). The 80% Policy may be represented by certain derivative instruments as discussed below,[12] and ETFs [13] and exchange-traded and over-the-counter (''OTC'') closed-end funds (''CEFs'') (which may include ETFs and CEFs affiliated with the Fund), provided that such ETFs and CEFs invest substantially all of their assets in Debt Instruments. The Fund will, as described further below, invest in the following Debt Instruments: Corporate debt securities of U.S. and non-U.S. issuers, including corporate bonds; [14] securities issued by the U.S. government or its agencies, instrumentalities or sponsored corporations (including those not backed by the full faith and credit of the U.S. government); [15] inflation-indexed bonds issued by both governments and corporations; [16] debt securities issued by states or local governments and their agencies, authorities and other government-sponsored enterprises (''Municipal Bonds''); [17] tender option bonds; [18]

Advisers Act and Rule 204A–1 thereunder. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[9] The term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues (*e.g.,* systems failure) causing dissemination of inaccurate market information; or force majeure type events such as natural or manmade disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[10] The Fund may hold fixed-income securities of any quality, rated or unrated, including those that are rated below-investment grade (also known as ''high yield securities'' or ''junk bonds''), or if unrated, determined by the Adviser to be of comparable quality. If nationally recognized statistical rating organizations assign different ratings to the same security, the Fund will use the higher rating for purposes of determining the security's credit quality. However, the Fund will not invest more than 35% of its total assets in fixed-income securities that are rated below investment grade as described below under ''Investment Restrictions.''

[11] Duration is a measure of the price volatility of a debt instrument as a result of changes in market rates of interest, based on the weighted average timing of the instrument's expected principal and interest payments. Duration differs from maturity in that it considers a security's yield, coupon payments, principal payments and call features in addition to the amount of time until the security matures. As the value of a security changes over time, so will its duration. The longer a security's duration, the more sensitive it will be to changes in interest rates.

[12] *See* ''The Fund's Use of Derivatives,'' *infra.*

[13] The ETFs in which the Fund may invest include Index Fund Shares (as described in Nasdaq Rule 5705), Portfolio Depositary Receipts (as described in Nasdaq Rule 5705), and Managed Fund Shares (as described in Nasdaq Rule 5735). The shares of ETFs in which the Fund may invest will be limited to securities that trade in markets that are members of the Intermarket Surveillance Group (''ISG''), which includes all U.S. national securities exchanges, or exchanges that are parties to a comprehensive surveillance sharing agreement with the Exchange. The Fund will not invest more than 20% of its net assets in leveraged or inverse-leveraged ETFs. The Fund will not invest in non-U.S. exchanged [sic]-listed ETFs.

[14] The Adviser expects that under normal market conditions the Fund will invest at least 75% of its corporate debt securities assets (including zero coupon and payment-in-kind securities) in issuances that have at least $100,000,000 par amount outstanding in developed countries or at least $200,000,000 par amount outstanding in emerging market countries.

[15] U.S. government securities include U.S. Treasury obligations and securities issued or guaranteed by various agencies of the U.S. government, or by various instrumentalities which have been established or sponsored by the U.S. government. U.S. Treasury obligations are backed by the ''full faith and credit'' of the U.S. government. Securities issued or guaranteed by federal agencies and U.S. government sponsored instrumentalities may or may not be backed by the full faith and credit of the U.S. government.

[16] Inflation-indexed bonds (other than municipal inflation-indexed bonds and certain corporate inflation-indexed bonds) are fixed income securities whose principal value is periodically adjusted according to the rate of inflation (*e.g.,* Treasury Inflation Protected Securities (''TIPS'')). Municipal inflation-indexed securities are municipal bonds that pay coupons based on a fixed rate plus the Consumer Price Index for All Urban Consumers (''CPI''). With regard to municipal inflation-indexed bonds and certain corporate inflation-indexed bonds, the inflation adjustment is reflected in the semi-annual coupon payment.

[17] Municipal Bonds are debt securities issued by or on behalf of states, local governments, territories and possessions of the United States and the District of Columbia and their political subdivisions, agencies, and instrumentalities, the payments from which, in the opinion of bond counsel to the issuer, are excludable from gross income for Federal income tax purposes, or that pay interest excludable from gross income for purposes of state and local income taxes of the designated state and/or allow the value of the Fund's shares to be exempt from state and local taxes of the designated state. The Fund will primarily invest in Municipal Bonds in developed countries, but may also invest in Municipal Bonds in emerging markets. The Fund will invest its Municipal Bond assets in issuances of at least $10,000,000. The Fund may invest in Municipal Bonds of any quality, rated or unrated, including those that are rated below-investment grade, or if unrated, determined by the Investment Adviser to be of comparable quality. The Fund will primarily invest in investment-grade Municipal Bonds.

[18] Tender option bonds are created by depositing intermediate- or long-term, fixed-rate or variable rate, municipal bonds into a trust and issuing two classes of trust interests (or ''certificates'') with varying economic interests to investors. Holders of the first class of trust interests, or floating rate certificates, receive tax-exempt interest based on

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obligations of non-U.S. governments and their subdivisions, agencies and government-sponsored enterprises; obligations of international agencies or supranational entities; cash equivalents;[19] agency[20] and non-agency mortgage-backed securities (''MBS'') and asset-backed securities (''ABS'');[21] U.S. agency mortgage pass-through securities;[22] repurchase agreements;[23] commercial instruments (including asset-backed commercial instruments);[24] zero-coupon and payment-in-kind securities;[25] convertible securities;[26] preferred securities and step-up securities (such as step-up bonds);[27] bank capital;[28] bank instruments, including certificates of deposit (''CDs''),[29] time deposits and bankers' acceptances from U.S. banks;[30] debtor-in-possession financings;[31] participations in and assignments of bank loans or corporate loans, which loans include senior loans,[32] syndicated bank loans, junior loans,[33] bridge

short-term rates and may tender the certificate to the trust at par. As consideration for providing the tender option, the trust sponsor (typically a bank, broker-dealer, or other financial institution) receives periodic fees. The trust pays the holders of the floating rate certificates from proceeds of a remarketing of the certificates or from a draw on a liquidity facility provided by the sponsor. The Fund investing in a floating rate certificate effectively holds a demand obligation that bears interest at the prevailing short-term tax-exempt rate. The floating rate certificate is typically an eligible security for money market funds. Holders of the second class of interests, sometimes called the residual income certificates, are entitled to any tax-exempt interest received by the trust that is not payable to floating rate certificate holders, and bear the risk that the underlying municipal bonds decline in value.

[19] Cash equivalents in which the Fund may invest will be U.S. Treasury Bills, investment grade commercial paper, cash, and Short Term Investment Funds (''STIFs''). STIFs are a type of fund that invests in short-term investments of high quality and low risk.

[20] Agency securities for these purposes generally includes securities issued by the following entities: Government National Mortgage Association (Ginnie Mae), Federal National Mortgage Association (Fannie Mae), Federal Home Loan Banks (FHLBanks), Federal Home Loan Mortgage Corporation (Freddie Mac), Farm Credit System (FCS) Farm Credit Banks (FCBanks), Student Loan Marketing Association (Sallie Mae), Resolution Funding Corporation (REFCORP), Financing Corporation (FICO), and the FCS Financial Assistance Corporation (FAC). Agency securities can include, but are not limited to, mortgage-backed securities.

[21] The MBS in which the Fund may invest may also include residential mortgage-backed securities (''RMBS''), collateralized mortgage obligations (''CMOs'') and commercial mortgage-backed securities (''CMBS''). The ABS in which the Fund may invest include collateralized debt obligations (''CDOs''). CDOs include collateralized bond obligations (''CBOs''), collateralized loan obligations (''CLOs'') and other similarly structured securities. A CBO is a trust which is backed by a diversified pool of high risk, below investment grade fixed income securities. A CLO is a trust typically collateralized by a pool of loans, which may include domestic and foreign senior secured loans, senior unsecured loans, and subordinate corporate loans, including loans that may be rated below investment grade or equivalent unrated loans. Specifically, the Exchange notes that such ABS are bonds backed by pools of loans or other receivables and are securitized by a wide variety of assets that are generally broken into three categories: Consumer, commercial, and corporate. The consumer category includes credit card, auto loan, student loan, and timeshare loan ABS. The commercial category includes trade receivables, equipment leases, oil receivables, film receivables, rental cars, aircraft securitizations, ship and container securitizations, whole business securitizations, and diversified payment right securitizations. Corporate ABS include cash flow collateralization loan obligations, collateralized by both middle market and broadly syndicated bank loans. ABS are issued through special purpose vehicles that are bankruptcy remote from the issuer of the collateral. The credit quality of an ABS tranche depends on the performance of the underlying assets and the structure. To protect ABS investors from the possibility that some borrowers could miss payments or even default on their loans, ABS include various forms of credit enhancement.

[22] The Fund will seek to obtain exposure to U.S. agency mortgage pass-through securities primarily through the use of ''to-be-announced'' or ''TBA transactions.'' ''TBA'' refers to a commonly used mechanism for the forward settlement of U.S. agency mortgage pass-through securities, and not to a separate type of mortgage-backed security. Most transactions in mortgage pass-through securities occur through the use of TBA transactions. TBA transactions generally are conducted in accordance with widely-accepted guidelines which establish commonly observed terms and conditions for execution, settlement and delivery.

[23] Repurchase agreements are fixed-income securities in the form of agreements backed by collateral. These agreements, which may be viewed as a type of secured lending by the Fund, typically involve the acquisition by the Fund of securities from the selling institution (such as a bank or a broker-dealer), coupled with the agreement that the selling institution will repurchase the underlying securities at a specified price and at a fixed time in the future (or on demand). The Fund may accept a wide variety of underlying securities as collateral for the repurchase agreements entered into by the Fund. Such collateral may include U.S. government securities, corporate obligations, equity securities, municipal debt securities, asset- and mortgage-backed securities, convertible securities and other fixed-income securities. Any such securities serving as collateral are marked-to-market daily in order to maintain full collateralization (typically purchase price plus accrued interest).

[24] Commercial instruments include commercial paper, master notes, asset-backed commercial paper and other short-term corporate instruments. Commercial paper normally represents short-term unsecured promissory notes issued in bearer form by banks or bank holding companies, corporations, finance companies and other issuers. Commercial paper may be traded in the secondary market after its issuance. Master notes are demand notes that permit the investment of fluctuating amounts of money at varying rates of interest pursuant to arrangements with issuers who meet the quality criteria of the Fund. Master notes are generally illiquid and therefore subject to the Fund's percentage limitations for investments in illiquid securities. Asset-backed commercial paper is issued by a special purpose entity that is organized to issue the commercial paper and to purchase trade receivables or other financial assets.

[25] Zero-coupon and payment-in-kind securities are debt securities that do not make regular cash interest payments. Zero-coupon securities are sold at a deep discount to their face value. Payment-in-kind securities pay interest through the issuance of additional securities.

[26] Convertible securities include bonds, debentures, notes and other securities that may be converted into a prescribed amount of common stock or other equity securities at a specified price and time. The Fund may invest in convertible securities traded on an exchange or OTC. The convertible securities in which the Fund may invest will be converted into a prescribed amount of common stock or other equity securities (i) whose principal market is a member of the ISG, or (ii) subject to the Fund's 10% limit on equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

[27] The preferred securities in which the Fund may invest include preferred stock, contingent capital securities, contingent convertible securities, capital securities, and hybrid securities of debt and preferred stock. The Fund may invest in preferred securities traded on an exchange or OTC. Preferred securities pay fixed or adjustable rate dividends to investors, and have ''preference'' over common stock in the payment of dividends and the liquidation of a company's assets. The Fund will primarily invest in preferred securities that are either exchange-traded, or are Trade Reporting and Compliance Engine-eligible (''TRACE-eligible'') and settled via the Depository Trust Company (''DTC''). The Fund may invest in step-up bonds traded on an exchange or OTC.

[28] There are two common types of bank capital: Tier I and Tier II. Bank capital is generally, but not always, of investment grade quality. Tier I securities are typically preferred stock or contingent capital securities. Tier I securities are often perpetual or long-dated (with no maturity date). Tier II securities are typically subordinated debt securities.

[29] A CD is a negotiable interest-bearing instrument with a specific maturity.

[30] A bankers' acceptance is a bill of exchange or time draft drawn on and accepted by a commercial bank.

[31] Debtor-in-possession financing (''DIP financing'') is a special form of financing provided for companies in financial distress, typically during restructuring under corporate bankruptcy law (such as Chapter 11 bankruptcy under the U.S. Code). Usually, DIP financing is considered senior to all other debt, equity, and any other securities issued by the distressed company.

[32] Senior loans are business loans made to borrowers that may be U.S. or foreign corporations, partnerships, or other business entities. The interest rates on senior loans periodically are adjusted to a generally recognized base rate such as the London Interbank Offered Rate (LIBOR) or the prime rate as set by the Federal Reserve. Senior loans typically are secured by specific collateral of the borrower and hold the most senior position in the borrower's capital structure or share the senior position with the borrower's other senior debt securities.

[33] The Fund may invest in secured and unsecured bank loans and junior loans.

loans,[34] unfunded commitments,[35] revolving credit facilities,[36] and participation interests.[37]

With respect to Debt Instrument investments, the Fund may invest in restricted securities (Rule 144A and Regulation S securities [38]), which are subject to legal restrictions on their sale.

In addition, with respect to Debt Instrument investments, the Fund may, without limitation, seek to obtain market exposure to the securities in which it primarily invests by entering into a series of purchase and sale contracts or by using other investment techniques (such as buy backs and dollar rolls).

The Fund may also use leverage to the extent permitted under the 1940 Act by entering into reverse repurchase agreements and borrowing transactions (principally lines of credit) for investment purposes. The Fund's exposure to reverse repurchase agreements will be covered by securities having a value equal to or greater than such commitments. Under the 1940 Act, reverse repurchase agreements are considered borrowings. Although there is no limit on the percentage of Fund assets that can be used in connection with reverse repurchase agreements, the Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33⅓% of its assets.

Other Investments of the Fund

While under normal market conditions the Fund will invest at least 80% of its assets pursuant to the 80% Policy described above, the Fund may invest its remaining assets in the securities and financial instruments described below.

The Fund may invest in exchange-traded and OTC hybrid instruments, which combine a traditional stock, bond, or commodity with an option or forward contract. Generally, the principal amount, amount payable upon maturity or redemption, or interest rate of a hybrid is tied (positively or negatively) to the price of some commodity, currency or securities index or another interest rate or some other economic factor (''underlying benchmark'').[39]

The Fund is permitted to invest in structured notes, which are debt obligations that also contain an embedded derivative component with characteristics that adjust the obligation's risk/return profile. Generally, the performance of a structured note will track that of the underlying debt obligation and the derivative embedded within it.

The Fund may invest in credit-linked notes, which are a type of structured note.[40]

The Fund may invest in risk-linked securities (''RLS''), which are a form of derivative issued by insurance companies and insurance-related special purpose vehicles that apply securitization techniques to catastrophic property and casualty damages.[41]

The Fund may invest a portion of its assets in high-quality money market instruments, including money market mutual funds, on an ongoing basis to provide liquidity.

The Fund may invest in U.S. and foreign common stocks, both exchange-listed and OTC.

The Fund may gain exposure to commodities through the use of investments in exchange-traded products (''ETPs'') [42] and exchange-traded notes (''ETNs'').[43]

The Fund may invest in the securities of exchange-traded and OTC real estate investment trusts (''REITs'').[44]

Investment Restrictions of the Fund

The Fund may not invest more than 25% of the value of its net assets in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or

[34] Bridge loans are short-term loan arrangements (*e.g.,* maturities that are generally less than one year) typically made by a borrower following the failure of the borrower to secure other intermediate-term or long-term permanent financing. A bridge loan remains outstanding until more permanent financing, often in the form of high yield notes, can be obtained. Most bridge loans have a step-up provision under which the interest rate increases incrementally the longer the loan remains outstanding so as to incentivize the borrower to refinance as quickly as possible. In exchange for entering into a bridge loan, the Fund typically will receive a commitment fee and interest payable under the bridge loan and may also have other expenses reimbursed by the borrower. Bridge loans may be subordinate to other debt and generally are unsecured.

[35] Unfunded commitments are contractual obligations pursuant to which the Fund agrees in writing to make one or more loans up to a specified amount at one or more future dates. The underlying loan documentation sets out the terms and conditions of the lender's obligation to make the loans as well as the economic terms of such loans. The portion of the amount committed by a lender that the borrower has not drawn down is referred to as ''unfunded.'' Loan commitments may be traded in the secondary market through dealer desks at large commercial and investment banks although these markets are generally not considered liquid.

[36] Revolving credit facilities (''revolvers'') are borrowing arrangements in which the lender agrees to make loans up to a maximum amount upon demand by the borrower during a specified term. As the borrower repays the loan, an amount equal to the repayment may be borrowed again during the term of the revolver. Revolvers usually provide for floating or variable rates of interest.

[37] The Fund normally will invest at least 75% of its bank loan or corporate loan assets, which includes senior loans, syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolvers and participation interests, in issuances that have at least $100 million par amount outstanding.

[38] The Fund will invest in Rule 144A securities that are TRACE-eligible.

[39] Certain hybrid instruments may provide exposure to the commodities markets. These are derivative securities with one or more commodity-linked components that have payment features similar to commodity futures contracts, commodity options, or similar instruments. Commodity-linked hybrid instruments may be either equity or debt securities, and are considered hybrid instruments because they have both security and commodity-like characteristics. A portion of the value of these instruments may be derived from the value of a commodity, futures contract, index or other economic variable. The Fund would only invest in commodity-linked hybrid instruments that qualify, under applicable rules of the Commodity Futures Trading Commission, for an exemption from the provisions of the Commodity Exchange Act (7 U.S.C. 1).

[40] The difference between a credit default swap and a credit-linked note is that the seller of a credit-linked note receives the principal payment from the buyer at the time the contract is originated. Through the purchase of a credit-linked note, the buyer assumes the risk of the reference asset and funds this exposure through the purchase of the note. The buyer takes on the exposure to the seller to the full amount of the funding it has provided. The seller has hedged its risk on the reference asset without acquiring any additional credit exposure. The Fund has the right to receive periodic interest payments from the issuer of the credit-linked note at an agreed-upon interest rate and a return of principal at the maturity date.

[41] RLS are typically debt obligations for which the return of principal and the payment of interest are contingent on the non-occurrence of a pre-defined ''trigger event.'' Depending on the specific terms and structure of the RLS, this trigger could be the result of a hurricane, earthquake or some other catastrophic event. Insurance companies securitize this risk to transfer to the capital markets the truly catastrophic part of the risk exposure. A typical RLS provides for income and return of capital similar to other fixed-income investments, but would involve full or partial default if losses resulting from a certain catastrophe exceeded a predetermined amount.

[42] Such ETPs include Trust Issued Receipts (as described in Nasdaq Rule 5720); Commodity-Based Trust Shares (as described in Nasdaq Rule 5711(d)); Currency Trust Shares (as described in Nasdaq Rule 5711(e)); Commodity Index Trust Shares (as described in Nasdaq Rule 5711(f)); and Trust Units (Nasdaq Rule 5711(i)).

[43] ETNs include Linked Securities (as described in Nasdaq Rule 5710). The Fund will not invest more than 20% of its net assets in leveraged or inverse-leveraged ETPs and ETNs. The Fund will not invest in non-U.S. exchange-listed ETPs and ETNs.

[44] REITs are pooled investment vehicles which invest primarily in income producing real estate or real estate related loans or interests. REITs are generally classified as equity REITs, mortgage REITs or hybrid REITs. Equity REITs invest the majority of their assets directly in real estate property and derive income primarily from the collection of rents. Equity REITs can also realize capital gains by selling properties that have appreciated in value. Mortgage REITs invest the majority of their assets in real estate mortgages and derive income from the collection of interest payments. A hybrid REIT combines the characteristics of equity REITs and mortgage REITs, generally by holding both direct ownership interests and mortgage interests in real estate.

guaranteed by the U.S. government, its agencies or instrumentalities.[45]

The Fund may invest up to 20% of its total assets in the aggregate in MBS and ABS that are privately issued, non-agency and non-government sponsored entity (''Private MBS/ABS''). Such holdings would be subject to the respective limitations on the Fund's investments in illiquid assets and high yield securities. The liquidity of such securities, especially in the case of Private MBS/ABS, will be a substantial factor in the Fund's security selection process.

The Fund may invest up to 20% of its total assets in the aggregate in participations in and assignments of bank loans or corporate loans, which loans include syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolvers and participation interests (but specifically do not include senior loans), in structured notes, in credit-linked notes, in risk-linked securities, in OTC REITs, and in OTC hybrid instruments. Such holdings would be subject to the respective limitations on the Fund's investments in illiquid assets and high yield securities. The liquidity of such securities will be a substantial factor in the Fund's security selection process.

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including commercial instruments deemed illiquid by the Adviser.[46] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities or other illiquid assets. Illiquid securities and other illiquid assets include those subject to contractual or other restrictions on resale and other instruments or assets that lack readily available markets as determined in accordance with Commission staff guidance.[47]

The Fund may invest up to 35% of its total assets in high yield debt securities (''junk bonds''), which are debt securities that are rated below-investment grade by nationally recognized statistical rating organizations such as Moody's Investors Service, Inc. (''Moody's), Standard & Poor's Rating Group (''S&P''), or Fitch Investor Services (''Fitch''), or are unrated securities that the Adviser believes are of comparable below-investment grade quality. The Fund may invest in defaulted or distressed securities that are in default at the time of investment or that default subsequent to purchase by the Fund, in which case the Adviser will determine in its sole discretion whether to hold or dispose of security, subject to the Fund's 35% limitation in high yield debt securities.

While the Fund will principally invest in debt securities listed, traded or dealt in developed markets, it may also invest in securities listed, traded or dealt in other countries, including emerging markets countries. Such securities may be denominated in foreign currencies. However, the Fund may not invest more than 35% of its total assets in debt securities and instruments that are economically tied to emerging market countries, as determined by the Adviser, and non-U.S. dollar denominated securities.[48]

The Fund may not invest more than 10% of its net assets in the aggregate in equity securities and REITs whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

The Fund may not invest more than 20% of its net assets in bank capital.

The Fund will be considered diversified within the meaning of the 1940 Act.[49]

The Fund intends to qualify for and to elect to be treated as a regulated investment company under Subchapter M of the Internal Revenue Code.[50]

The Fund's investments will be consistent with the Fund's investment objective. The Fund's investments will not be used to enhance leverage. That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund will not be operated as a ''leveraged ETF,'' *i.e.,* it will not be operated in a manner designed to seek a multiple or inverse multiple of the performance of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).[51]

The Fund's Use of Derivatives

The Fund proposes to seek certain exposures through derivative transactions as described below. The Fund may invest in the following derivative instruments: Foreign exchange forward contracts; exchange-traded futures on securities, commodities, indices, interest rates and currencies; exchange-traded and OTC options on securities, commodities, interest rates, currencies, interest rate futures contracts, and indices; exchange-traded and OTC interest rate and inflation swaps; exchange-traded and OTC cross-currency swaps; OTC total return swaps and forwards on securities, commodities, indices, and futures; exchange-traded and OTC credit default swaps (single name and index);

[45] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[46] In reaching liquidity decisions, the Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[47] Long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), FN 34. *See also* Investment Company Act Release Nos. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); and 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release Nos. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); and 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[48] Emerging market countries are countries with developing economies or markets and may include any country recognized to be an emerging market country by the International Monetary Fund, MSCI, Inc. or Standard & Poor's Corporation or recognized to be a developing country by the United Nations. Generally, the Fund considers an instrument to be economically tied to an emerging market country through consideration of some or all of the following factors: (i) Whether the issuer is the government of the emerging market country (or any political subdivision, agency, authority or instrumentality of such government), or is organized under the laws of the emerging market country; (ii) amount of the issuer's revenues that are attributable to the emerging market country; (iii) the location of the issuer's management; (iv) if the security is secured or collateralized, the country in which the security or collateral is located; and/or (v) the currency in which the instrument is denominated or currency fluctuations to which the issuer is exposed.

[49] Under the 1940 Act, for a fund to be classified as a diversified investment company, at least 75% of the value of the fund's total assets must be represented by cash and cash items (including receivables), government securities, securities of other investment companies, and securities of other issuers, which for the purposes of this calculation are limited in respect of any one issuer to an amount (valued at the time of investment) not greater in value than 5% of the fund's total assets and to not more than 10% of the outstanding voting securities of such issuer.

[50] 26 U.S.C. 851.

[51] The Fund's broad-based securities benchmark index will be the Bloomberg Barclays U.S. Aggregate Bond 1–3 Total Return Index.

and exchange-traded and OTC options on such swaps (''swaptions'').[52]

Generally, derivatives are financial contracts whose value depends upon, or is derived from, the value of an underlying asset, reference rate or index, and may relate to stocks, bonds, interest rates, currencies or currency exchange rates, commodities, and related indexes. The Fund may, but is not required to, use derivative instruments for risk management purposes or as part of its investment strategies.[53] The Fund may also engage in derivative transactions for speculative purposes to enhance total return, to seek to hedge against fluctuations in securities prices, interest rates or currency rates, to change the effective duration of its portfolio, to manage certain investment risks and/or as a substitute for the purchase or sale of securities or currencies.

Investments in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. As described further below, the Fund will typically use derivative instruments as a substitute for taking a position in the underlying asset and/or as part of a strategy designed to reduce exposure to other risks, such as interest rate or currency risk. The Fund may also use derivative instruments to enhance returns. To limit the potential risk associated with such transactions, the Fund will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board of Trustees (the ''Board'') and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of the Fund, including the Fund's use of derivatives, may give rise to additional leverage, causing the Fund to be more volatile than if it had not been leveraged.[54] Because the markets for certain securities, or the securities themselves, may be unavailable or cost prohibitive as compared to derivative instruments, suitable derivative transactions may be an efficient alternative for the Fund to obtain the desired asset exposure.

The Adviser believes that derivatives can be an economically attractive substitute for an underlying physical security that the Fund would otherwise purchase. For example, the Fund could purchase Treasury futures contracts instead of physical Treasuries or could sell credit default protection on a corporate bond instead of buying a physical bond. Economic benefits include potentially lower transaction costs or attractive relative valuation of a derivative versus a physical bond (*e.g.,* differences in yields).

The Adviser further believes that derivatives can be used as a more liquid means of adjusting portfolio duration as well as targeting specific areas of yield curve exposure, with potentially lower transaction costs than the underlying securities (*e.g.,* interest rate swaps may have lower transaction costs than physical bonds). Similarly, money market futures can be used to gain exposure to short-term interest rates in order to express views on anticipated changes in central bank policy rates. In addition, derivatives can be used to protect client assets through selectively hedging downside (or ''tail risks'') in the Fund.

The Fund also can use derivatives to increase or decrease credit exposure. Index credit default swaps (CDX) can be used to gain exposure to a basket of credit risk by ''selling protection'' against default or other credit events, or to hedge broad market credit risk by ''buying protection.'' Single name credit default swaps (CDS) can be used to allow the Fund to increase or decrease exposure to specific issuers, saving investor capital through lower trading costs. The Fund can use total return swap contracts to obtain the total return of a reference asset or index in exchange for paying a financing cost. A total return swap may be more efficient than buying underlying securities of an index, potentially lowering transaction costs.

The Fund may attempt to reduce foreign currency exchange rate risk by entering into contracts with banks, brokers or dealers to purchase or sell foreign currencies at a future date (''forward contracts'').[55]

The Adviser believes that the use of derivatives will allow the Fund to selectively add diversifying sources of return from selling options. Option purchases and sales can also be used to hedge specific exposures in the portfolio, and can provide access to return streams available to long-term investors such as the persistent difference between implied and realized volatility. Option strategies can generate income or improve execution prices (*e.g.,* covered calls).

In addition to the Fund's use of derivatives in connection with its 80% Policy, under the proposal the Fund would seek to invest in derivative instruments not based on Debt Instruments, consistent with the Fund's investment restrictions relating to exposure to those asset classes.

Valuation Methodology for Purposes of Determining Net Asset Value

The net asset value (''NAV'') of the Fund's Shares will be determined by dividing the total value of the Fund's portfolio investments and other assets, less any liabilities, by the total number of Shares outstanding. Fund Shares will be valued as of the close of regular trading (normally 4:00 p.m., Eastern Time (''E.T.'')) (the ''NYSE Close'') on each day the New York Stock Exchange (''NYSE'') is open (''Business Day''). Information that becomes known to the Fund or its agents after the NAV has been calculated on a particular day will not generally be used to retroactively adjust the price of a portfolio asset or the NAV determined earlier that day. The Fund reserves the right to change the time its NAV is calculated if the Fund closes earlier, or as permitted by the Commission.

For purposes of calculating NAV, portfolio securities and other assets for which market quotes are readily available will be valued at market value. Market value will generally be determined on the basis of last reported sales prices, or if no sales are reported, then based on quotes obtained from a quotation reporting system, established

[52] Options on swaps are traded OTC. In the future, in the event that there are exchange-traded options on swaps, the Fund may invest in these instruments.

[53] The Fund will seek, where possible, to use counterparties whose financial status is such that the risk of default is reduced; however, the risk of losses resulting from default is still possible. The Adviser will monitor the financial standing of counterparties on an ongoing basis. This monitoring may include information provided by credit agencies, as well as the Adviser's credit analysts and other team members who evaluate approved counterparties using various methods of analysis, including but not limited to earnings updates, the counterparty's reputation, the Adviser's past experience with the broker-dealer, market levels for the counterparty's debt and equity, the counterparty's liquidity and its share of market participation.

[54] To mitigate leveraging risk, the Adviser will segregate or ''earmark'' liquid assets or otherwise cover the transactions that may give rise to such risk.

[55] A foreign currency forward contract is a negotiated agreement between the contracting parties to exchange a specified amount of currency at a specified future time at a specified rate. The rate can be higher or lower than the spot rate between the currencies that are the subject of the contract.

market makers, or pricing services. Domestic and foreign fixed income securities and non-exchange-traded derivatives will normally be valued on the basis of quotes obtained from brokers and dealers or pricing services using data reflecting the earlier closing of the principal markets for those assets. Prices obtained from independent pricing services use information provided by market makers or estimates of market values obtained from yield data relating to investments or securities with similar characteristics. Exchange-traded options and options on futures will generally be valued at the settlement price determined by the applicable exchange.

Derivatives for which market quotes are readily available will be valued at market value. Local closing prices will be used for all instrument valuation purposes. Futures will be valued at the last reported sale or settlement price on the day of valuation. Swaps traded on exchanges such as the Chicago Mercantile Exchange (''CME'') or the Intercontinental Exchange (''ICE–US'') will use the applicable exchange closing price where available.

Foreign currency-denominated derivatives will generally be valued as of the respective local region's market close.

With respect to specific derivatives:

- Currency spot and forward rates from major market data vendors [56] will generally be determined as of the NYSE Close.
- Exchange-traded futures will generally be valued at the settlement price of the relevant exchange.
- A total return swap on an index will be valued at the publicly available index price. The index price, in turn, is determined by the applicable index calculation agent, which generally values the securities underlying the index at the last reported sale price.
- Equity total return swaps will generally be valued using the actual underlying equity at local market closing, while bank loan total return swaps will generally be valued using the evaluated underlying bank loan price minus the strike price of the loan.
- Exchange-traded non-equity options (for example, options on bonds, Eurodollar options, and U.S. Treasury options), index options, and options on futures will generally be valued at the official settlement price determined by the relevant exchange, if available.
- OTC and exchange-traded equity options will generally be valued on a basis of quotes obtained from a quotation reporting system, established market makers, or pricing services or at the settlement price of the applicable exchange.
- OTC foreign currency (FX) options will generally be valued by pricing vendors.
- All other OTC and exchange-traded swaps such as interest rate swaps, inflation swaps, swaptions, credit default swaps, and CDX/CDS will generally be valued by pricing services or at the settlement price of the applicable exchange.

Exchange-traded equity securities (including common stocks, ETPs, ETFs, ETNs, CEFs, exchange-traded convertible securities, REITs, and preferred securities) will be valued at the official closing price or the last trading price on the exchange or market on which the security is primarily traded at the time of valuation. If no sales or closing prices are reported during the day, exchange-traded equity securities will generally be valued at the closing bid price on the exchange or market on which the security is primarily traded, or using other market information obtained from quotation reporting systems, established market makers, or pricing services. Investment company securities that are not exchange-traded will be valued at NAV. Equity securities traded OTC will be valued based on price quotations obtained from a broker-dealer who makes markets in such securities or other equivalent indications of value provided by a third-party pricing service. Structured notes, exchange-traded and OTC hybrids and RLS will be valued based on prices obtained from an independent pricing vendor such as IDC or Reuters or on the basis of prices obtained from brokers and dealers. Debt Instruments will generally be valued on the basis of independent pricing services or quotes obtained from brokers and dealers.

If a foreign security's value has materially changed after the close of the security's primary exchange or principal market but before the NYSE Close, the security will be valued at fair value based on procedures established and approved by the Board. Foreign securities that do not trade when the NYSE is open will also be valued at fair value.

The Board has adopted policies and procedures for the valuation of the Fund's investments (the ''Valuation Procedures''). Pursuant to the Valuation Procedures, the Board has delegated to a valuation committee, consisting of representatives from Guggenheim's investment management, fund administration, legal and compliance departments (the ''Valuation Committee''), the day-to-day responsibility for implementing the Valuation Procedures, including, under most circumstances, the responsibility for determining the fair value of the Fund's securities or other assets. Valuations of the Fund's securities are supplied primarily by pricing services appointed pursuant to the processes set forth in the Valuation Procedures. The Valuation Committee convenes monthly, or more frequently as needed and will review the valuation of all assets which have been fair valued for reasonableness. The Fund's officers, through the Valuation Committee and consistent with the monitoring and review responsibilities set forth in the Valuation Procedures, regularly review procedures used by, and valuations provided by, the pricing services.

Debt securities with a maturity of greater than 60 days at acquisition will be valued at prices that reflect broker/dealer supplied valuations or are obtained from independent pricing services, which may consider the trade activity, treasury spreads, yields or price of bonds of comparable quality, coupon, maturity, and type, as well as prices quoted by dealers who make markets in such securities. Short-term securities with remaining maturities of 60 days or less will be valued at amortized cost, provided such amount approximates market value. Money market instruments will be valued at NAV.

Generally, trading in foreign securities markets is substantially completed each day at various times prior to the close of the NYSE. The values of foreign securities are determined as of the close of such foreign markets or the close of the NYSE, if earlier. All investments quoted in foreign currency will be valued in U.S. dollars on the basis of the foreign currency exchange rates prevailing at the close of U.S. business at 4:00 p.m. E.T. The Valuation Committee will determine the current value of such foreign securities by taking into consideration certain factors which may include those discussed above, as well as the following factors, among others: The value of the securities traded on other foreign markets, closed-end fund trading, foreign currency exchange activity, and the trading prices of financial products that are tied to foreign securities. In addition, under the Valuation Procedures, the Valuation Committee and the Adviser are authorized to use prices and other information supplied by a third party pricing vendor in valuing foreign securities.

Investments for which market quotations are not readily available will be fair valued as determined in good faith by the Adviser, subject to review by the Valuation Committee, pursuant to methods established or ratified by the Board. Valuations in accordance with these methods are intended to reflect

[56] Major market data vendors may include, but are not limited to: Thomson Reuters, JPMorgan Chase PricingDirect Inc., Markit Group Limited, Bloomberg, Interactive Data Corporation, or other major data vendors.

each security's (or asset's) ''fair value.'' Each such determination will be based on a consideration of all relevant factors, which are likely to vary from one pricing context to another. Examples of such factors may include, but are not limited to: Market prices; sales price; broker quotes; and models which derive prices based on inputs such as prices of securities with comparable maturities and characteristics, or based on inputs such as anticipated cash flows or collateral, spread over Treasuries, and other information analysis.

Investments initially valued in currencies other than the U.S. dollar will be converted to the U.S. dollar using exchange rates obtained from pricing services. As a result, the NAV of the Fund's Shares may be affected by changes in the value of currencies in relation to the U.S. dollar. The value of securities traded in markets outside the United States or denominated in currencies other than the U.S. dollar may be affected significantly on a day that the NYSE is closed. As a result, to the extent that the Fund holds foreign (non-U.S.) securities, the NAV of the Fund's Shares may change when an investor cannot purchase, redeem or exchange shares.

Derivatives Valuation Methodology for Purposes of Determining Intra-Day Indicative Value

On each Business Day, before commencement of trading in Fund Shares on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio instruments and other assets held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

In order to provide additional information regarding the intra-day value of Shares of the Fund, the Exchange or a market data vendor will disseminate every 15 seconds through the facilities of the Consolidated Tape Association (''CTA'') or other widely disseminated means an updated Intra-day Indicative Value (''IIV'') for the Fund as calculated by a third party market data provider.

A third party market data provider will calculate the IIV for the Fund. For the purposes of determining the IIV, the third party market data provider's valuation of derivatives is expected to be similar to their valuation of all securities. The third party market data provider may use market quotes if available or may fair value securities against proxies (such as swap or yield curves).

With respect to specific derivatives:

- Foreign currency derivatives, including foreign exchange forward contracts, foreign exchange options and currency futures, may be valued intraday using market quotes, or another proxy as determined to be appropriate by the third party market data provider.
- Futures may be valued intraday using the relevant futures exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- Interest rate swaps, inflation swaps and cross-currency swaps may be mapped to a swap curve and valued intraday based on changes of the swap curve, or another proxy as determined to be appropriate by the third party market data provider.
- Credit default swaps (single name and index, such as, CDX/CDS) may be valued using intraday data from market vendors, or based on underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- OTC total return swaps and forwards (excluding foreign exchange forward contracts) may be valued intraday using the underlying asset price, or another proxy as determined to be appropriate by the third party market data provider.
- Exchange listed options may be valued intraday using the relevant exchange data, or another proxy as determined to be appropriate by the third party market data provider.
- OTC options and swaptions may be valued intraday through option valuation models (*e.g.,* Black-Scholes) or using exchange-traded options as a proxy, or another proxy as determined to be appropriate by the third party market data provider.

Disclosed Portfolio

The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Adviser will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

Impact on Arbitrage Mechanism

The Adviser believes there will be minimal, if any, impact to the arbitrage mechanism as a result of the use of derivatives. Market makers and participants should be able to value derivatives as long as the positions are disclosed with relevant information. The Adviser believes that the price at which Shares trade will continue to be disciplined by arbitrage opportunities created by the ability to purchase or redeem creation Shares at their NAV, which should ensure that Shares will not trade at a material discount or premium in relation to their NAV.

The Adviser does not believe there will be any significant impacts to the settlement or operational aspects of the Fund's arbitrage mechanism due to the use of derivatives. Because derivatives generally are not eligible for in-kind transfer, they will typically be substituted with a ''cash in lieu'' amount when the Fund processes purchases or redemptions of creation units in-kind.

Creation and Redemption of Shares

Investors may create or redeem in Creation Unit size of 100,000 Shares or aggregations thereof (''Creation Unit'') through an Authorized Participant (''AP''), as described in the Registration Statement. The size of a Creation Unit is subject to change. In order to purchase Creation Units of the Fund, an investor must generally deposit a designated portfolio of securities (the ''Deposit Securities'') (and/or an amount in cash in lieu of some or all of the Deposit Securities) per each Creation Unit constituting a substantial replication, or representation, of the securities included in the Fund's portfolio as selected by the Adviser (''Fund Securities'') and generally make a cash payment referred to as the ''Cash Component.'' The list of the names and the amounts of the Deposit Securities will be made available by the Fund's Custodian through the facilities of the National Securities Clearing Corporation (''NSCC'') prior to the opening of business of the Exchange (9:30 a.m., E.T.). The Cash Component will represent the difference between the NAV of a Creation Unit and the market value of the Deposit Securities.

Shares may be redeemed only in Creation Unit size at their NAV on a day the Exchange is open for business. The Fund's custodian will make available immediately prior to the opening of the Exchange, through the facilities of NSCC, the list of the names and the amounts of the Fund Securities that will be applicable that day to redemption requests in proper form. Fund Securities received on redemption may not be identical to Deposit Securities which are applicable to purchases of Creation Units. The creation/redemption order

cut-off time for the Fund will be 4:00 p.m. E.T.

Availability of Information

The Fund's Web site (*www.guggenheiminvestments.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include the ticker symbol for the Shares, CUSIP and exchange information, along with additional quantitative information updated on a daily basis, including, for the Fund: (1) Daily trading volume, the prior Business Day's reported NAV, closing price and mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[57] and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for the most recently completed calendar year and each of the four most recently completed calendar quarters since that year (or the life of the Fund if shorter).

On each Business Day, before commencement of trading in Shares in the Regular Market Session [58] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'' as such term is defined in Nasdaq Rule 5735(c)(2)) held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.[59]

In addition to disclosing the identities and quantities of the portfolio of securities and other assets in the Disclosed Portfolio, the Fund also will disclose on a daily basis on its Web site the following information, as applicable to the type of holding: Ticker symbol, if any, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as, a type of swap), quantity held (as measured by, for example, par value, number of shares or units); identity of the security, index, or other asset or instrument underlying the holding, if any; for options, the options strike price; quantity held (as measured by, for example, par value, notional value, or number of shares, contracts or units); maturity date, if any; coupon rate, if any; market value of the holding; and percentage weighting of the holding in the Fund's portfolio. The Web site and information will be publicly available at no charge.

In addition, to the extent the Fund permits full or partial creations in-kind, a basket composition file, which will include the security names and share quantities to deliver (along with requisite cash in lieu) in exchange for Shares, together with estimates and actual Cash Components, will be publicly disseminated daily prior to the opening of the Exchange via the NSCC. The basket will equal a Creation Unit.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's Disclosed Portfolio, will be disseminated by a major market data vendor per the terms of a data services agreement that will be finalized with the Adviser prior to the Fund's launch (the ''IOPV Vendor''). Moreover, the Intraday Indicative Value, available on the NASDAQ Information LLC proprietary index data service,[60] will be calculated by the IOPV Vendor based upon the sum of the current value for the components of the Disclosed Portfolio and the estimated cash amount per share of the Fund, divided by the total amount of outstanding Shares. The Intraday Indicative Value will be updated and widely disseminated by the IOPV Vendor and broadly displayed at least every 15 seconds during the Regular Market Session. The Intraday Indicative Value will be calculated based on the IOPV Vendor's calculations. If there is an issue or problem with any of the components of the calculation, the previously calculated Intraday Indicative Value will be disseminated until such issue or problem is resolved. With respect to equity securities, if trading in a component of the Disclosed Portfolio is halted while the market is open, the last traded price for that security will be used in the calculation until trading resumes. If trading is halted before the market is open, the previous day's last sale price will be used. For components of the Disclosed Portfolio that are not U.S. listed, the last sale price is used, after being converted into U.S. Dollars, when the local market is open. When the local market closes, the closing price for the component of the Disclosed Portfolio continues to be updated by the applicable exchange rate.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout the trading day.

Intraday executable price quotations on certain Debt Instruments and other assets not traded on an exchange will be available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. Additionally, the Trade Reporting and Compliance Engine (''TRACE'') of the Financial Industry Regulatory Authority (''FINRA'') will be a source of price information for corporate bonds, privately-issued securities (including Rule 144A securities), MBS, ABS, CDOs and CBOs to the extent transactions in such securities are reported to TRACE.[61] Intra-day, executable price quotations on the securities and other assets held by the Fund, as well as closing price information, will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable. Intra-day and closing price information related to U.S. government securities, money market instruments (including money market mutual funds), and other short-term investments held by the Fund also will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by APs and other investors. Electronic Municipal Market Access (''EMMA'') will be a source of price information for municipal bonds.

Information regarding market price and trading volume of the Shares will be continually available on a real-time

[57] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[58] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

[59] Under accounting procedures to be followed by the Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any Business Day may be booked and reflected in NAV on such Business Day. Accordingly, the Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day.

[60] Currently, the Nasdaq Global Index Data Service (''GIDS'') is the Nasdaq global index data feed service, offering real-time updates, daily summary messages, and access to widely followed indexes and Intraday Indicative Values for ETFs. GIDS provides investment professionals with the daily information needed to track or trade Nasdaq indexes, listed ETFs, or third-party partner indexes and ETFs.

[61] Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year.

basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information will be available via the CTA high-speed line for the Shares and for the following U.S. exchange-traded securities: Common stocks, hybrid instruments, convertible securities, preferred securities, REITs, CEFs, ETFs, ETPs, and ETNs. Price information for foreign exchange-traded stocks will be available from the applicable foreign exchange and from major market data vendors. Price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. Price information for OTC REITs, OTC common stocks, OTC preferred securities, OTC convertible securities, OTC step-up bonds, OTC CEFs, OTC options, money market instruments, forwards, structured notes, credit linked notes, risk-linked securities, OTC derivative instruments and OTC hybrid instruments will be available from major market data vendors. Price information for exchange-traded step-up bonds will generally available from the applicable exchange or from major market data vendors. Price information for restricted securities, including Regulation S and Rule 144A securities, will be available from major market data vendors. Intra-day and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options is available from the Options Price Reporting Authority. Quotation information from brokers and dealers or independent pricing services will be available for Debt Instruments.

Additional information regarding the Fund and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes, will be included in the Registration Statement. Investors also will be able to obtain the Fund's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and its Trust's Form N–CSR and Form N–SAR, each of which is filed twice a year, except the SAI, which is filed at least annually. The Fund's SAI and Shareholder Reports will be available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.*

Initial and Continued Listing of the Fund's Shares

The Shares will conform to the initial and continued listing criteria applicable to Managed Fund Shares, as set forth under Rule 5735. The Exchange represents that, for initial and continued listing, the Fund will be in compliance with Rule 10A–3 [62] under the Exchange Act. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts of the Fund's Shares

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Nasdaq will halt trading in the Shares under the conditions specified in Nasdaq Rules 4120 and 4121, including the trading pauses under Nasdaq Rules 4120(a)(11) and (12). Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

Nasdaq deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in the Shares from 4:00 a.m. until 8:00 p.m. E.T. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Nasdaq Rule 5735(b)(3), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA, on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[63] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and such other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of the ISG,[64] and FINRA may obtain trading information regarding trading in the Shares and other exchange-traded securities (including ETFs and preferred stock) and instruments held by the Fund from such markets and other entities. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain Debt Instruments, and other debt securities held by the Fund reported to FINRA's TRACE.

In addition, the Exchange may obtain information regarding trading in the Shares and such other exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.

Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) shall consist of equity securities whose principal market is not

[62] *See* 17 CFR 240.10A–3.

[63] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[64] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. Furthermore, not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts and exchange-traded options contracts shall consist of futures contracts and exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (4) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members purchasing Shares from the Fund for resale to investors deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Exchange Act.

Additionally, the Information Circular will reference that the Fund is subject to various fees and expenses. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's Web site.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

Nasdaq believes that the proposal is consistent with Section 6(b) of the Exchange Act, in general, and Section 6(b)(5) [65] of the Exchange 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, and to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5735. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA, on behalf of the Exchange, which are designed to deter and detect violations of Exchange rules and applicable federal securities laws and are adequate to properly monitor trading in the Shares in all trading sessions. The Adviser is affiliated with a broker-dealer and have implemented a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on an open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

FINRA may obtain information via ISG from other exchanges that are members of ISG. In addition, the Exchange may obtain information regarding trading in the Shares and other exchange-traded securities (including ETFs and preferred stock) and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Fund will limit its investments in illiquid securities or other illiquid assets to an aggregate amount of 15% of its net assets (calculated at the time of investment). The Fund also may invest directly in ETFs.

Additionally, the Fund may engage in frequent and active trading of portfolio securities to achieve its investment objective. The Fund's investments will not be used to enhance leverage. That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund will not be operated as a ''leveraged ETF,'' *i.e.,* it will not be operated in a manner designed to seek a multiple or inverse multiple of the performance of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily every day that the Fund is traded, and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market

[65] 15 U.S.C. 78(f)(b)(5).

transparency. Moreover, the Intraday Indicative Value, available on the NASDAQ Information LLC proprietary index data service, will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Market Session. On each Business Day, before commencement of trading in Shares in the Regular Market Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio of the Fund that will form the basis for the Fund's calculation of NAV at the end of the Business Day.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the CTA plans for the Shares. Quotation and last sale information will be available via the CTA high-speed line for the Shares and for the following U.S. exchange-traded securities: common stocks, hybrid instruments, convertible securities, preferred securities, REITs, CEFs, ETFs, ETPs, and ETNs. Price information for foreign exchange-traded stocks will be available from the applicable foreign exchange and from major market data vendors. Price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. Price information for OTC REITs, OTC common stocks, OTC preferred securities, OTC convertible securities, OTC step-up bonds, OTC CEFs, OTC options, money market instruments, forwards, structured notes, credit linked notes, risk-linked securities, OTC derivative instruments, and OTC hybrid instruments will be available from major market data vendors. Price information for exchange-traded step-up bonds will generally available from the applicable exchange or from major market data vendors. Price information for restricted securities, including Regulation S and Rule 144A securities, will be available from major market data vendors. Intra-day and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options is available from the Options Price Reporting Authority. Quotation information from brokers and dealers or independent pricing services will be available for Debt Instruments.

The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to Nasdaq Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Exchange Act.

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 Exchange believes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares, as modified by Amendment No. 1, is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[66] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,[67] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, 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.

The Commission also finds that the proposal to list and trade the Shares on the Exchange is consistent with Section 11A(a)(1)(C)(iii) of the Exchange Act,[68] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers, and investors of information with respect to quotations for and transactions in securities. Quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the CTA plans for the Shares.

In addition, for the Fund, an estimated value, defined in Rule 5735(c)(3) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's Disclosed Portfolio, will be disseminated. Moreover, the Intraday Indicative Value, available on the NASDAQ Information LLC proprietary index data service,[69] will be calculated by the IOPV Vendor based upon the sum of the current value for the components of the Disclosed Portfolio and the estimated cash amount per share of the Fund, divided by the total amount of outstanding Shares, and will be updated and widely disseminated by the IOPV Vendor and broadly displayed at least every 15 seconds during the Regular Market Session.

On each Business Day, before commencement of trading in Shares in the Regular Market Session[70] on the Exchange, the Fund will disclose on its Web site the identities and quantities of the Disclosed Portfolio held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the

[66] 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).

[67] 15 U.S.C. 78f(b)(5).

[68] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[69] *See supra* note 60.

[70] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. E.T.; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. E.T.; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. E.T.).

Business Day.[71] The list of the names and the amounts of the Deposit Securities will be made available by the Fund's Custodian through the facilities of the NSCC prior to the opening of business of the Exchange (9:30 a.m., E.T.). The Fund's Custodian will make available immediately prior to the opening of the Exchange, through the facilities of NSCC, the list of the names and the amounts of the Fund Securities that will be applicable that day to redemption requests in proper form.

The NAV of the Fund's Shares will be determined as of the NYSE Close on each Business Day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last-sale information for the Shares will be available via Nasdaq proprietary quote and trade services, as well as in accordance with the Unlisted Trading Privileges and the CTA plans for the Shares. Information regarding the previous day's closing price and trading volume for the Shares will be published daily in the financial section of newspapers.

Intraday executable price quotations on certain Debt Instruments and other assets not traded on an exchange will be available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services. Additionally, FINRA's TRACE will be a source of price information for corporate bonds, privately-issued securities (including Rule 144A securities), MBS, ABS, CDOs and CBOs to the extent transactions in such securities are reported to TRACE.[72] Intra-day, executable price quotations on the securities and other assets held by the Fund, as well as closing price information, will be available from major broker-dealer firms or on the exchange on which they are traded, as applicable. Intra-day and closing price information related to U.S. government securities, money market instruments (including money market mutual funds), and other short-term investments held by the Fund also will be available through subscription services, such as Bloomberg, Markit and Thomson Reuters, which can be accessed by Authorized Participants and other investors. EMMA will be a source of price information for municipal bonds.

Quotation and last sale information will be available via the CTA high-speed line for the following U.S. exchange-traded securities: Common stocks, hybrid instruments, convertible securities, preferred securities, REITs, CEFs, ETFs, ETPs, and ETNs. Price information for foreign exchange-traded stocks will be available from the applicable foreign exchange and from major market data vendors. Price information for exchange-traded derivative instruments will be available from the applicable exchange and from major market data vendors. Price information for OTC REITs, OTC common stocks, OTC preferred securities, OTC convertible securities, OTC step-up bonds, OTC CEFs, OTC options, money market instruments, forwards, structured notes, credit linked notes, RLS, OTC derivative instruments, and OTC hybrid instruments will be available from major market data vendors. Price information for exchange-traded step-up bonds will generally available from the applicable exchange or from major market data vendors. Price information for restricted securities, including Regulation S and Rule 144A securities, will be available from major market data vendors. Intra-day and closing price information for exchange-traded options and futures will be available from the applicable exchange and from major market data vendors. In addition, price information for U.S. exchange-traded options is available from the Options Price Reporting Authority. Quotation information from brokers and dealers or independent pricing services will be available for Debt Instruments. The Fund's Web site will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information.

The Commission further believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of transparency cannot be assured. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. Trading in Shares of the Fund will be halted under the conditions specified in Nasdaq Rules 4120 and 4121 including the trading pauses under Nasdaq Rules 4120(a)(11) and (12), or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable,[73] and trading in the Shares also will be subject to Rule 5735(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

The Exchange represents that it has a general policy prohibiting the distribution of material, non-public information by its employees. In addition, paragraph (g) of Nasdaq Rule 5735 further requires that personnel who make decisions on an open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio. The Exchange represents that the Adviser is not a broker-dealer, but it is affiliated with the Distributor, a broker-dealer, and has therefore implemented and will maintain a fire wall with the Distributor with respect to the access of information concerning the composition of and/or changes to the Fund's portfolio.[74]

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA, on behalf of the Exchange, which are designed to

[71] Under accounting procedures to be followed by the Fund, trades made on the prior Business Day (''T'') will be booked and reflected in NAV on the current Business Day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any Business Day may be booked and reflected in NAV on such Business Day. Accordingly, the Fund will be able to disclose at the beginning of the Business Day the portfolio that will form the basis for the NAV calculation at the end of the Business Day. The Fund's disclosure of derivative positions in the Disclosed Portfolio will include information that market participants can use to value these positions intraday. On a daily basis, the Adviser will disclose on the Fund's Web site the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding, such as the type of swap); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

[72] Broker-dealers that are FINRA member firms have an obligation to report transactions in specified debt securities to TRACE to the extent required under applicable FINRA rules. Generally, such debt securities will have at issuance a maturity that exceeds one calendar year.

[73] These reasons may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present.

[74] *See supra* note 8.

detect violations of Exchange rules and applicable federal securities laws.[75]

The Exchange represents that it deems the Shares to be equity securities, thus rendering trading in the Shares subject to Nasdaq's existing rules governing the trading of equity securities.

In support of this proposal, the Exchange has made the following additional representations:

(1) The Shares will conform to the initial and continued listing criteria applicable to Managed Fund Shares, as set forth under Rule 5735.[76]

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.[77] Trading in the Shares will be subject to the existing trading surveillances, administered by both Nasdaq and FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.[78]

(3) FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares and such other exchange-traded securities and instruments held by the Fund with other markets and other entities that are members of the ISG[79] and FINRA may obtain trading information regarding trading in the Shares and other exchange-traded securities (including ETFs and preferred stock) and instruments held by the Fund from such markets and other entities.[80] In addition, the Exchange may obtain information regarding trading in the Shares and such other exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG, which includes securities exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement.[81] Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain Debt Instruments, and other debt securities held by the Fund reported to FINRA's TRACE.[82]

(4) Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (a) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (b) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in the Shares to customers; (c) how information regarding the Intraday Indicative Value and the Disclosed Portfolio is disseminated; (d) the risks involved in trading the Shares during the Pre-Market and Post-Market Sessions when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (e) the requirement that members purchasing Shares from the Fund for resale to investors deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (f) trading information. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.[83]

(5) For initial and continued listing, the Fund must be in compliance with Rule 10A–3 [84] under the Act.[85]

(6) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.[86]

(7) The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.[87]

(8) The Fund may not invest more than 25% of the value of its net assets in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities.[88]

(9) The Fund may invest up to 20% of its total assets in the aggregate in Private MBS/ABS.[89]

(10) The Fund may invest up to 20% of its total assets in the aggregate in participations in and assignments of bank loans or corporate loans, which loans include syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolvers and participation interests (but specifically do not include senior loans), in structured notes, in credit-linked notes, in RLS, in OTC REITs, and in OTC hybrid instruments. Such holdings would be subject to the respective limitations on the Fund's investments in illiquid assets and high yield securities.[90]

(11) The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including commercial instruments deemed illiquid by the Adviser.[91]

(12) The Fund may invest up to 35% of its total assets in junk bonds. The Fund may invest in defaulted or distressed securities that are in default at the time of investment or that default subsequent to purchase by the Fund, in which case the Adviser will determine in its sole discretion whether to hold or dispose of security, subject to the Fund's 35% limitation in high yield debt securities.[92]

(13) The Fund may not invest more than 35% of its total assets in debt securities and instruments that are economically tied to emerging market countries, as determined by the Adviser, and non-U.S. dollar denominated securities.[93]

(14) The Fund may not invest more than 10% of its net assets in the aggregate in equity securities and REITs whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.[94]

(15) Not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts and exchange-traded options contracts shall consist of futures contracts and exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.[95]

(16) The Fund may not invest more than 20% of its net assets in bank capital.[96]

(17) The Fund will not invest more than 20% of its net assets in leveraged or inverse-leveraged ETPs and ETNs.[97]

(18) The Fund will not invest in non-U.S. exchange-listed ETPs and ETNs.[98]

(19) The shares of ETFs in which the Fund may invest will be limited to securities that trade in markets that are members of the ISG, which includes all U.S. national securities exchanges, or exchanges that are parties to a comprehensive surveillance sharing agreement with the Exchange.[99]

(20) The Adviser expects that under normal market conditions, the Fund will invest at least 75% of its corporate debt securities assets (including zero coupon and payment-in-kind securities) in issuances that have at least $100,000,000 par amount outstanding in developed countries or at least $200,000,000 par amount outstanding in emerging market countries.[100]

(21) The Fund normally will invest at least 75% of its bank loan or corporate loan assets, which includes senior loans, syndicated bank loans, junior loans, bridge loans, unfunded commitments, revolvers and participation interests, in issuances that have at least $100 million par amount outstanding.[101]

(22) The Fund's investments will not be used to enhance leverage.[102]

(23) To limit the potential risk associated with such transactions, the Fund will segregate or ''earmark'' assets determined to be liquid by the Adviser in accordance with procedures established by the Board and in accordance with the 1940 Act (or, as permitted by applicable regulation, enter into certain offsetting positions) to cover its

[75] The Exchange states that FINRA surveils trading on the Exchange pursuant to a regulatory services agreement and that the Exchange is responsible for FINRA's performance under this regulatory services agreement. *See supra* note 63.

[76] *See* Amendment No. 1, *supra* note 4, at 39–40.

[77] *See id.* at 40–41.

[78] *See id.* at 41.

[79] *See id.*

[80] *See id.* at 41–42.

[81] *See id.* at 42.

[82] *See id.*

[83] *See id.* at 42–43.

[84] *See* 17 CFR 240.10A–3.

[85] *See* Amendment No. 1, *supra* note 4, at 40.

[86] *See id.*

[87] *See id.*

[88] *See id.* at 17.

[89] *See id.*

[90] *See id.* at 18.

[91] *See id.*

[92] *See id.* at 19.

[93] *See id.* at 19–20.

[94] *See id.* at 20.

[95] *See id.* at 42.

[96] *See id.* at 20.

[97] *See id.* at 17.

[98] *See id.*

[99] *See id.* at 8.

[100] *See id.*

[101] *See id.* at 14.

[102] *See id.* at 21.

obligations under derivative instruments. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance. In addition, the Fund will include appropriate risk disclosure in its offering documents, including leveraging risk.[103]

(24) The Fund does not expect to engage, under normal circumstances, in reverse repurchase agreements with respect to more than 33⅓% of its assets.[104]

The Exchange also represents that all statements and representations made in the proposed rule change, as modified by Amendment No. 1 regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.[105]

This approval order is based on all of the Exchange's representations, including those set forth above and in the Notice, and the Exchange's description of the Fund. The Commission notes that the Fund and the Shares must comply with the requirements of Nasdaq Rule 5735 to be listed and traded on the Exchange.

For the foregoing reasons, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act[106] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning whether Amendment No. 1 is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–039 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–039. 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–NASDAQ–2017–039, and should be submitted on or before July 11, 2017.

V. Accelerated Approval of Proposed Rule Change as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendment No. 1, prior to the thirtieth day after the date of publication of notice of the filing of Amendment No. 1 in the **Federal Register**. Amendment No. 1 (1) clarified that if any new sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a registered broker-dealer, it will implement and maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, if applicable, regarding access to information concerning the composition of and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio; (2) clarified that the Fund may invest in both secured and unsecured bank loans; (3) added that the Fund may invest in exchange-traded and OTC options on commodities and interest rates, as well as forwards on securities, commodities, indices, and futures; (4) specified that the OTC total-return swaps that the Fund will invest in will be total-return swaps on securities, commodities, indices, and futures; (5) clarified that the exchange-traded and OTC credit default swaps in which the Fund may invest will be single name and index credit default swaps; (6) clarified that the options on the Fund's swap investments described in this filing will be may either OTC or exchange-traded options; (7) added that price information for exchange-traded step-up bonds will generally be available from the applicable exchange or from major market data vendors; and (8) made technical changes to the proposed rule change.

The Commission believes that Amendment No. 1 supplements the proposed rule change by providing clarification, specificity, and additional information and that Amendment No. 1 does not raise any novel regulatory issues. Amendment No. 1 supplements the proposed rule change by, among other things, clarifying the scope of the Fund's permitted investments and providing additional information about the availability of pricing information for the Fund's underlying assets. The changes and additional information in Amendment No. 1 helped the Commission to evaluate whether the listing and trading of the Shares would be consistent with the protection of investors and the public interest. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[107] to approve the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[108] that the proposed rule change (SR–NASDAQ–2017–039), as modified by

[103] *See id.* at 22–23.

[104] *See id.* at 15.

[105] *See id.* at 43–44.

[106] 15 U.S.C. 78f(b)(5).

[107] 15 U.S.C. 78s(b)(2).

[108] *Id.*

Amendment No. 1 be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[109]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12894 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80942; File No. SR–NSCC–2017–007]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Proposed Rule Change To Adopt a New Stock Options and Futures Settlement Agreement With the Options Clearing Corporation

June 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2017, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the clearing agency.[3] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change has been filed by NSCC in connection with proposed changes relating to a new Stock Options and Futures Settlement Agreement (''New Accord'') between NSCC and The Options Clearing Corporation (''OCC,'' collectively NSCC and OCC may be referred to herein as the ''clearing agencies''), and proposed amendments to Procedures III and XV of the Rules & Procedures of NSCC (''NSCC Rules'') to accommodate the proposed provisions of the New Accord, as described in greater detail below.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

OCC issues and clears U.S.-listed options and futures on a number of underlying financial assets including common stocks, currencies and stock indices. OCC's Rules, however, provide that delivery of, and payment for, securities underlying certain physically settled stock options and single stock futures cleared by OCC are effected through the facilities of a correspondent clearing corporation (such as NSCC) and are not settled through the facilities of OCC. NSCC and OCC are parties to a Third Amended and Restated Options Exercise Settlement Agreement, dated February 16, 1995, as amended (''Existing Accord''),[5] which governs the delivery and receipt of stock in the settlement of put and call options issued by OCC (''Stock Options'') that are eligible for settlement through NSCC's Continuous Net Settlement (''CNS'') Accounting Operation and are designated to settle on the third business day following the date the related exercise or assignment was accepted by NSCC (''Options E&A''). All OCC Clearing Members that intend to engage in Stock Options transactions are required to also be Members of NSCC or to have appointed or nominated an NSCC Member to act on its behalf.[6]

NSCC proposes to adopt a New Accord with OCC, which would provide for the settlement of certain Stock Options and delivery obligations arising from certain matured physically-settled stock futures contracts cleared by OCC (''Stock Futures''). Specifically, the New Accord would, among other things: (1) Expand the category of securities that are eligible for settlement and guaranty under the agreement to certain securities (including stocks, exchange-traded funds and exchange-traded notes) that (i) are required to be delivered in the exercise and assignment of Stock Options and are eligible to be settled through NSCC's Balance Order Accounting Operation (in addition to its CNS Accounting Operation) or (ii) are delivery obligations arising from Stock Futures that have reached maturity and are eligible to be settled through NSCC's CNS Accounting Operation or Balance Order Accounting Operation; (2) modify the time of the transfer of responsibilities from OCC to NSCC and, specifically, when OCC's guarantee obligations under OCC's By-Laws and Rules with respect to such transactions (''OCC's Guaranty'') end and NSCC's obligations under Addendum K of the NSCC Rules with respect to such transactions (''NSCC's Guaranty'') begin (such transfer being the ''Guaranty Substitution''); and (3) put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the agreement. Furthermore, NSCC proposes to make certain clarifying and conforming changes to the NSCC Rules as necessary to implement the New Accord.

The primary purpose of the proposed changes is to (1) provide consistent treatment across all expiries for

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[109] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] On June 1, 2017, NSCC filed this proposed rule change as an advance notice (SR–NSCC–2017–803) with the Commission pursuant to Section 806(e)(1) of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010, 12 U.S.C. 5465(e)(1), and Rule 19b–4(n)(1)(i) of the Act, 17 CFR 240.19b–4(n)(1)(i). A copy of the advance notice is *available at http://www.dtcc.com/legal/sec-rule-filings.aspx.* The Options Clearing Corporation also has filed proposed rule change and advance notice filings with the Commission in connection with this proposal. *See* OCC filings SR–OCC–2017–013 and SR–OCC–2017–804.

[4] Terms not defined herein are defined in the NSCC Rules, *available at http://www.dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf,* or in OCC's By-Laws and Rules, *available at http://optionsclearing.com/about/publications/bylaws.jsp,* as the context implies.

[5] The Existing Accord and the proposed changes thereunder were previously approved by the Commission. *See* Securities Exchange Act Release No. 37731 (September 26, 1996), 61 FR 51731 (October 3, 1996) (SR–OCC–96–04 and SR–NSCC–96–11) (Order Approving Proposed Rule Change Related to an Amended and Restated Options Exercise Settlement Agreement Between the Options Clearing Corporation and the National Securities Clearing Corporation); Securities Exchange Act Release No. 43837 (January 12, 2001), 66 FR 6726 (January 22, 2001) (SR–OCC–00–12) (Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Creation of a Program to Relieve Strains on Clearing Members' Liquidity in Connection With Exercise Settlements); and Securities Exchange Act Release No. 58988 (November 20, 2008), 73 FR 72098 (November 26, 2008) (SR–OCC–2008–18 and SR–NSCC–2008–09) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to Amendment No. 2 to the Third Amended and Restated Options Exercise Settlement Agreement).

[6] A firm that is both an OCC Clearing Member and an NSCC Member, or is an OCC Clearing Member that has designated an NSCC Member to act on its behalf is referred to herein as a ''Common Member.''

products with ''regular way'' [7] settlement cycle specifications; (2) reduce the operational complexities of the Existing Accord by eliminating the cross-guaranty between OCC and NSCC and the bifurcated risk management of exercised and assigned transactions between the two clearing agencies by delineating a single point in time at which OCC's Guaranty ceases and NSCC's Guaranty begins; (3) further solidify the roles and responsibilities of OCC and NSCC in the event of a default of a Common Member at either or both clearing agencies; and (4) improve procedures, information sharing, and overall governance under the agreement.

The New Accord would become effective, and wholly replace the Existing Accord, at a date specified in a service level agreement to be entered into between NSCC and OCC.[8]

The Existing Accord

Key Terms of the Existing Accord

Under the Existing Accord, the settlement of Options E&A generally proceeds according to the following sequence of events. NSCC maintains and delivers to OCC a list (''CNS Eligibility Master File'') that enumerates all CNS Securities, which are defined in NSCC Rule 1 and generally include securities that have been designated by NSCC as eligible for processing through NSCC's CNS Accounting Operation and eligible for book entry delivery at NSCC's affiliate, The Depository Trust Company (for purposes of this proposed rule change, such securities are referred to as ''CNS Eligible Securities'').[9] OCC, in turn, uses this file to make a final determination of which securities NSCC would not accept and therefore would need to be settled on a broker-to-broker basis. OCC then sends to NSCC a transactions file,[10] listing the specific securities that are to be delivered and received in settlement of an Options E&A that have not previously been reported to NSCC and for which settlement is to be made through NSCC (''OCC Transactions File'').[11] With respect to each Options E&A, the OCC Transactions File includes the CUSIP number of the security to be delivered, the identities of the delivering and receiving Common Members, the quantity to be delivered, the total value of the quantity to be delivered based on the exercise price of the option for which such security is the underlying security, and the exercise settlement date. After receiving the OCC Transactions File, NSCC then has until 11:00 a.m. Central Time on the following business day to reject any transaction listed in the OCC Transactions File. NSCC can reject a transaction if the security to be delivered has not been listed as a CNS Eligible Security in the CNS Eligible Master File or if information provided in the OCC Transactions File is incomplete. Otherwise, if NSCC does not so notify OCC of its rejection of an Options E&A by the time required under the Existing Accord, NSCC will become unconditionally obligated to effect settlement of the Options E&A.

Under the Existing Accord, even after NSCC's trade guarantee has come into effect,[12] OCC is not released from its guarantee with respect to the Options E&A until certain deadlines [13] have passed on the first business day following the scheduled settlement date without NSCC notifying OCC that the relevant Common Member has failed to meet an obligation to NSCC or NSCC has ceased to act for such Common Member pursuant to the NSCC Rules.[14] As a result, there is a period of time when NSCC's trade guarantee overlaps with OCC's guarantee and where both clearing agencies are holding margin against the same Options E&A position.

In the event that NSCC or OCC ceases to act on behalf of or suspends a Common Member, that Common Member becomes a ''defaulting member.'' Once a Common Member becomes a defaulting member, the Existing Accord provides that NSCC will make a payment to OCC equal to the lesser of OCC's loss or the positive mark-to-market amount relating to the defaulting member's Options E&A and that OCC will make a payment to NSCC equal to the lesser of NSCC's loss or the negative mark-to-market amount relating to the defaulting member's Options E&A to compensate for potential losses incurred in connection with the default. A clearing agency must request the transfer of any such payments by the close of business on the tenth business day following the day of default and, after a request is made, the other clearing agency is required to make payment within five business days of the request.

The New Accord

Overview

As noted above, NSCC proposes to adopt a New Accord with OCC, which would provide for the settlement of certain Stock Options and Stock Futures transactions. The New Accord is primarily designed to, among other things, expand the category of securities that are eligible for settlement and guaranty under the agreement; simplify the time of the transfer of responsibilities from OCC to NSCC (specifically, the transfer of guarantee obligations); and put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the agreement. The material provisions of the New Accord are described in detail below.

Key Elements of the New Accord

Expanded Scope of Eligible Securities

Pursuant to the proposed New Accord, on each day that both OCC and NSCC are open for accepting trades for clearing (''Activity Date''), NSCC would deliver to OCC an ''Eligibility Master

[7] Under the New Accord, ''regular way settlement'' shall have a meaning agreed to by the clearing agencies. Generally, regular way settlement is understood to be the financial services industry's standard settlement cycle. Currently, regular way settlement of Stock Options or Stock Futures transactions are those transactions designated to settle on the third business day following the date the related exercise, assignment or delivery obligation was accepted by NSCC. NSCC has proposed to change the NSCC Rules with respect to the meaning of regular way settlement in order to be consistent with the anticipated industry-wide move to a shorter standard settlement cycle of two business days after trade date. *See* Securities Exchange Act Release No. 79734 (January 4, 2017), 82 FR 3030 (January 10, 2017) (SR–NSCC–2016–007). *See also* Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (S7–22–16) (Amendment to Securities Transaction Settlement Cycle).

[8] Such effective date would be a date following approval of all required regulatory submissions to be filed by OCC and NSCC with the appropriate regulatory authorities, including this proposed rule change. *See supra* note 3.

[9] *Supra* note 4.

[10] Delivery of the OCC Transactions File with respect to an Options E&A typically happens on the date of the option's exercise or expiration, though this is not expressly stated in the Existing Accord. However, in theory, an Options E&A could, due to an error or delay, be reported later than the date of the option's exercise or expiration.

[11] This process would be substantially the same under the New Accord with the exception that the CNS Eligibility Master File and OCC Transactions File would be renamed and would be expanded in scope to include additional securities that would be eligible for guaranty and settlement under the New Accord, as discussed in further detail below.

[12] Pursuant to Addendum K of the NSCC Rules, NSCC guarantees the completion of CNS transactions and balance order transactions that have reached the point at which, for bi-lateral submissions by Members, such trades have been validated and compared by NSCC, and for locked-in submission, such trades have been validated by NSCC, as described in the NSCC Rules. Transactions that are covered by the Existing Accord, and that would be covered by the New Accord, are expressly excluded from the timeframes described in Addendum K. *See supra* note 4.

[13] The deadline is 6:00 a.m. Central Time for NSCC notifying OCC of a Common Member failure and, if NSCC does not immediately cease to act for such defaulting Common Member, 4:00 p.m. Central Time for notifying OCC that it has ceased to act.

[14] *See* NSCC Rule 46 (Rule 46 (Restrictions on Access to Services). *See supra* note 4.

File,'' which would identify the securities, including stocks, exchange-traded funds and exchange-traded notes, that are (1) eligible to settle through NSCC's CNS Accounting Operation (as is currently the case under the Existing Accord) or NSCC's Balance Order Accounting Operation (which is a feature of the New Accord) and (2) to be delivered in settlement of (i) exercises and assignments of Stock Options (as is currently the case under the Existing Accord) or (ii) delivery obligations arising from maturing physically settled Stock Futures (which is a feature of the New Accord) (all such securities collectively being ''Eligible Securities''). OCC, in turn, would deliver to NSCC its file of E&A/Delivery Transactions [15] that list the Eligible Securities to be delivered, or received, and for which settlement is proposed to be made through NSCC on that Activity Date. Guaranty Substitution (discussed further below) would not occur with respect to an E&A/Delivery Transaction that is not submitted in the proper format or that involves a security that is not identified as an Eligible Security on the then-current Eligibility Master File. This process is similar to the current process under the Existing Accord with the exception of the expanded scope of Eligible Securities (and additional fields necessary to accommodate such securities) that would be listed on the Eligibility Master File and the E&A/Delivery Transactions file.

Like the Existing Accord, the proposed New Accord would continue to facilitate the processes by which Common Members deliver and receive stock in the settlement of Stock Options that are eligible to settle through NSCC's CNS Accounting Operation and are designated to settle regular way. The New Accord would also expand the category of securities eligible for settlement under the agreement. In particular, the New Accord would facilitate the processes by which Common Members deliver and receive stock in settlement of Stock Futures that are eligible to settle through NSCC's CNS Accounting Operation and are designated to settle regular way. It would also provide for the settlement of both Stock Options and Stock Futures that are eligible to settle through NSCC's Balance Order Accounting Operation on a regular way basis. The primary purpose of expanding the category of securities that are eligible for settlement and guaranty under the agreement is to provide consistent treatment across all expiries for products with regular way settlement cycle specifications and simplify the settlement process for these additional securities transactions.

The New Accord would not apply to Stock Options or Stock Futures that are designated to settle on a shorter timeframe than the regular way settlement timeframe. These Stock Options would continue to be processed and settled as they would be today, outside of the New Accord. The New Accord also would not apply to any Stock Options or Stock Futures that are neither CNS Securities nor Balance Order Securities.[16] Transactions in these securities are, and would continue to be processed on a trade-for-trade basis away from NSCC's facilities. Such transactions may utilize other NSCC services for which they are eligible, but would not be subject to the New Accord.[17]

Proposed Changes Related to Guaranty Substitution

The New Accord would adopt a fundamentally different approach to the delineation of the rights and responsibilities of OCC and NSCC with respect to E&A/Delivery Transactions. The purpose of the proposed changes related to the Guaranty Substitution, defined below, is to reduce the operational complexities of the Existing Accord by eliminating the cross-guaranty between OCC and NSCC and the bifurcated risk management of exercised and assigned transactions between the two clearing agencies and delineating a single point in time at which OCC's Guaranty ceases and NSCC's Guaranty begins. Moreover, the proposed changes would solidify the roles and responsibilities of OCC and NSCC in the event of a default of a Common Member at either or both clearing agencies.

As described above, the Existing Accord provides that NSCC will make a payment to OCC following the default of a Common Member in an amount equal to the lesser of OCC's loss or the positive mark-to-market amount relating to the Common Member's Options E&A, and provides that OCC will make a payment to NSCC following the default of a Common Member equal to the lesser of NSCC's loss or the negative mark-to-market amount relating to the Common Member's Options E&A to compensate for potential losses incurred in connection with the Common Member's default. The proposed New Accord, in contrast, would focus on the transfer of responsibilities from OCC to NSCC and, specifically, the point at which OCC's Guaranty ends and NSCC's Guaranty begins (*i.e.,* the Guaranty Substitution) with respect to E&A/Delivery Transactions. By focusing on the timing of the Guaranty Substitution, rather than payment from one clearing agency to the other, the New Accord would simplify the agreement and the procedures for situations involving the default of a Common Member. The New Accord additionally would minimize ''double-margining'' situations when a Common Member may simultaneously owe margin to both NSCC and OCC with respect to the same E&A/Delivery Transaction.

After NSCC has received an E&A/Delivery Transaction, the Guaranty Substitution would normally occur when NSCC has received all Required Deposits to its Clearing Fund, calculated taking into account such E&A/Delivery Transaction, of Common Members (''Guaranty Substitution Time'').[18] At the Guaranty Substitution Time, NSCC's Guaranty takes effect, and OCC does not retain any settlement obligations with respect to such E&A/Delivery Transactions. The Guaranty Substitution would not occur, however, with respect to any E&A/Delivery Transaction if NSCC has rejected such E&A/Delivery Transaction due to an improper submission, as described above, or if, during the time after NSCC's receipt of the E&A/Delivery Transaction but prior to the Guaranty Substitution Time, a Common Member involved in the E&A/Delivery Transaction has defaulted on its obligations to NSCC by failing to meet its Clearing Fund obligations, or NSCC has otherwise ceased to act for such Common Member pursuant to the NSCC Rules (in either case, such Common Member becomes a ''Defaulting NSCC Member'').

NSCC would be required to promptly notify OCC if a Common Member becomes a Defaulting NSCC Member, as

[15] ''E&A/Delivery Transactions'' are transactions involving the settlement of Stock Options and Stock Futures under the New Accord. The delivery of E&A/Delivery Transactions to NSCC would replace the delivery of the ''OCC Transactions File'' from the Existing Accord. The actual information delivered by OCC to NSCC would be the same as is currently provided on the OCC Transactions File, but certain additional terms would be included to accommodate the inclusion of Stock Futures, along with information regarding the date that the instruction to NSCC was originally created and the E&A/Delivery Transaction's designated settlement date.

[16] Balance Order Securities are defined in NSCC Rule 1, and are generally securities, other than foreign securities, that are eligible to be cleared at NSCC but are not eligible for processing through the CNS Accounting Operation. *See supra* note 4.

[17] OCC will continue to guarantee settlement until settlement actually occurs with respect to these Stock Options and Stock Futures.

[18] Procedure XV of the NSCC Rules provides that all Clearing Fund requirements and other deposits must be made within one hour of demand, unless NSCC determines otherwise. *See supra* note 4.

described above. Upon receiving such a notice, OCC would not submit to NSCC any further E&A/Delivery Transactions involving the Defaulting NSCC Member for settlement, unless authorized representatives of both OCC and NSCC otherwise consent. OCC would, however, deliver to NSCC a list of all E&A/Delivery Transactions that have already been submitted to NSCC and that involve the Defaulting NSCC Member (''Defaulted NSCC Member Transactions''). The Guaranty Substitution ordinarily would not occur with respect to any Defaulted NSCC Member Transactions, unless both clearing agencies agree otherwise. As such, NSCC would have no obligation to guaranty such Defaulted NSCC Member Transactions, and OCC would continue to be responsible for effecting the settlement of such Defaulted NSCC Member Transactions pursuant to OCC's By-Laws and Rules. Once NSCC has confirmed the list of Defaulted NSCC Member Transactions, Guaranty Substitution would occur for all E&A/Delivery Transactions for that Activity Date that are not included on such list. NSCC would be required to promptly notify OCC upon the occurrence of the Guaranty Substitution Time on each Activity Date.

If OCC suspends a Common Member after NSCC has received the E&A/Delivery Transactions but before the Guaranty Substitution has occurred, and that Common Member has not become a Defaulting NSCC Member, the Guaranty Substitution would proceed at the Guaranty Substitution Time. In such a scenario, OCC would continue to be responsible for guaranteeing the settlement of the E&A/Delivery Transactions in question until the Guaranty Substitution Time, at which time the responsibility would transfer to NSCC. If, however, the suspended Common Member also becomes a Defaulting NSCC Member after NSCC has received the E&A/Delivery Transactions but before the Guaranty Substitution has occurred, Guaranty Substitution would not occur, and OCC would continue to be responsible for effecting the settlement of such Defaulted NSCC Member Transactions pursuant to OCC's By-Laws and Rules (unless both clearing agencies agree otherwise).

Finally, the New Accord also would provide for the consistent treatment of all exercise and assignment activity under the agreement. Under the Existing Accord, ''standard'' [19] option contracts become guaranteed by NSCC when the Common Member meets its morning Clearing Fund Required Deposit at NSCC while ''non-standard'' exercise and assignment activity becomes guaranteed by NSCC at midnight of the day after trade date (T+1). Under the New Accord, all exercise and assignment activity for Eligible Securities would be guaranteed by NSCC as of the Guaranty Substitution Time, under the circumstances described above, further simplifying the framework for the settlement of such contracts.

Other Terms of the New Accord

The New Accord also would include a number of other provisions intended to either generally maintain certain terms of the Existing Accord or improve the procedures, information sharing, and overall governance process under the new agreement. Many of these terms are additions to or improvements upon the terms of the Existing Accord.

Under the proposed New Accord, OCC and NSCC would agree to address the specifics regarding the time, form and manner of various required notifications and actions in a separate service level agreement, which the parties would be able to revisit as their operational needs evolve. The service level agreement would also specify an effective date for the New Accord, which, as mentioned above, would occur on a date following approval and effectiveness of all required regulatory submissions to be filed by OCC and NSCC with the appropriate regulatory authorities. Similar to the Existing Accord, the proposed New Accord would remain in effect (a) until it is terminated by the mutual written agreement of OCC and NSCC, (b) until it is unilaterally terminated by either clearing agency upon one year's written notice (as opposed to six months under the Existing Accord), or (c) until it is terminated by either NSCC or OCC upon the bankruptcy or insolvency of the other, provided that the election to terminate is communicated to the other party within three business days by written notice.

Under the proposed New Accord, NSCC would agree to notify OCC if NSCC ceases to act for a Common Member pursuant to the NSCC Rules no later than the earlier of NSCC's provision of notice of such action to the governmental authorities or notice to other NSCC Members. Furthermore, if an NSCC Member for which NSCC has not yet ceased to act fails to satisfy its Clearing Fund obligations to NSCC, NSCC would be required to notify OCC promptly after discovery of the failure. Likewise, OCC would be required to notify NSCC of the suspension of a Common Member no later than the earlier of OCC's provision of notice to the governmental authorities or other OCC Clearing Members.

Under the Existing Accord, NSCC and OCC agree to share certain reports and information regarding settlement activity and obligations under the agreement. The New Accord would enhance this information sharing between the clearing agencies. Specifically, NSCC and OCC would agree to share certain information, including general risk management due diligence regarding Common Members, lists of Common Members, and information regarding the amounts of Common Members' margin and settlement obligations at OCC or Clearing Fund Required Deposits at NSCC. NSCC and OCC would also be required to provide the other clearing agency with any other information that the other reasonably requests in connection with the performance of its obligations under the New Accord. All such information would be required to be kept confidential, using the same care and discretion that each clearing agency uses for the safekeeping of its own members' confidential information. NSCC and OCC would each be required to act in good faith to resolve and notify the other of any errors, discrepancies or delays in the information it provides.

The New Accord also would include new terms to provide that, to the extent one party is unable to perform any obligation as a result of the failure of the other party to perform its responsibilities on a timely basis, the time for the non-failing party's performance would be extended, its performance would be reduced to the extent of any such impairment, and it would not be liable for any failure to perform its obligations. Further, NSCC and OCC would agree that neither party would be liable to the other party in connection with its performance of its obligations under the proposed New Accord to the extent it has acted, or omitted or ceased to act, with the permission or at the direction of a governmental authority. Moreover, the proposed New Accord would provide that in no case would either clearing agency be liable to the other for punitive, incidental or consequential damages. The purpose of these new provisions is to provide clear and specific terms regarding each clearing agency's liability for non-performance under the agreement.

[19] Option contracts with ''standard'' expirations expire on the third Friday of the specified expiration month, while ''non-standard'' contracts expire on other days of the expiration month.

The proposed New Accord would also contain the usual and customary representations and warranties for an agreement of this type, including representations as to the parties' good standing, corporate power and authority and operational capability, that the agreement complies with laws and all government documents and does not violate any agreements, and that all of the required regulatory notifications and filings would be obtained prior to the New Accord's effective date. It would also include representations that the proposed New Accord constitutes a legal, valid and binding obligation on each of OCC and NSCC and is enforceable against each, subject to standard exceptions. Furthermore, the proposed New Accord would contain a force majeure provision, under which NSCC and OCC would agree to notify the other no later than two hours upon learning that a force majeure event has occurred and both parties would be required to cooperate in good faith to mitigate the effects of any resulting inability to perform or delay in performing.

Proposed Amendments to NSCC Procedures III and XV of the NSCC Rules

Given the key differences between the Existing Accord and the New Accord, as described above, NSCC proposes certain changes to Procedures III and XV of the NSCC Rules in order to accommodate the terms of the New Accord. In particular, NSCC would update Section B of Procedure III to define the scope of the New Accord. First, the proposed Section B of Procedure III would identify the E&A/Delivery Transactions, and would make clear that the New Accord would apply only to E&A/Delivery Transactions that are in either CNS Securities or Balance Order Securities, as such terms are defined in the NSCC Rules. The proposed Section B of Procedure III would also define the Common Members, or firms that must be named as counterparties to E&A/Delivery Transactions, as ''Participating Members.'' The proposal would describe the Guaranty Substitution Time and would describe the circumstances under which the Guaranty Substitution would not occur. Finally, the proposed Section B of Procedure III would describe how E&A/Delivery Transactions for which the Guaranty Substitution has occurred would be processed at NSCC both if they are covered by the proposed New Accord and if they are not covered by the proposed New Accord because, for example, they are not transactions in CNS Securities or Balance Order Securities or were not submitted for regular way settlement.

Finally, NSCC is also proposing to amend Procedure XV to remove reference to the exclusion of E&A/Delivery Transactions from the calculation of the mark-to-market margin component of its Clearing Fund calculations, which is no longer applicable under the proposed New Accord where the Guaranty Substitution would replace the transfer of a defaulting Common Member's margin payments under the Existing Accord. As such, NSCC is not proposing any change to its margining methodology, but will include E&A/Delivery Transactions in the calculation the mark-to-market margin component of Common Members' Clearing Fund Required Deposits following implementation of the New Accord.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act, requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.[20] NSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act[21] and the rules thereunder applicable to NSCC for the reasons set forth below.

In connection with the proposal to enhance the timing of the Guaranty Substitution, the proposed New Accord, and related changes to the NSCC Rules, would establish clear, transparent, and enforceable terms for the settlement of OCC's cleared Stock Options and Stock Futures through the facilities of NSCC. Specifically, the New Accord would continue to provide a sound framework for the settlement of certain Stock Options issued and cleared by OCC through the facilities of NSCC and would extend this framework to a clearly defined scope of additional Stock Options and Stock Futures transactions. In addition, the proposed rule change would simplify the settlement process for those Stock Options currently settled under the Existing Accord by clarifying the timing and mechanisms by which OCC's guaranty ends and NSCC's guaranty begins by focusing on the timing of the Guaranty Substitution, as described in detail above. By clarifying and simplifying the settlement process for these transactions, the New Accord would operate to minimize the risk of interruptions to clearing agency operations in the event of a Common Member default, and, in this way, would promote the prompt and accurate clearance and settlement of securities transactions.

In addition, by eliminating any ambiguity regarding which clearing agency is responsible for guaranteeing settlement at any given moment, the proposal to enhance the timing of the Guaranty Substitution would provide greater certainty that in the event of a Common Member default, the default would be handled pursuant to the rules and procedures of the clearing agency whose guarantee is then in effect and the system for the clearance and settlement of Stock Options and Stock Futures would continue with minimal interruption. This greater certainty would strengthen OCC's and NSCC's ability to plan for and manage, and therefore would mitigate, the risk presented by Common Member defaults. It would also minimize the ''double margining'' issue that occurs under the Existing Accord so that Common Members would no longer be required to post margin at both clearing agencies to cover the same E&A/Delivery Transactions, thereby reducing their potential exposures across multiple clearing agencies for the same positions. In this way, the New Accord is designed to safeguard the securities and funds which are in the custody or control of NSCC or for which it is responsible.

The proposals to expand the category of securities eligible for settlement and guarantee and to apply uniform treatment to standard and non-standard options under the New Accord would provide consistent treatment across all expiries for products with regular way settlement cycle specifications, and would promote the prompt and accurate clearance and settlement of these additional securities transactions.

In connection with the proposal to enhance the information sharing arrangement between NSCC and OCC, NSCC and OCC would agree to share certain information, including general risk management due diligence regarding Common Members, lists of Common Members, and information regarding the amounts of Common Members' margin and settlement obligations at OCC or Clearing Fund Required Deposits at NSCC. In this way, the New Accord would foster cooperation and coordination between

[20] 15 U.S.C. 78q–1(b)(3)(F).

[21] *Id.*

OCC and NSCC in the settlement of securities transactions.

Finally, the proposed changes to the NSCC Rules would provide additional clarity, transparency, and certainty around the application of the New Accord to the applicable E&A/Delivery Transactions. By providing its Members with this additional clarity, transparency, and certainty in the NSCC Rules, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds which are in the custody or control of NSCC or for which it is responsible.

Therefore, for the reasons stated above, NSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[22]

Rule 17Ad–22(e)(1) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[23] The New Accord would constitute a legal, valid and binding obligation on each of OCC and NSCC, which is enforceable against each clearing agency. In connection with the proposal to enhance the timing of the Guaranty Substitution, the New Accord would establish clear, transparent, and enforceable terms for the settlement of OCC's cleared Stock Options and Stock Futures through the facilities of NSCC and would simplify the settlement process for those Stock Options currently settled under the Existing Accord. By clarifying the timing and mechanisms by which OCC's Guaranty ends and NSCC's Guaranty begins by focusing on the timing of the Guaranty Substitution, the new Accord, specifically the proposal to enhance the timing of the Guaranty Substitution, would provide a clear, transparent and enforceable legal basis for OCC's and NSCC's obligations during the event of a Common Member default. As a result, NSCC believes that the proposal is consistent with the requirements of Rule 17Ad–22(e)(1).[24]

Rule 17Ad–22(e)(20) under the Act requires, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies or financial market utilities.[25]

NSCC is proposing to adopt the New Accord in order to address the risks it has identified related to its existing link with OCC within the Existing Accord. Specifically, under the terms of the Existing Accord, even after NSCC's guarantee has come into effect, OCC is not released from its guarantee with respect to the Options E&A until certain deadlines have passed on the first business day following the scheduled settlement date without NSCC notifying OCC that the relevant Common Member has failed to meet an obligation to NSCC and/or NSCC has ceased to act for such firm. This current process results in a period of time where NSCC's trade guarantee and OCC's guarantee both apply to the same positions, and, therefore, both clearing agencies are holding margin against the same Options E&A position. As a result, the Existing Accord provides for a more complicated framework for the settlement of certain Stock Options. These complications could give rise to inconsistencies with regard to the development and application of interdependent policies and procedures between OCC and NSCC, which could lead to unanticipated disruptions in OCC's or NSCC's clearing operations.

In connection with the proposal to enhance the timing of the Guaranty Substitution, the New Accord would provide for a clearer, simpler framework for the settlement of certain Stock Options and Stock Futures by pinpointing a specific moment in time, the Guaranty Substitution Time, at which guarantee obligations would transfer from OCC to NSCC. The New Accord would eliminate any ambiguity regarding which clearing agency is responsible for guaranteeing settlement at any given moment. Establishing a precise Guaranty Substitution Time would also provide greater certainty that in the event of a Common Member default, the default would be handled pursuant to the rules and procedures of the clearing agency whose guarantee is then in effect and the system for the clearance and settlement of Stock Options and Stock Futures would continue with minimal interruption. This greater certainty would strengthen OCC's and NSCC's ability to plan for and manage, and therefore would mitigate, the risk presented by Common Member defaults to OCC and NSCC, other members, and the markets the clearing agencies serve. Therefore, through the adoption of the proposal to enhance the timing of the Guaranty Substitution, NSCC would more effectively manage its risks related to the operation of the New Accord.

Moreover, in connection with the proposal to put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the New Accord, NSCC and OCC would agree to share certain information, including general surveillance information regarding their members, so that each clearing agency would be able to effectively identify, monitor, and manage risks that may be presented by certain Common Members. Accordingly, NSCC believes the proposed changes are reasonably designed to identify, monitor, and manage risks related to the link established between OCC and NSCC for the settlement of certain Stock Options and Stock Futures in a manner consistent with Rule 17Ad–22(e)(20).[26]

Finally, Rule 17Ad–22(e)(21) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, be efficient and effective in meeting the requirements of its participants and the markets it serves.[27] As noted above, under the Existing Accord, even after NSCC's guarantee has come into effect, OCC is not released from its guarantee with respect to the Options E&A until certain deadlines have passed on the first business day following the scheduled settlement date without NSCC notifying OCC that the relevant Common Member has failed to meet an obligation to NSCC and/or NSCC has ceased to act for such firm. This results in a period of time where NSCC's guarantee overlaps with OCC's guarantee and where both clearing agencies are holding margin against the same Options E&A positions. In connection with the proposal to enhance the timing of the Guaranty Substitution, the New Accord would minimize this ''double margining'' issue by introducing a new Guaranty Substitution Time, which would normally occur as soon as NSCC has received all Required Deposits to the Clearing Fund from Common Members, which have been calculated taking into account the relevant E&A/Delivery Transactions, rather than require reimbursement payments from one clearing agency to the other. As a result, Common Members would no longer be required to post margin at both clearing agencies to cover the same E&A/Delivery Transactions. NSCC believes

[22] *Id.*

[23] 17 CFR 240.17Ad–22(e)(1).

[24] *Id.*

[25] 17 CFR 240.17Ad–22(e)(20).

[26] *Id.*

[27] 17 CFR 240.17Ad–22(e)(21).

that, by simplifying the terms of the existing agreement in this way, the New Accord is designed to be efficient and effective in meeting the requirements of OCC's and NSCC's participants and the markets they serve.

Additionally, the proposal to put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the New Accord would create new efficiencies in the management of this important link between OCC and NSCC. The proposal to enhance information sharing between OCC and NSCC would allow the clearing agencies to more effectively identify, monitor, and manage risks that may be presented by certain Common Members, and would create new efficiencies in their general surveillance efforts with respect to these firms.

In these ways, NSCC believes the proposed New Accord is consistent with the requirements of Rule 17Ad–22(e)(21).[28]

The proposed rule change is not inconsistent with the existing NSCC Rules, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[29] NSCC does not believe the proposed rule change would have any impact or impose any burden on competition. The primary purpose of the proposed rule change is to adopt a clearer, simpler framework for the settlement of Stock Options issued by OCC and settled through the facilities of NSCC, through the introduction of a new Guaranty Substitution Time. The proposed New Accord would also extend this framework to both (1) Stock Options contracts in securities that are eligible to be settled through NSCC's Balance Order Accounting Operation and (2) certain delivery obligations arising from matured physically-settled Stock Futures contracts cleared by OCC that are eligible to be settled through NSCC's CNS Accounting Operation or Balance Order Accounting Operation. The New Accord would put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the agreement. NSCC is also proposing to make certain clarifying and conforming changes to the NSCC Rules as necessary to implement the New Accord. None of these proposed rule changes, either individually or together, would affect Common Members' access to NSCC's services, nor would any of these proposed changes disadvantage or favor any particular user in relationship to another user. As such, NSCC believes that the proposed changes would not have any impact or impose any burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received. NSCC will notify the Commission of any written comments received by NSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

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–NSCC–2017–007 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–NSCC–2017–007. 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 NSCC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSCC–2017–007 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[30]

Eduardo A. Aleman,

Assistant Secretary.

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[28] *Id.*

[29] 15 U.S.C. 78q–1(b)(3)(I).

[30] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80919; File No. SR–BatsBZX–2017–41)]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats BZX Exchange, Inc.'s Options Platform

June 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

notice is hereby given that on June 1, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') 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 Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fees and rebates applicable to Members [5] and non-Members of the Exchange pursuant to BZX Rule 15.1(a) and (c). The text of the proposed rule change is attached as Exhibit 5.

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule for its equity options platform (''BZX Options'') to: (i) Increase the standard fee provided by fee code PC; (ii) decrease the standard rebate provided by fee code PN; (iii) modify the conditions and rebates of the Firm,[6] Broker Dealer [7] and Joint Back Office [8] Non-Penny Pilot [9] Add Volume Tiers 1 and 2 under footnote 8; and (iv) eliminate the (A) Firm, Broker Dealer and Joint Back Office, Penny Pilot Add Volume Tier 2 under footnote 2; (B) Away Market Maker [10] Penny Pilot Add Volume Tiers 1 and 3 under footnote 10; and (C) Customer [11] Penny Pilot Take Volume Tier under footnote 14.

Fee Code PC

Currently, fee code PC charges a standard fee of $0.49 per contract for Customer orders that remove liquidity on the Exchange in Penny-Pilot securities.[12] The Exchange proposes to increase this fee to $0.50 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect new rate.

Fee Code PN

Currently, fee code PN provides a standard rebate of $0.30 per contract for Away Market Maker orders that add liquidity on the Exchange in Penny-Pilot securities. The Exchange proposes to reduce this rebate to $0.26 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect new rate.

Firm, Broker Dealer and Joint Back Office Non-Penny Add Volume Tiers

The Exchange currently offers three Firm, Broker Dealer and Joint Back Office Non-Penny Add Volume Tiers under footnote 8, which provide an enhanced rebate ranging from $0.45 to $0.82 per contract for qualifying orders that add liquidity in Non Penny Pilot Securities and yields fee code NF.[13] The Exchange now proposes to modify Tier 1 and Tier 2's required criteria and rebate.

Currently under Tier 1, Member's orders that yield fee code NF will receive an enhanced rebate of $0.45 per contract where they have an ADV [14] greater than or equal to 0.20% of average OCV.[15] First, the Exchange proposes to reduce the rebate provided under Tier 1 from $0.45 per contract to $0.33 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect the new rate. Second, the Exchange proposes to increase the tier's ADV requirement from 0.20% to 1.00%. Going forward, Member's orders that yield fee code NF will receive an enhanced rebate of $0.33 per contract where they have an ADV greater than or equal to 1.00% of average OCV.

Currently under Tier 2, Member's orders that yield fee code NF will receive an enhanced rebate of $0.60 per contract where they have an ADV greater than or equal to 0.35% of average OCV. First, the Exchange proposes to reduce the rebate provided under Tier 1 from $0.60 per contract to $0.53 per contract. The Exchange also proposes to update the Standard Rates table accordingly to reflect the new rate. Second, the Exchange proposes to amend the Tier's criteria by increasing the tier's current ADV requirement from 0.35% to 3.00% and to add a second criteria under which the Member must also have an ADAV [16] in Market

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] ''Firm'' applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. *See* the Exchange's fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[7] ''Broker Dealer'' applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation (''OCC''). *Id.*

[8] ''Joint Back Office'' applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. *Id.*

[9] ''Penny Pilot Securities'' are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.*

[10] ''Away Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. *Id.*

[11] ''Customer'' applies to any transaction identified by a Member for clearing in the Customer range at the OCC, excluding any transaction for a Broker Dealer or a ''Professional'' as defined in Exchange Rule 16.1. *See* the Exchange's fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[12] ''Penny Pilot Securities'' are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01. *Id.*

[13] Fee code NF is appended to Firm, Broker Dealer and Joint Back Office orders in Non-Penny Pilot Securities that add liquidity. Orders that yield fee code NF are provided a rebate of $0.30 per contract. *Id.*

[14] ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day. *Id.*

[15] ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *Id.*

[16] ''ADAV'' means average daily added volume calculated as the number of contracts added and ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day. *See* the Exchange's fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

Maker [17] orders greater than or equal to 2.75% of average OCV. Going forward, Member's orders that yield fee code NF will receive an enhanced rebate of $0.53 per contract where they have an: (i) ADV greater than or equal to 3.00% of average OCV; (ii) and ADAV in Market Maker orders greater than or equal to 2.75% of average OCV.

Firm, Broker Dealer and Joint Back Office, Penny Pilot Add Volume Tiers

The Exchange currently offers two Firm, Broker Dealer and Joint Back Office, Penny Pilot Add Volume Tiers under footnote 2, which provide an additional rebate of $0.43 or $0.46 per contract for qualifying Firm, Broker Dealer and Joint Back Office orders that add liquidity in Penny Pilot Securities that yield fee code PF.[18] The Exchange now proposes to delete Tier 2 under footnote 2. Under Tier 2, a Member's orders that yield fee code PF would have received an enhanced rebate of $0.43 per contract where they have an: (i) An ADV greater than or equal 0.50% of average OCV; and an (ii) ADAV in Away Market Maker, Firm, Broker Dealer and Joint Back Office orders greater than or equal to 0.40% of average OCV. The Exchange also proposes update the Standard Rates table accordingly to reflect deletion of the rate.

Away Market Maker Penny Pilot Add Volume Tiers

The Exchange currently offers three Away Market Maker Penny Pilot Add Volume Tiers under footnote 10, which provide an enhanced rebate ranging from $0.40 to $0.45 per contract for qualifying Away Market Maker orders that add liquidity in Penny Pilot Securities that yield fee code PN.[19] The Exchange now proposes to delete current Tiers 1 and 3 under footnote 10 and to update the Standard Rates table accordingly to reflect deletion of the rate. Under the current Tier 1, a Member's orders that yield fee code PN would have received an enhanced rebate of $0.40 per contract where they have an an [sic] ADV greater than or equal 0.40% of average OCV. . [sic] Under the current Tier 3, a Member's orders that yield fee code PN would have received an enhanced rebate of $0.43 per contract where they have an: (i) An ADV greater than or equal 0.50% of average OCV; and an (ii) ADAV in Away Market Maker, Firm, Broker Dealer and Joint Back Office orders greater than or equal to 0.40% of average OCV.

Customer Penny Pilot Take Volume Tier

The Exchange proposes to delete the tier described under footnote 14 of the fee schedule. The Exchange offers a single Customer Penny Pilot Take Volume Tier under footnote 14, by which a Member's orders that yield fee code PC [20] would have received a reduced fee of $0.48 per contract where that Member had an: (i) ADAV in Customer orders greater than or equal to 0.50% of average OCV; and (ii) on the Exchange's equities trading platform (''BZX Equities'') an ADAV of 0.50% of average TCV.[21] The Exchange also proposes to update the Standard Rates table accordingly to reflect deletion of the rate.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule on June 1, 2017.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[22] in general, and furthers the objectives of Section 6(b)(4),[23] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or incentives to be insufficient. The proposed rule changes reflect a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange.

Fee Codes PC and PN

The Exchange believes that its proposals to increase the fee charged by fee code PC and decrease the rebate provided by fee code PN are fair and equitable and reasonable because the proposed rates remain consistent with pricing previously offered by the Exchange as well as its competitors and does not represent a significant departure from the Exchange's general pricing structure. Specifically, the proposed rebate for fee code PN is higher than the rebate provided by the Nasdaq Stock Market LLC (''Nasdaq'') to non-Nasdaq Market Markers that add liquidity in Penny Pilot Securities on the Nasdaq Options Market (''NOM'').[24] In addition, the proposed rate for fee code PC equals the rate NOM charges for Customer orders that remove liquidity in Penny Pilot Securities.[25] Lastly, the proposed changes to fee codes PC and PN are not unfairly discriminatory because they will apply equally to all Members.

Tier Modifications

The Exchange believes that the proposed modifications to the tiered pricing structure are reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing such as that proposed herein have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price

[17] ''Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is registered with the Exchange as a Market Maker as defined in Rule 16.1(a)(37). *Id.*

[18] Fee code PF is appended to Firm, Broker Dealer and Joint Back Office orders in Penny Pilot Securities that add liquidity. Orders that yield fee code PF are provided a rebate of $0.25 per contract. *Id.*

[19] Fee code PN is appended to Away Market Market orders in Penny Pilot Securities that add liquidity. Orders that yield fee code PN are provided a rebate of $0.30 per contract. *Id.*

[20] Fee code PC is appended to Customer orders in Penny Pilot Securities that remove liquidity. Orders that yield fee code PC are charged a fee of $0.49 per contract. Id.

[21] ''TCV'' means total consolidated volume calculated as the volume reported by all exchanges to the consolidated transaction reporting plan for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *See* the Exchange's fee schedule *available at http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[22] 15 U.S.C. 78f.

[23] 15 U.S.C. 78f(b)(4).

[24] *See* Section 2(1) of the NOM fee schedule *available at http://www.nasdaqtrader.com/Micro.aspx?id=OptionsPricing* (providing a standard rebate of $0.10 per contract to non-NOM market makers that add liquidity).

[25] *Id.*

and volume discovery processes. In particular, the proposed changes to footnote 8 are intended to further incentivize Members to send increased order flow to the Exchange in an effort to qualify for the enhanced rebates made available by the tiers, which in turn, contributes to the growth of the Exchange. The Exchange also believes the rebate associate with each tier is reasonable as they continue to reflect the difficultly in achieving the corresponding tier. These incentives remain reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, including liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes. The proposed changes to the tiered pricing structure are not unfairly discriminatory because they will apply equally to all Members.

Lastly, the Exchange believes that eliminating Tier 2 under footnote 2, Tiers 1 and 3 under footnote 10, and the Cross Asset Tier under footnote 14 is reasonable, fair, and equitable because these tiers were not providing the desired results of incentivizing Members to increase their participation on the Exchange. As such, the Exchange also believes that the proposed elimination of these tiers would be non-discriminatory in that they currently apply equally to all Members and, upon elimination, would no longer be available to any Members. Further, their elimination could allow the Exchange to explore other pricing mechanisms such as those described herein, in which it may enhance market quality for all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed changes represent a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed changes to the Exchange's standard fees, rebates and tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [26] and paragraph (f) of Rule 19b–4 thereunder.[27] 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–BatsBZX–2017–41 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–BatsBZX–2017–41. 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–BatsBZX–2017–41 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12760 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

[26] 15 U.S.C. 78s(b)(3)(A).

[27] 17 CFR 240.19b–4(f).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80925; File No. SR–CBOE–2017–047]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

June 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') 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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is also 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.

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 its Fees Schedule. Specifically, the Exchange proposes to make an amendment to its rebate program for Floor Broker Trading Permits. By way of background, Footnote 25, which governs rebates on Floor Broker Trading Permits, currently provides that any Floor Broker that executes a certain average of customer open-outcry contracts per day over the course of a calendar month in all underlying symbols excluding Underlying Symbol List A (except RLG, RLV, RUI, AWDE, FTEM, FXTM and UKXM), DJX, XSP, XSPAM and subcabinet trades (''Qualifying Symbols''), will receive a rebate on that TPH's Floor Broker Trading Permit fees. Particularly, any Floor Broker Trading Permit Holder (''TPH'') that executes an average of 15,000 customer (origin code ''C'') open-outcry contracts per day over the course of a calendar month in Qualifying Symbols will receive a rebate of $9,000 on that TPH's Floor Broker Trading Permit fees. Additionally, any Floor Broker TPH that executes an average of 25,000 customer open-outcry contracts per day over the course of a calendar month in Qualifying Symbols will receive a rebate of $14,000 on that TPH's Floor Broker Trading Permit fees. The Exchange proposes to provide that Professional Customers and Voluntary Professionals (''Professional Customers'') (origin code ''W'') orders would also count towards the qualifying volume thresholds. The Exchange believes the inclusion of Professional Customer orders in the qualifying thresholds will encourage Floor Brokers to execute more Professional Customer orders.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[3] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[4] 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, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[5] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that permitting Professional Customer orders to count towards the qualifying volume thresholds for the Floor Broker Trading Permit rebates is reasonable because it will allow Floor Brokers to more easily reach the qualifying volume thresholds (and thereafter pay lower Floor Broker Trading Permit fees). The Exchange believes the proposed change is equitable and not unfairly discriminatory because it applies to qualifying Floor Brokers equally and because Floor Brokers serve an important function in facilitating the execution of orders via open outcry, which as a price-improvement mechanism, the Exchange wishes to encourage and support. The Exchange also notes that, while only Customer and Professional Customer orders would count towards the qualifying thresholds, an increase in Customer and Professional Customer order flow would bring greater volume and liquidity, which benefits all market participants by providing more trading opportunities and tighter spreads. Moreover, like Customers, Professional Customers are non-TPH, non-broker dealers and have historically also been treated similar as customers for certain programs. Indeed, the Exchange notes that incentive programs based on Customer and Professional volume already exist elsewhere within the industry.[6]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because while the proposed change benefits Floor Broker TPHs that reach the qualifying volume thresholds, Floor Brokers serve an important function in facilitating the execution of orders via open outcry, which as a price-improvement mechanism, the Exchange wishes to encourage and support. Further, the proposed change is designed to encourage the execution of more Professional Customer orders, which volume creates greater trading opportunities that benefit all market participants. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change only affects trading on CBOE. To the extent that the proposed change makes CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

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.

[3] 15 U.S.C. 78f(b).

[4] 15 U.S.C. 78f(b)(5).

[5] 15 U.S.C. 78f(b)(4).

[6] *See e.g.,* NYSE Arca Options Fees and Charges, Customer and Professional Customer Incentive Program and Customer and Professional Customer Posting Credit Tiers in Penny and Non Penny Pilot Issues.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [7] and paragraph (f) of Rule 19b–4 [8] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–047 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2017–047. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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–CBOE–2017–047 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12766 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80935; File No. SR–NYSEArca–2017–36]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To Adopt a New NYSE Arca Equities Rule 8.900 and To List and Trade Shares of the Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF Under Proposed NYSE Arca Equities Rule 8.900

June 15, 2017.

On April 14, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt new NYSE Arca Equities Rule 8.900 to permit it to list and trade Managed Portfolio Shares. The Exchange also proposed to list and trade shares of Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF under proposed NYSE Arca Equities Rule 8.900. The proposed rule change was published for comment in the **Federal Register** on May 4, 2017.[3] The Commission has received three comment letters on the proposed rule change.[4]

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is June 18, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change and the comment letters. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates August 2, 2017, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File Number SR–NYSEArca–2017–36).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12885 Filed 6–19–17; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80553 (April 28, 2017), 82 FR 20932.

[4] *See* letters from: (1) Gary Gastineau, President, ETF Consultants.com, Inc., dated May 24, 2017; (2) Todd J. Broms, Chief Executive Officer, Broms & Company LLC, dated May 25, 2017; and (3) James Angel, Associate Professor of Finance, Georgetown University, McDonough School of Business, dated May 25, 2017. The comment letters are available at *https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80936; File No. SR–IEX–2017–21]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing of a Proposed Rule Change To Adopt Rule 15.130 To Establish the Procedures for Resolving Potential Disputes Related to CAT Fees Charged to Industry Members

June 15, 2017.

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 June 6, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'' or ''SEC'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to adopt Rule 15.130 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members.[6] The text of the proposed rule change is available at the Exchange's Web site at *www.iextrading.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 the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[7] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[8] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[9] and Rule 608 of Regulation NMS thereunder,[10] the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[11] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[12] and approved by the Commission, as modified, on November 15, 2016.[13] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[14] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[15] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[16] Accordingly, IEX has filed a proposed rule change with the SEC to adopt the Consolidated Audit Trail Funding Fees, which will require Industry Members that are IEX members to pay the CAT Fees determined by the Operating Committee.[17] IEX submits this rule filing to adopt Rule 15.130 (Consolidated Audit Trail—Fee Dispute Resolution) to establish the procedures for resolving potential disputes related to CAT Fees charged to Industry Members. Proposed Rule 15.130 is described below.

(1) Definitions

Paragraph (a) of Proposed Rule 15.130 sets forth the definitions for Proposed Rule 15.130. Paragraph (a)(1) of Proposed Rule 15.130 states that, for purposes of Rule 15.130, the terms ''CAT NMS Plan'', ''Industry Member'', ''Operating Committee'', and ''Participant'' are defined as set forth in the Rule 11.610 (Consolidated Audit Trail—Definitions), and the term ''CAT Fee'' is defined as set forth in the Consolidated Audit Trail Funding Fees. In addition, IEX proposes to add paragraph (a)(2) to Proposed Rule 15.130. New paragraph (a)(2) would define the term ''Subcommittee'' to mean a subcommittee designated by the

[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)(1).

[5] 17 CFR 240.19b–4.

[6] Unless otherwise specified, capitalized terms used in this rule filing are defined as set forth herein, or in the Consolidated Audit Trail Funding Fees Rule, the CAT Compliance Rule Series or in the CAT NMS Plan.

[7] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Rel. No. 80248 (Mar. 15, 2017), 82 FR 14547 (Mar. 21, 2017); Securities Exchange Act Rel. No. 80326 (Mar. 29, 2017), 82 FR 16460 (Apr. 4, 2017); and Securities Exchange Act Rel. No. 80325 (Mar. 29, 2017), 82 FR 16445 (Apr. 4, 2017).

[8] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Rel. No. 79902 (Jan. 30, 2017), 82 FR 9258 (Feb. 3, 2017).

[9] 15 U.S.C. 78k–1.

[10] 17 CFR 242.608.

[11] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[12] Securities Exchange Act Rel. No. 77724 (Apr. 27, 2016), 81 FR 30614 (May 17, 2016).

[13] Securities Exchange Act Rel. No. 79318 (Nov. 15, 2016), 81 FR 84696 (Nov. 23, 2016) (''Approval Order'').

[14] The Plan also serves as the limited liability company agreement for the Company.

[15] Section 11.1(b) of the CAT NMS Plan.

[16] *Id.*

[17] *See* SR–IEX–2017–03 [sic] filed with the Commission on May 3 [sic], 2017.

Operating Committee pursuant to the CAT NMS Plan. This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan.

(2) Fee Dispute Resolution

Section 11.5 of the CAT NMS Plan requires Participants to adopt rules requiring that disputes with respect to fees charged to Industry Members pursuant to the CAT NMS Plan be determined by the Operating Committee or Subcommittee. Section 11.5 of the CAT NMS Plan also states that decisions by the Operating Committee or Subcommittee on such matters shall be binding on Industry Members, without prejudice to the right of any Industry Member to seek redress from the SEC pursuant to SEC Rule 608 or in any other appropriate forum. IEX proposes to adopt paragraph (b) of Proposed Rule 15.130. Paragraph (b) of Proposed Rule 15.130 states that disputes initiated by an Industry Member with respect to CAT Fees charged to such Industry Member pursuant to the Consolidated Audit Trail Funding Fees, including disputes related to the designated tier and the fee calculated pursuant to such tier, shall be resolved by the Operating Committee, or a Subcommittee designated by the Operating Committee, of the CAT NMS Plan, pursuant to the Fee Dispute Resolution Procedures adopted pursuant to the CAT NMS Plan and set forth in paragraph (c) of Proposed Rule 15.130. Decisions on such matters shall be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

The Operating Committee has adopted ''Fee Dispute Resolution Procedures'' governing the manner in which disputes regarding CAT Fees charged pursuant to the Consolidated Audit Trail Funding Fees will be addressed. These Fee Dispute Resolution Procedures, as they relate to Industry Members, are set forth in paragraph (c) of Proposed Rule 15.130. Specifically, the Fee Dispute Resolution Procedures provide the procedure for Industry Members that dispute CAT Fees charged to such Industry Member pursuant to one or more of the Participants' Consolidated Audit Trail Funding Fees Rules, including disputes related to the designated tier and the fee calculated pursuant to such tier, to apply for an opportunity to be heard and to have the CAT Fees charged to such Industry Member reviewed. The Procedures are modeled after the adverse action procedures adopted by various exchanges,[18] and will be posted on the Web site for the CAT NMS Plan Web site.[19]

Under these Procedures, an Industry Member that disputes CAT Fees charged to such Industry Member and that desires to have an opportunity to be heard with respect to such disputed CAT Fees must file a written application with the Company within 15 business days after being notified of such disputed CAT Fees. The application must identify the disputed CAT Fees, state the specific reasons why the applicant takes exception to such CAT Fees, and set forth the relief sought. In addition, if the applicant intends to submit any additional documents, statements, arguments or other material in support of the application, the same should be so stated and identified.

The Company will refer applications for hearing and review promptly to the Subcommittee designated by the Operating Committee pursuant to Section 4.12 of the CAT NMS Plan with responsibility for conducting the reviews of CAT Fee disputes pursuant to these Procedures. This Subcommittee will be referred to as the Fee Review Subcommittee. The members of the Fee Review Subcommittee will be subject to the provisions of Section 4.3(d) of the CAT NMS Plan regarding recusal and Conflicts of Interest. The Fee Review Subcommittee will keep a record of the proceedings.

The Fee Review Subcommittee will hold hearings promptly. The Fee Review Subcommittee will set a hearing date. The parties to the hearing shall furnish the Fee Review Subcommittee with all materials relevant to the proceedings at least 72 hours prior to the date of the hearing. Each party will have the right to inspect and copy the other party's materials prior to the hearing.

The parties to the hearing will consist of the applicant and a representative of the Company who shall present the reasons for the action taken by the Company that allegedly aggrieved the applicant. The applicant is entitled to be accompanied, represented and advised by counsel at all stages of the proceedings.

The Fee Review Subcommittee will determine all questions concerning the admissibility of evidence and will otherwise regulate the conduct of the hearing. Each of the parties will be permitted to make an opening statement, present witnesses and documentary evidence, cross examine opposing witnesses and present closing arguments orally or in writing as determined by the Fee Review Subcommittee. The Fee Review Subcommittee also will have the right to question all parties and witnesses to the proceeding. The Fee Review Subcommittee must keep a record of the hearing. The formal rules of evidence will not apply.

The Fee Review Subcommittee must set forth its decision in writing and send the written decision to the parties to the proceeding. Such decisions will contain the reasons supporting the conclusions of the Fee Review Subcommittee.

The decision of the Fee Review Subcommittee will be subject to review by the Operating Committee either on its own motion within 20 business days after issuance of the decision or upon written request submitted by the applicant within 15 business days after issuance of the decision. The applicant's petition must be in writing and must specify the findings and conclusions to which the applicant objects, together with the reasons for such objections. Any objection to a decision not specified in writing will be considered to have been abandoned and may be disregarded. Parties may petition to submit a written argument to the Operating Committee and may request an opportunity to make an oral argument before the Operating Committee. The Operating Committee will have sole discretion to grant or deny either request.

The Operating Committee will conduct the review. The review will be made upon the record and will be made after such further proceedings, if any, as the Operating Committee may order. Based upon such record, the Operating Committee may affirm, reverse or modify, in whole or in part, the decision of the Fee Review Subcommittee. The decision of the Operating Committee will be in writing, will be sent to the parties to the proceeding and will be final.

The Procedures state that a final decision regarding the disputed CAT Fees by the Operating Committee, or the Fee Review Subcommittee (if there is no review by the Operating Committee), must be provided within 90 days of the date on which the Industry Member filed a written application regarding disputed CAT Fees with the Company. The Operating Committee may extend the 90-day time limit at its discretion.

In addition, the Procedures state that any notices or other documents may be served upon the applicant either personally or by leaving the same at its,

[18] *See, e.g.,* Chapter X of BATS BZX Exchange, Inc. (Adverse Action); and Chapter X of NYSE National, Inc. (Adverse Action).

[19] The CAT NMS Plan Web site is *www.catnmsplan.com.*

his or her place of business or by deposit in the United States post office, postage prepaid, by registered or certified mail, addressed to the applicant at its, his or her last known business or residence address. The Procedures also state that any time limits imposed under the Procedures for the submission of answers, petitions or other materials may be extended by permission of the Operating Committee. All papers and documents relating to review by the Fee Review Subcommittee or the Operating Committee must be submitted to the Fee Review Subcommittee or Operating Committee, as applicable.

The Procedures also note that decisions on such CAT Fee disputes made pursuant to these Procedures will be binding on Industry Members, without prejudice to the rights of any such Industry Member to seek redress from the SEC or in any other appropriate forum.

Finally, an Industry Member that files a written application with the Company regarding disputed CAT Fees in accordance with these Procedures is not required to pay such disputed CAT Fees until the dispute is resolved in accordance with these Procedures, including any review by the SEC or in any other appropriate forum. For these purposes, the disputed CAT Fees means the amount of the invoiced CAT Fees that the Industry Member has asserted pursuant to these Procedures that such Industry Member does not owe to the Company. The Industry Member must pay any invoiced CAT Fees that are not disputed CAT Fees when due as set forth in the original invoice.

Once the dispute regarding CAT Fees is resolved pursuant to these Procedures, if it is determined that the Industry Member owes any of the disputed CAT Fees, then the Industry Member must pay such disputed CAT Fees that are owed as well as interest on such disputed CAT Fees from the original due date (that is, 30 days after receipt of the original invoice of such CAT Fees) until such disputed CAT Fees are paid at a per annum rate equal to the lesser of (i) the Prime Rate plus 300 basis points, or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions Section 6(b)(5) of the Act,[20] which require, among other things, that the Exchange rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 6(b)(4) of the Act,[21] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using its facilities.

IEX believes that this proposal is consistent with the Act because it implements, interprets or clarifies Section 11.5 of the Plan, and is designed to assist IEX and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [22] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, IEX believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

Section 6(b)(8) of the Act [23] require [sic] that Exchange rules not impose any burden on competition that is not necessary or appropriate. IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. IEX notes that the proposed rule change implements Section 11.5 of the CAT NMS Plan approved by the Commission, and is designed to assist IEX in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed rule to implement the requirements of the CAT NMS Plan. Therefore, this is not a competitive rule filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

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.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(4).

[22] Approval Order at 84697.

[23] 15 U.S.C. 78f(b)(8)

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–IEX–2017–21 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–IEX–2017–21. 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–IEX–2017–21, and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12886 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Implementing the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934—Form TCR and Form WB–APP, OMB Control No. 3235–0686, SEC File No. 270–625.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit an extension for this current collection of information to the Office of Management and Budget for approval.

In Release No. 34–64545,[1] the Commission adopted rules (''Rules'') and forms to implement Section 21F of the Securities Exchange Act of 1934 entitled ''Securities Whistleblower Incentives and Protection,'' which was created by Section 922 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (''Dodd-Frank Act'').[2] The Rules describe the whistleblower program that the Commission has established pursuant to the Dodd-Frank Act which requires the Commission to pay an award, subject to certain limitations and conditions, to whistleblowers who voluntarily provide the Commission with original information about a violation of the federal securities laws that leads to the successful enforcement of a covered judicial or administrative action, or of a related action. The Rules define certain terms critical to the operation of the whistleblower program, outline the procedures for applying for awards and the Commission's procedures for making decisions on claims, and generally explain the scope of the whistleblower program to the public and to potential whistleblowers.

Form TCR is a form submitted by whistleblowers who wish to provide information to the Commission and its staff regarding potential violations of the securities laws. Form TCR is required for submission of information under the Rules. The Commission estimates that it takes a whistleblower, on average, one and one-half hours to complete Form TCR. Based on the receipt of approximately 700 annual responses on average for the past three fiscal years, the Commission estimates that the annual PRA burden of Form TCR is 1,050 hours.

Form WB–APP is a form that is submitted by whistleblowers filing a claim for a whistleblower award. Form WB–APP is required for application for an award under the Rules. The Commission estimates that it takes a whistleblower, on average, two hours to complete Form WB–APP. The completion time depends largely on the complexity of the alleged violation and the amount of information the whistleblower possesses in support of his or her application for an award. Based on the receipt of approximately 150 annual responses on average for the past three fiscal years, the Commission estimates that the annual PRA burden of Form WB–APP is 300 hours. The total estimated annual reporting burden for Form TCR and Form WB–APP is 1,350 hours.

Written comments are invited on: (a) Whether this collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden imposed by the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication. Please direct your written comments to Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov*.

Dated: June 15, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12832 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, June 22, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Chairman Clayton, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: June 15, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–12898 Filed 6–16–17; 11:15 am]

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[24] 17 CFR 200.30–3(a)(12).

[1] Implementation of the Whistleblower Provisions of Section 21F of the Securities Exchange Act of 1934, Release No. 34–64545; File No. S7–33–10 (adopted May 25, 2011).

[2] Public Law 111–203, 922(a), 124 Stat 1841 (2010).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80929; File No. SR–NYSEArca–2017–40]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change in Connection With the Proposed Merger of Its Wholly Owned Subsidiary NYSE Arca Equities, Inc. With and Into the Exchange

June 14, 2017.

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 June 2, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In connection with the proposed merger of its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'') with and into the Exchange, the Exchange proposes to amend (1) Article III, Sections 3.01, 2.02 and 4.02 of the Amended and Restated NYSE Arca, Inc. Bylaws (''Bylaws''); (2) certain Rules of the Exchange to facilitate the integration of NYSE Arca Equities and create a single rulebook; (3) the NYSE Arca Options Fee Schedule (the ''Options Fee Schedule''); and (4) the Schedule of Fees and Charges for Exchange Services (the ''Listing Fee Schedule''). In addition, the Exchange proposes to remove the NYSE Arca Equities organizational documents, rules of NYSE Arca Equities, and NYSE Arca Equities Schedule of Fees and Charges for Exchange Services (''Equities Fee Schedule'') from the Exchange rules and adopt a new fee schedule for the Exchange equity market (''NYSE Arca Equities Fee Schedule''). 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 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 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

In connection with the proposed merger of its wholly owned subsidiary NYSE Arca Equities with and into the Exchange (''Merger''), the Exchange proposes to amend (1) Article III, Sections 3.01, 2.02 [sic] and 4.02 of the Bylaws; (2) certain Rules of the Exchange to facilitate the integration of NYSE Arca Equities and create a single rulebook; (3) the Options Fee Schedule; and (4) the Listing Fee Schedule. In addition, the Exchange proposes to remove the NYSE Arca Equities organizational documents, rules of NYSE Arca Equities, and Equities Fee Schedule from the Exchange rules and adopt a new NYSE Arca Equities Fee Schedule in connection with the proposed merger.

Presently, the Exchange has delegated certain responsibilities to its subsidiary NYSE Arca Equities to operate its equities market. The Exchange also has two rulebooks, the NYSE Arca rules for the options market and the NYSE Arca Equities rules for the equities market. Following the Merger, the Exchange will be the surviving entity, and it will directly operate both the Exchange's options and equities markets, with one rulebook. The Exchange is proposing amendments in order to reflect that change.

More specifically, the proposed amendments would allow the Exchange to directly operate both markets by:

1. Terminating the existing delegation to NYSE Arca Equities;

2. amending the Exchange's corporate governance structure to (a) integrate Equities Trading Permit holders (''ETP Holders'') [4] into the process for appointing members of the Board of Directors (''Board''), (b) provide that the holding member, NYSE Group, Inc. (''NYSE Group'') determines the size of the Board; (c) integrate ETP Holders into the Board and Permit Holder Committees; and (d) add the existing NYSE Arca Equities Business Conduct Committee to the Exchange rules;

3. integrating the current NYSE Arca Equities rules into the NYSE Arca rules, so that the Exchange has a single rulebook; and

4. adopting the proposed NYSE Arca Equities Fee Schedule for the Exchange equity market and amending the Options Fee Schedule and Listing Fee Schedule.

The Exchange addresses each item in turn below.

The Exchange proposes that the rule change proposed herein would become operative upon the completion of the Merger. The Exchange would complete the Merger following approval of this rule filing, on a date determined by its Board.

I. Termination of Delegation

The Exchange has delegated certain responsibilities to its subsidiary NYSE Arca Equities to operate its equities market. However, the Exchange retains ultimate responsibility for its equities market, including the responsibility to ensure the fulfillment of statutory and self-regulatory obligations.[5] NYSE Arca Equities is not a national securities exchange.

The Exchange proposes to terminate the delegation of functions to NYSE Arca Equities (''Delegation'') currently set forth in NYSE Arca Equities Rule 14.2 (NYSE Arca Equities Inc. ('NYSE Arca Equities')). NYSE Arca Equities Rule 14.1 (NYSE Arca, Inc.), which sets forth the authority and functions retained by the Exchange, would become obsolete as a result. Accordingly, neither would be carried over into the Exchange rules.

In connection with the termination of the Delegation, the NYSE Arca Equities Certificate of Incorporation and Bylaws, rules of NYSE Arca Equities and Equities Fee Schedule would be removed from the Exchange rules.

[4] An Equities Trading Permit is referred to as an ''ETP.''

[5] *See* NYSE Arca Equities Rule 3.4 (stating that NYSE Arca, ''as a self-regulatory organization registered with the Securities and Exchange Commission pursuant to Section 6 of the Exchange Act, shall have ultimate responsibility in the administration and enforcement of rules governing the operation of its subsidiary, NYSE Arca Equities, Inc.''). *See also* NYSE Arca Equities Rule 14.1.

II. Proposed Changes to the Exchange's Corporate Governance

A. Composition of the Board and Appointment of Non-Affiliated Directors of the Post-Merger Entity

Pursuant to the Merger, the Exchange proposes to incorporate the ETP Holders into the process for selecting Exchange Board members. In addition, it proposes to implement certain other changes regarding the composition of the Board that would make the provisions regarding the Exchange's Board more consistent with the governing documents of the Exchange's national securities exchange affiliates, New York Stock Exchange LLC (''NYSE LLC''), NYSE MKT LLC (''NYSE MKT''), and NYSE National, Inc. (''NYSE National'' and collectively, the ''SRO Affiliates'').

Because the relevant provisions are found in both the Bylaws and the Rules of the Exchange, in order to implement the proposed governance changes the Exchange would amend Bylaws Article III, Sections 3.01(b) (Powers) and 3.02(a) (Number; Election; Qualification; Term; Nomination) and Rule 3.2(b)(2) (Exchange Committees). These proposed changes are described below.

Bylaws Article III, Section 3.01(b)

The Exchange proposes to amend Bylaws Article III, Section 3.01(b) to add definitions of ETP Holders, Options Trading Permit Holders (''OTP Holders'') [6] and Permit Holders. The changes would also incorporate the ETP Holders in the statement of the authority of the Board. Accordingly, the Exchange proposes to make the following changes to Section 3.01(b) (new text italicized; deleted text bracketed):

(b) The Board of Directors shall exercise all such powers of the Exchange and do all such lawful acts and things as are not by law, the Certificate, these Bylaws or the Rules directed or required to be exercised, done or approved by the Holding Member, [or] the options trading permit holders who are permitted to trade on the Exchange's facilities for the trading of options that are securities as covered by the Exchange Act (collectively, ''*Options Trading* Permit Holders'') *or the equities trading permit holders who are permitted to trade on the Exchange's facilities for the trading of equities that are securities as covered by the Exchange Act (collectively, ''Equities Trading Permit Holders'' and, together with the Options Trading Permit Holders, the ''Permit Holders'').*

Bylaws Article III, Section 3.02(a)

The Exchange proposes to make several amendments to Bylaws Article III, Section 3.02(a), which sets forth the Board composition requirements.

First, the Exchange proposes to remove the requirement that the Board consist of between eight and 12 directors, with the number to be determined by the Board itself. The revised provision would provide that the number of directors shall be determined from time to time by the holding member, NYSE Group, provided that the Board meets the composition requirements set forth in the provision. To clarify what specific composition requirements must be met, the Exchange proposes to move the third and fourth sentences of Section 3.02(a), which set forth the requirements, to clauses (1) and (2) of the first sentence. In the new clause (2), the Exchange proposes to add the defined term ''Non-Affiliated Directors'' for directors nominated by the permit holders, which must make up at least 20 percent of the members of the Board.

The proposed changes would make the revised first sentence of Section 3.02(a) consistent with the board composition provisions in the governing documents of the SRO Affiliates. Like the proposed changes, the governing documents of the SRO Affiliates provide that NYSE Group (as the sole member or sole shareholder, as applicable) determines the number of board members, set forth the relevant board's compensation requirements in numbered clauses, and require that at least 20 percent of the board shall be non-affiliated directors.[7]

Currently, at least one Exchange Non-Affiliated Director is nominated by the OTP Holders and at least one is nominated by the ETP Holders. Proposed clause (2) of the revised first sentence would instead provide that the ''Permit Holders''—including both the OTP Holders and ETP Holders—nominate the Non-Affiliated Directors.

The Exchange believes that the proposed change would be consistent with the process for nominating non-affiliated directors of NYSE MKT. Similar to the structure of NYSE Arca and NYSE Arca Equities, NYSE MKT operates the NYSE MKT equity market, and NYSE MKT's facility NYSE Amex Options LLC (''NYSE Amex Options'') operates its options market.[8] Under the NYSE MKT Operating Agreement, all member organizations participate in the process for nominating non-affiliated directors.[9] Because both options trading permit holders (''ATP Holders'') and equity member organizations are member organizations, as that term is defined in the NYSE MKT Operating Agreement, non-affiliated directors are nominated by both types of member organizations in a single process.[10]

The Exchange believes that the proposed change also would be consistent with the governing documents of The NASDAQ Stock Market LLC (''Nasdaq LLC''), which is the sole member of The NASDAQ Options Market LLC (''NOM''). NOM, which operates the options trading facility of Nasdaq LLC, does not have its own board of directors.[11] Under the bylaws of Nasdaq LLC, each ''member representative director'' is nominated by a member nominating committee. If the election is contested, the Nasdaq LLC members vote on the nomination in a single process.[12] The options participants and other members do not vote separately.

The Exchange believes that the proposed change would also be consistent with the governing documents of Nasdaq BX, Inc. (''Nasdaq BX''). Nasdaq BX's controlled subsidiary, Nasdaq OMX BX Equities LLC, operates the equities trading facility of Nasdaq BX and, like NOM, does not have its own board of

[6] An Options Trading Permit is referred to as an ''OTP.''

[7] *See* Article III, Section 3.2(a) of the Fourth Amended and Restated By-laws of NYSE National, Inc. (''NYSE National By-laws''); Section 2.03(a)(i) of the Eleventh Amended and Restated Operating Agreement of New York Stock Exchange LLC (''NYSE LLC Operating Agreement''); and Section 2.03(a)(i) of the Tenth Amended and Restated Operating Agreement of NYSE MKT LLC (''NYSE MKT Operating Agreement''). *See also* Securities Exchange Act Release Nos. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017) (SR–NSX–2016–16) and 80523 (April 25, 2017), 82 FR 20399 (May 1, 2017) (SR–CBOE–2017–017).

[8] *See* Amended and Restated Limited Liability Company Agreement of NYSE Amex Options LLC, Section 3.1(b). NYSE MKT is the only SRO Affiliate with both an equities and an options market.

[9] *See* NYSE MKT Operating Agreement, Article II, Section 2.03(a) (iii)–(v). Under the NYSE MKT Operating Agreement, the nominating committee recommends candidates for the non-affiliate directors, and announces them to the member organizations. If a petition candidate receives sufficient member organization signatures, the recommended candidates and petition candidates are submitted to the member organizations for a vote.

[10] *See* NYSE MKT Operating Agreement, Article II Section 2.02 (defining ''member organization'' to include members and member organizations of NYSE MKT); and NYSE MKT Rule 900.2NY(5) (''references to 'member', 'member organization' and '86 Trinity Permit Holder' as those terms are used in the Rules of the Exchange should be deemed to be references to ATP Holders''); *see also* NYSE MKT Rule 2—Equities (setting forth the definitions of member and member organization).

[11] *See* Limited Liability Company Agreement of The Nasdaq Options Market LLC, Section 9(a) (providing that the ''management of the Company shall be vested in the Member'').

[12] *See* By-laws of The NASDAQ Stock Market LLC, Article I (q) and Article II, Section 1 and 2. A Nasdaq LLC member is defined as ''any registered broker or dealer that has been admitted to membership in the national securities exchange operated by'' Nasdaq LLC. *Id.,* Article I(t).

directors.[13] As with Nasdaq LLC, each ''member representative director'' of its board of directors is nominated by a member nominating committee. If the election is contested, the exchange members vote on the nomination in a single process.[14]

The Exchange proposes to add a new fifth sentence to Section 3.02(a) stating that, if 20 percent of the directors is not a whole number, the number of directors to be nominated and selected by the Permit Holders will be rounded up to the next whole number. As a result, the current fifth sentence, which provides that the Board shall determine the exact number of each category of directors on the Board, would no longer be needed. The proposed change would be consistent with the governing documents of the SRO Affiliates, each of which have a similar provision for calculating the minimum number of non-affiliated directors, and do not authorize the SRO Affiliate's board of directors to determine the number of directors in each category.[15]

The revised Section 3.02(a) would be as follows (new text italicized; deleted text bracketed):

The Board of Directors shall consist of [not less than eight (8) or more than twelve (12) directors, with the Board of Directors to consist initially of ten (10) directors, including the Chief Executive Officer of the Holding Member. The authorized] *a* number of directors *(''Directors'')* [shall be] as determined from time to time by the [Board of Directors. A] *Holding Member; provided that (1)* at least fifty percent (50%) of the directors will be persons from the public and will not be, or be affiliated with, a broker-dealer in securities or employed by, or involved in any material business relationship with, the Exchange or its affiliates (''Public Directors'')[. A]*; and (2) a*t least twenty percent (20%) of the directors shall consist of individuals nominated by the [trading permit holders, with at least one director nominated by the Equities Trading Permit Holders of NYSE Arca Equities, Inc., and with at least one director nominated by the] Permit Holders of the Exchange *(''Non-Affiliated Directors''). For purposes of calculation of the minimum number of Non-Affiliated Directors, if 20 percent of the Directors is not a whole number, such number of Directors to be nominated and selected by the Permit Holders will be rounded up to the next whole number.* [The exact number of Public Directors and Permit Holder Directors shall be determined from time to time by the Board of Directors, subject to the percentage restrictions described in this Section 3.02(a).] The term of office of a director shall not be affected by any decrease in the authorized number of directors.

Rule 3.2(b)(2)

Current Rule 3.2(b)(2) sets forth the membership requirements for the nominating committee (''Nominating Committee''), which nominates the OTP Holder member of the Board, and sets forth the nominating committee and petition processes.[16] The Exchange proposes to revise Rule 3.2(b)(2) to incorporate the proposed changes to Bylaws Section 3.02(a).

Pursuant to Rule 3.2(b)(2)(A), the Nominating Committee is made up of six OTP Holders or allied persons or associated persons of an OTP Firm. The Exchange proposes to incorporate the ETP Holders into the membership of the committee by amending Rule 3.2(b)(2)(A) to reduce the number of OTP-related members to three, and adding the requirement that the Nominating Committee include three ETP Holders or allied persons or associated persons of an ETP Holder.[17]

Current Rule 3.2(b)(2)(C)(ii) sets forth the nominating committee and petition processes. In order to incorporate the ETP Holders into the nominating and petition processes and integrate the proposed changes to Bylaws Section 3.02(a), the Exchange proposes to make the following changes:

- To include ETP Holders, ''OTP Holder'' and ''OTP Holders'' would be replaced with ''Permit Holder'' and ''Permit Holders,'' respectively.
- The first sentence of the provision states that the Nominating Committee shall publish the name of one OTP Holder or allied person or associated person of an OTP Firm as its nominee for the Exchange Board. The sentence would be revised to (a) allow ETP Holders or Allied Persons or Associated Persons of an ETP Holder to be nominees; and (b) provide the option to nominate more than one Non-Affiliated Director.
- The second sentence sets forth how, if the Board has more than 10 members, the determination will be made whether the additional permit holder representative should be an OTP or an ETP Holder. In continuation, the next sentence begins with ''If it is determined that the additional representative is an OTP Holder.'' The Exchange proposes to delete the second sentence and the cited text from the third sentence. The proposed changes to the Bylaws would no longer provide for two separate categories of permit holder directors, and so no determination would be required.
- The third sentence would be amended to clarify that the Nominating Committee would be required to name sufficient nominees so that at least 20 percent of the directors were Non-Affiliated Directors, by replacing ''nominate additional'' with ''name sufficient.'' The generic reference to ''individuals nominated by trading permit holders'' would be replaced with the more specific ''Non-Affiliated Directors.''
- In the current fifth sentence, the definition of ''Permit Holders'' would be added, and ''OTP Holder position'' would be replaced with ''Non-Affiliated Director position.''
- The current sixth sentence sets forth the limits on what percentages of signatories to a petition can be from a given OTP Holder, OTP Firm or associated OTP Holders and Firms. In order to incorporate ETP Holders in the limitation, the Exchange would add a new clause (z), based on NYSE Arca Equities Rule 3.2(b)(2)(C)(i), including ETP Holders who are deemed affiliates of the relevant Permit Holder. Finally, ''an OTP Holder's position'' would be replaced with ''Non-Affiliated Director position(s).''

The revised provision would be as follows (new text italicized; deleted text bracketed):

The Nominating Committee shall publish the name of one (1) *or more* OTP Holder or Allied Person or Associated Person of an OTP Firm *or ETP Holder or Allied Person or Associated Persons of an ETP Holder* as its nominee*(s)* for *Non-Affiliated Directors of* the Board of Directors of the NYSE Arca, Inc. [Should the Board of Directors be made up of more than 10 individuals, as set forth in Section 3.02 of the Bylaws, then the Public Directors, after consulting with the CEO, shall determine whether the additional permit holder representative is an OTP Holder or an Equity Trading Permit Holder of NYSE Arca Equities, Inc. If it is determined that the additional representative is an OTP Holder, then t]*T*he Nominating Committee shall *name sufficient[*nominate additional] nominees so that at least twenty percent (20%) of the Directors consist of [individuals nominated by trading permit holders]*Non-Affiliated Directors.* The names of the nominees shall be published on a date in each year (the ''Announcement Date'') sufficient to accommodate the process described in this Rule 3.2(b)(2)(C). After the name of proposed nominee(s) is published,

[13] *See* NASDAQ OMX BX Equities LLC Fifth Amended and Restated Operating Agreement Article 3, Section 3.1; Article 4, Section 4.1; Delegation Agreement between Nasdaq BX and Nasdaq OMX BX Equities LLC.

[14] *See* By-laws of NASDAQ BX, Inc., Article IV, Section 4.4.

[15] *See* Section 2.03(a)(i) of the NYSE LLC Operating Agreement; Section 2.03(a)(i) of the NYSE MKT Operating Agreement; and Article III, Section 3.2(a) of the NYSE National By-Laws. The Exchange notes that the term ''Permit Holder Directors,'' would be deleted in the proposed change. Such term is not used elsewhere in the By-laws.

[16] Current Rule 3.2(b)(2) would be renumbered as proposed Rule 3.2(b)(3). For ease of reference, the current rule numbering is used.

[17] The rules regarding the Equities Market do not have ETP Firms.

OTP Holders *and ETP Holders (together,* ''*Permit Holders*''*)* in good standing may submit a petition to the Exchange in writing to nominate additional eligible candidate(s) to fill the [OTP Holder]*Non-Affiliated Director* position*(s)* during the next term. If a written petition of at least 10 percent of [OTP]*Permit* Holders in good standing is submitted to the Nominating Committee within two weeks after the Announcement Date, such person(s) shall also be nominated by the Nominating Committee; provided, however, that no [OTP]*Permit* Holder, either alone or together with (x) other OTP Holders associated with the same OTP Firm that such [OTP]*Permit* Holder is associated with*,* [and] (y) OTP Holders associated with OTP Firms that are affiliated with the OTP Firm that such [OTP]*Permit* Holder is associated with*, and (z) other ETP Holders who are deemed its affiliates,* may account for more than 50% of the signatories to the petition endorsing a particular petition nominee for the [OTP Holder's] *Non-Affiliated Director* position*(s)* on the Board of Directors of the NYSE Arca, Inc. Each petition for a petition candidate must include a completed questionnaire used to gather information concerning director candidates (the Exchange shall provide the form of questionnaire upon the request of any [OTP]*Permit* Holder). Notwithstanding anything to the contrary, the Nominating Committee shall determine whether any petition candidate is eligible to serve on the Board of Directors (including whether such person is free of any statutory disqualification (as defined in section 3(a)(39) of the Exchange Act)), and such determination shall be final and conclusive.

Current Rule 3.2(b)(2)(C)(iii) sets forth the process for selecting a nominee when the number of nominees exceeds the number of available seats. To integrate the ETP Holders into the process, the Exchange proposes to make the following changes:

• ''OTP Holder'' and ''OTP Holders'' would be replaced with ''Permit Holder'' and ''Permit Holders,'' respectively, and ''OTP Holder's position'' would be replaced with ''Non-Affiliated Director position(s).''

• The third sentence sets forth the limits on what percentages of votes can be from a given OTP Holder, OTP Firm or associated OTP Holders and Firms. In order to incorporate ETP Holders in the limitation, the Exchange would add a new clause (z), based on NYSE Arca Equities Rule 3.2(b)(2)(C)(ii), including ETP Holders who are deemed affiliates of the relevant Permit Holder.

The revised provision would be as follows (new text italicized; deleted text bracketed): In the event that the number of nominees exceeds the number of available seats, the Nominating Committee shall submit the contested nomination to the [OTP]*Permit* Holders for selection. [OTP]*Permit* Holders shall be afforded a confidential voting procedure and shall be given no less than 20 calendar days to submit their votes. Each [OTP]*Permit* Holder in good standing may select one nominee for the contested seat on the Board of Directors; provided, however that no [OTP]*Permit* Holder, either alone or together with (x) other OTP Holders associated with the same OTP Firm that such [OTP]*Permit* Holder is associated with*,* [and] (y) OTP Holders associated with OTP Firms that are affiliated with the OTP Firm that such [OTP]*Permit* Holder is associated with*, and (z) other ETP Holders who are deemed its affiliates,* may account for more than 20% of the votes cast for a particular nominee for the [OTP Holder's] *Non-Affiliated Director* position*(s)* on the Board of Directors of NYSE Arca, Inc. With respect to [the]*any* contested position, the nominee for the Board of Directors receiving the most votes of [OTP]*Permit* Holders shall be submitted by the Nominating Committee to the Board of Directors of the NYSE Arca, Inc. Tie votes shall be decided by the Board of Directors at its first meeting following the election.

Finally, Rule 3.2(b)(2)(C)(i) sets forth the membership of the initial board of directors of the Exchange. The Exchange proposes to replace the obsolete provision with ''Reserved.''

Rule 3.3(a)(2)

Rule 3.3 sets forth the provisions regarding Board Committees. In accordance with the proposed changes to the Board composition, the Exchange proposes to amend Rule 3.3(a)(2), regarding the Committee for Review (''CFR''). Specifically, in Rule 3.3(a)(2)(A) ''NYSE Arca Equities'' would be replaced with ''the Exchange'' and the text ''OTP Director(s), the ETP Director(s) and the Public Directors of both NYSE Arca and NYSE Arca Equities'' would be amended to state ''Non-Affiliated Director(s) and the Public Directors of the Exchange.'' In Rule 3.3(a)(2)(B), the text ''Director that is an OTP Holder or Allied Person or Associated Person of an OTP Firm'' would be amended to state ''Non-Affiliated Director.''

B. Board and Permit Holder Committees

In order to integrate the ETP Holders and the NYSE Arca Equities committees into the Exchange committee structure, the Exchange proposes to amend Bylaws Article IV, Section 4.02 (''Permit Holder Committees''), Rule 3.1 (Overview), Rule 3.2 (Options Committees), and Rule 3.3 (Board Committees).

Article IV, Section 4.02

Bylaws Article IV, Section 4.02 lists the Exchange committees. The Exchange proposes to add the Exchange disciplinary committee, called the ''Ethics and Business Conduct Committee'' (''EBCC'') [18] to the list in the first sentence of Section 4.02 and to the defined term for ''Permit Holder Committees'' in the second sentence. The NYSE Arca Equities disciplinary committee, the ''Business Conduct Committee'' (''BCC'') [19] is already listed in Section 4.02.

In addition, the Exchange proposes to remove two obsolete references to the Permit Holder Advisory Committee. There are no other references to a Permit Holder Advisory Committee in the By-laws or rules of the Exchange. The Exchange believes that the references were meant to refer to the OTP Advisory Committee, which no longer exists, as its functions were assumed by the Committee for Review.[20]

Rules 3.1, 3.2 and 3.3

Rule 3.1 sets forth the Board's authority to establish committees that consist partly or entirely of directors of the Exchange (each, a ''Board Committee'') and committees consisting of people other than directors of the Exchange (each, an ''Options Committee''). Rule 3.2 sets forth the provisions governing Options Committees, including the Ethics and Business Conduct Committee and Nominating Committee.

The Exchange proposes to revise Rules 3.1 and 3.2 to integrate the ETP Holders. Specifically, the Exchange proposes to make the following changes:

• In Rules 3.1 and 3.2, the Exchange proposes to replace ''Options Committee'' and ''Options Committees'' with ''Exchange Committee'' and ''Exchange Committees,'' respectively.

• In Rule 3.2(a)(8), which governs the eligibility for, and appointment to, Options Committees, the Exchange proposes to add ETP Holders to the list of persons eligible for appointment, by adding ''or ETP Holder'' after ''Any OTP Holder'' and adding ''or of an ETP Holder'' after ''OTP Firm'' in the first sentence, and '', ETP Holders,'' after ''OTP Holders'' and ''or of an ETP Holder'' after ''OTP Firm'' in the third sentence.

• In Rule 3.2(a)(9), which governs naming alternate members, the Exchange proposes to add ''ETP Holders,'' after ''OTP Holders.''

[18] *See* NYSE Arca Rule 3.2(b)(1) (Options Committees) (setting forth the composition, functions and authority of the EBCC).

[19] *See* NYSE Arca Equities Rule 3.2(b)(1) (Equity Committees) (setting forth the composition, functions and authority of the BCC).

[20] *See* Securities Exchange Release No. 77898 (May 24, 2016), 81 FR 34404 (May 31, 2016) (SR–NYSEArca–2016–11).

The Exchange proposes to add the current NYSE Arca Equities BCC to the Exchange Rules as an Exchange Committee in new Rule 3.2(b)(2). The proposed text would be the same as the language in current NYSE Arca Equities Rule 3.2(b)(1), except that:

- The references to NYSE Arca Equities Rules 4, 10 and 11.9 would be updated to references to Rules 4–E, 10 and 13.9, respectively.
- References to the ''Board,'' which in the present rule means the board of directors of NYSE Arca Equities, would become references to the Board of the Exchange.

Pursuant to proposed Rule 3.2(b)(1) and (2), disciplinary proceedings of NYSE Arca involving OTP Holders, OTP Firms, and associated persons would continue to be heard by the EBCC, while disciplinary proceedings of NYSE Arca Equities involving ETP Holders and associated persons would continue to be heard by the BCC.

Conforming Changes in Rule 3

The Exchange proposes to make conforming changes in other provisions of Rule 3. Specifically, in Rules 3.7 (Dues, Fees and Charges), 3.8 (Liability for Payment), and 3.10 (Certain Relationships), the Exchange proposes to add ''ETP Holders,'' before ''OTP Holders'' and ''ETP Holder'' before ''OTP Holder,'' respectively. In Rule 3.10(b), the Exchange propose to add ''ETP Holder or'' before ''OTP Firm.''

C. Proposed Rule 3.12

The Exchange proposes to add new Rule 3.12 (NYSE Arca, L.L.C. and Archipelago Securities, L.L.C.), which would address the access to and status of the books, records, premises, officers, directors, agents and employees of NYSE Arca, L.L.C. and Archipelago Securities, L.L.C. Proposed Rule 3.12 would be substantially the same as current NYSE Arca Equities Rule 14.3 (NYSE Arca, L.L.C. and Archipelago Securities, L.L.C.), with the following exceptions:

- In proposed Rule 3.12(a), the text ''the Exchange'' would replace ''NYSE Arca Equities''; ''NYSE Arca and NYSE Arca Equities''; and ''the NYSE Arca, NYSE Arca Equities.''
- In proposed Rule 3.12(f), the text '', NYSE Arca Equities'' would be deleted.

III. Integration of NYSE Arca Equities Rules Into the NYSE Arca Rules

A. Organization of the Proposed Revised NYSE Arca Rulebook

Presently, the Exchange has two rulebooks: the NYSE Arca rules for the options market and the NYSE Arca Equities rules for the equities market. In connection with the Merger and the termination of the Delegation, the Exchange proposes to integrate the two sets of rules into a single rulebook. The resulting rulebook would have three types of rules: rules that apply to both markets; rules that apply only to the options market, indicated by an ''–O'' at the end of the rule number; and rules that apply only to the equities market, indicated by an ''–E'' at the end of the rule number. More specifically:

- The following amended rules would apply to both markets and would be grouped under the heading ''General Rules'': NYSE Arca Rules 0 (Regulation of the Exchange, OTP Holders, OTP Firms and ETP Holders); 1 (Definitions); 2 (Trading Permits); and 3 (Organization and Administration).
- The following amended rules would apply to only to [sic] the options market, and would be grouped under the heading ''Options Rules'': NYSE Arca Rules 4–O (Capital Requirements, Financial Reports, Margins—Options); 5–O (Options Contracts Traded on the Exchange); 6–O (Options Trading); 7–O (General Options Trading Rules); 8–O (Reserved) and 9–O (Conducting Business with the Public—Options) (collectively, the ''Options Rules'').
- The following amended rules would apply to only to [sic] the equities market, and would be grouped under the heading ''Equities Rules'': NYSE Arca Rules 4–E (Capital Requirements, Financial Reports, Margins—Equities); 5–E (Equities Listings); 6–E (Order Audit Trail System); 7–E (Equities Trading); 8–E (Trading of Certain Equity Derivatives); and 9–E (Conducting Business with the Public—Equities) (collectively, the ''Equities Rules'').
- The following amended rules would apply to both markets and would be grouped under the heading ''Disciplinary and Miscellaneous Rules'': 10 (Disciplinary Proceedings, Other Hearings and Appeals); 11 (Business Conduct); 12 (Arbitration); 13 (Cancellation, Suspension and Reinstatement); and 14 (Liability of Directors and Exchange).

The Exchange's organization of its rules would be similar to that of its affiliate NYSE MKT, which has rules of general application and rules specific to its equity and options markets.[21]

Except as otherwise stated below, the proposed changes are not intended to change the substance of the NYSE Arca or NYSE Arca Equities rules, but are organizational in nature.[22]

Proposed Changes Applicable to Entire Rulebook

The following proposed changes would apply to the entire set of Exchange rules. To avoid needless repetition, when discussing specific Rules, the Exchange does not repeat the description of these global changes.

Throughout the rules, all cross references to the Options Rules would be updated to reflect the addition of ''–O'' to the rule numbers. Similarly, all cross references to the Equities Rules would be amended to reflect the addition of ''–E'' to the rule numbers and to delete ''Equities'' from ''NYSE Arca Equities Rule.'' For example, a cross reference ''NYSE Arca Equities Rule 5.2(j)(6)'' would be amended to ''NYSE Arca Rule 5.2–E(j)(6).''

Throughout the rules, cross references would be updated as needed, including cross references within a renumbered rule to the rule itself. For example, the Exchange proposes to add Commentary .01 from NYSE Arca Equities Rule 2.17 to Rule 2.18. The references to ''Rule 2.17'' within the Commentary would be updated to ''Rule 2.18'' accordingly.

The NYSE Arca Equities rules refer to NYSE Arca Equities, Inc., as the ''Corporation.'' [23] The term will be obsolete subsequent to the Merger, as NYSE Arca Equities will cease to exist. Accordingly, in all proposed rule text based on the NYSE Arca Equities rules, the Exchange proposes to replace ''Corporation'' and ''Corporation's'' with ''Exchange'' and ''Exchange's,'' respectively. Similarly, ''a Corporation'' would be changed to ''an Exchange.'' [24]

B. General Rules

Proposed revised Rules 0, 1, 2, and 3, which would apply to both the equities and options markets, would incorporate changes based on NYSE Arca Equities Rules 0 (Regulation of the Exchange and Exchange Trading Permit Holders); 1 (Definitions); 2 (Equity Trading Permits); and 3 (Organization and Administration), respectively. The proposed changes to Rules 0, 1 and 2 are addressed below. The proposed changes to Rule 3 are addressed in Part II, above.

[21] *See, e.g.* NYSE MKT Office Rules, Rules 300–590; NYSE MKT Section 900NY (Rules Principally Applicable to Trading of Option Contracts); and NYSE MKT Rule 0–Equities through Rule 6140–Equities.

[22] The Exchange will amend the present filing to reflect any amendments to Exchange rules before the date of approval.

[23] *See* NYSE Arca Equities Rule 1(k).

[24] *See e.g.,* NYSE Arca Equities Rules 2.21(f) (''a Corporation employee'') and 5.4(a) (''a Corporation listing standard'').

Rule 0 (Regulation of the Exchange, OTP Holders, and OTP Firms)

The text of Rule 0 and NYSE Arca Equities Rule 0 is the same. Accordingly, in order to incorporate the equities market, the sole change to Rule 0 would be to change its title to ''Regulation of the Exchange, OTP Holders, OTP Firms and ETP Holders.''

Rule 1 (Definitions)

The Exchange proposes to integrate Rule 1 and NYSE Arca Equities Rule 1 (Definitions) by (a) incorporating the text of definitions that are unique to NYSE Arca Equities Rule 1.1, and (b) amending definitions that the two rules have in common, as needed. The Exchange also proposes to delete definitions marked ''Reserved,'' put the definitions in alphabetical order, and renumber the definitions to reflect the changes.

Proposed New Definitions

The Exchange proposes to add the following definitions from NYSE Arca Equities Rule 1.1: Authorized Trader; Away Market; BBO; Core Trading Hours; Derivative Securities Product and UTP Derivative Securities Product; Effective National Market System Plan, Regular Trading Hours; Eligible Security; ETP; ETP Holder; FINRA; General Authorized Trader; Lead Market Maker; Marketable; Market Maker; Market Maker Authorized Trader; Market Participant; Nasdaq; NBBO, Best Protected Bid, Best Protected Offer, Protected Best Bid and Offer (PBBO); NMS Stock; Notice of Consent; Official Closing Price; Protected Bid, Protected Offer, Protected Quotation; Routing Agreement; Sponsored Participant; Sponsoring ETP Holder; Sponsorship Provisions; Stockholder Associate; Trade-Through; Trading Center: User; User Agreement; UTP Listing Market; and UTP Regulatory Halt.

The phrase ''[w]ith respect to equities traded on the Exchange'' would be added to the start of all the added definitions except the definitions for Eligible Security, ETP, ETP Holder, FINRA, Nasdaq, and NMS Stock.

The current definition of ETP Holder in NYSE Arca Equities Rule 1.1 provides that an ETP Holder would ''have limited voting rights to nominate two directors to the Exchange's Board of Directors and one Governor to the Board of Governors of the NYSE Arca Parent.'' The Exchange believes that such statement is not relevant to the definition and would be adequately addressed in proposed Bylaw 3.02 and Rule 3.2. Accordingly, when integrating the definition of ETP Holder, the Exchange proposes not to include the cited sentence, as well as to change ''NYSE Arca Parent'' to ''Exchange.''

Proposed Amendments to Rule 1

To incorporate NYSE Arca Equities Rule 1.1, the Exchange proposes to make the following amendments to the current definitions in Rule 1.1:

- In definitions that would apply to both OTPs and ETPs, the Exchange proposes to add references to ETPs and ETP Holders. Accordingly, ''ETP Holder'' and/or ''ETP Holders'' [25] would be added to the definitions of Allied Person; Approved Person; Associated Person; Good Standing; Participant; Registered Employee; and Trading Facilities. A reference to ''ETP'' would be added to the definition of Good Standing.
- Both ''Board'' and ''Board of Directors'' are used in the Rules to refer to the Board of Directors of NYSE Arca, but only ''Board'' is defined in Rule 1.1.[26] Accordingly, the Exchange proposes to expand the definition of ''Board'' so that both ''Board'' and ''Board of Directors'' are defined to mean the Board of Directors of NYSE Arca.
- The definitions of OTP Holder and OTP Firm provide that the OTP Holder or OTP Firm, as applicable, ''will have limited voting rights to nominate an OTP Holder to the Exchange's Board of Directors pursuant to Rule 3.2(b)(2)(C).'' As with the definition of ETP Holder, the Exchange believes that such statements are not relevant to the definitions and are addressed in Bylaw 3.02 and Rule 3.2. Accordingly it proposes to delete the cited sentences.[27]
- The definition of NYSE Arca Marketplace in the two rulebooks differs. However, while the term is used multiple times in the NYSE Arca Equities Rules, it is not used in the Exchange Rules other than in the definition itself. Accordingly, the Exchange proposes to delete the definition of NYSE Arca Marketplace in Rule 1.1(dd) and replace it with the definition in NYSE Arca Equities Rule 1(e), as well as to move it to conform to alphabetical order.
- In the definition of Security, the text '', provided, however, that for purposes of Rule 7–E such term means any NMS stock'' would be added at the end of the definition, consistent with NYSE Arca Equities Rule 1(rr).
- In the definition of Trading Facilities, ''equities,'' would be added after ''trading of.''

Rule 2 (Options Trading Permits)

The Exchange proposes to revise Rule 2 to incorporate NYSE Arca Equities Rule 2 (Equity Trading Permits), which sets forth the equivalent requirements for ETPs. To implement the change, the Exchange proposes to amend the title of Rule 2 from ''Options Trading Permits'' to ''Trading Permits,'' add two new rules, and amend the existing rules.

Proposed New Rules

The first new rule would be proposed Rule 2.24 (Registration—Employees of ETP Holders), which would be the same as current NYSE Arca Equities Rule 2.21 (Employees of ETP Holders Registration), with the exception of a revised title and updated rule references. Current Rules 2.24 through 2.26 would be renumbered as Rules 2.25 through 2.27 to reflect the addition of proposed Rule 2.24.

The second new rule would be proposed Rule 2.28 (Books and Records), which would be the same as current Rule 9.17 (Books and Records), with the addition of ''ETP Holder,'' ''ETP Holders,'' and '', as applicable.'' [28] To incorporate the provisions of current NYSE Arca Equities Rule 2.24 (ETP Books and Records), the Exchange proposes to add ''ETP Holders'' and ''ETP Holder'' before the terms ''OTP Holders and OTP Firms'' and ''OTP Holder or OTP Firm,'' respectively.[29]

Proposed Amendments to Rule 2

The Exchange proposes the following revisions to the titles of rules in Rule 2:

- In rules that would only apply to OTPs, the Exchange proposes to add ''OTP'' in the title. Accordingly, the title of Rule 2.2 (Qualifications and Application of Individual Applicants) would be revised to ''Qualifications and Application of Individual OTP

[25] Throughout the rules, when adding ''ETP,'' ''ETPs,'' ''ETP Holder'' or ''ETP Holders'' to a rule, the Exchange would utilize a comma, ''and'' or ''or'' as necessary to integrate it into the text.

[26] *See, e.g.,* Rules 2.3 (Qualifications of Firm Applicants), 2.14 (Allied Persons and Approved Persons), and 4.2(g) (Voting Agreement).

[27] The Exchange believes that the proposed changes to the definitions of ETP Holder, OTP Holder and OTP Firm would be consistent with the definitions of ''Member'' and ''Member Firm'' in the governing documents of NYSE and NYSE MKT, which do not refer to voting for non-affiliated directors. *See* NYSE Rule 2 and NYSE MKT Rule 2–Equities. *See also* Nasdaq Stock Market Equity Rule 0129(i) (definition of ''Member'' or ''Nasdaq Member'') and Options Rule 1(40) (definition of ''Options Participant'' or ''Participant'') and Seventh Amended and Restated Bylaws of Chicago Board Options Exchange, Inc., Article I, Section 1.1(f) (definition of ''Trading Permit Holder'').

[28] The Exchange proposes to replace the current text of Rule 9.17 with ''reserved.'' *See* proposed Rule 9.17.

[29] Rule 11.16 (Books and Records) would only apply to OTP Holders and OTP Firms, as there is no equivalent provision in the NYSE Arca Equities rules.

Applicants'' and the title of Rule 2.23 (Registration) would be revised to ''Registration—OTPs.''

• To indicate that the revised rule applies to both OTPs and ETPs, the Exchange proposes to (a) replace ''OTPs'' and ''OTP'' with ''Trading Permits'' in the titles of Rules 2.5 (Denial of or Conditions to OTPs) and 2.11 (Sole Proprietors and Individual OTP Holders), respectively; (b) add ''ETP Holder,'' to the titles of Rules 2.9 (Exchange Not Bound by OTP Holder and OTP Firm Agreements) and 2.17 (Amendments to OTP Firm or OTP Holder Documents); (c) add ''ETP Holders,'' to the title of Rule 2.12 (OTP Holders and OTP Firms); (d) delete ''OTP'' from the title of Rule 2.16 (Responsibilities of Non-Resident OTP Firms); (e) delete ''OTP Firm or OTP Holder'' from the title of Rule 2.19 (Exemption from OTP Firm or OTP Holder Registration Requirements); and (f) add ''ETP or'' to the title of Rules 2.21 (Limited Transferability of an OTP) and 2.22 (Termination of an OTP).

• To make the title more reflective of the Rule, the Exchange proposes to change the title of Rule 2.10 (Only OTP Firms and OTP Holders to Trade Under) to ''Carrying Accounts for Customers and Conducting Business Under a Firm Name.''

• To indicate that the proposed heading applies to both OTPs and ETPs, the Exchange proposes to add ''ETP or'' to the heading ''Requirements of Holding an OTP,'' which appears before Rule 2.7, and to the heading ''Obtaining an OTP,'' which appears before Rule 2.20. It also proposes to add ''and ETP Holders'' at the end of the heading ''Employees of OTP Firms,'' which appears before Rule 2.23.

The Exchange proposes the following revisions to the text of rules in Rule 2:

• In rules that would apply to both OTPs and ETP Holders, the Exchange proposes to add references to ETP Holders. Accordingly, ''ETP Holder'' and/or ''ETP Holders'' would be added to Rules 2.1 (Securities Business), 2.4(d) and (e) (Application Procedures), 2.5, 2.7 (Requirements Applicable Generally Revocable Privilege) through 2.9, 2.12 through 2.17, 2.18(a) and (b) (Activity Assessment Fees), 2.19, 2.21(b), 2.22, and proposed Rules 2.26 (Electronic Mail Address) and 2.27 (Exchange Backup Systems and Mandatory Testing). In addition, the Exchange proposes to add '', as applicable'' after ''OTP Firm'' in Rules 2.4(e) and 2.14(f).

• Similarly, the Exchange proposes to add ''ETP or'' before ''OTP'' in Rules 2.3(a), 2.4(d), (e) and (g), 2.5(a), (b) and (f), 2.7, 2.8 (No Liability for Using Facilities), 2.17(b), 2.21, and 2.22. In addition, the Exchange proposes to add '', as applicable'' after ''OTP'' in Rules 2.4(d) and (e), 2.8, 2.17(b) and 2.22(b).

• In Rules 2.1(b)(1) and 2.8, the Exchange proposes to add ''Certificate of Incorporation,'' before ''Bylaws'' consistent with NYSE Arca Equities Rule 2.1(b) (Securities Business) and 2.7 (No Liability for Using Trading Facilities), respectively.

Rule 2.4 sets forth the application procedures for OTPs. To add the procedures for ETPs, consistent with NYSE Arca Equities Rule 2.3 (Application Procedures), the Exchange proposes to make the following changes:

• Unlike Rule 2.4, NYSE Arca Equities Rule 2.3(a) provides that application fees are not transferable. Accordingly, the Exchange proposes to add a sentence to the end of Rule 2.4(a) stating that application fees for ETPs are not transferrable. In addition, in the first sentence of (a), the Exchange proposes to add the text ''person applying to become an ETP Holder, every'' after ''Every.'' In the second sentence of (a), it proposes to add the text ''person seeking to become an ETP Holder, every'' after ''Every'' and update the obsolete reference to ''the NASD'' to ''FINRA's.''

• In the second sentence of Rule 2.4(d), the Exchange proposes to add ''for OTPs, sole proprietor applicants for ETPs,'' after ''Individual applicants'' consistent with NYSE Arca Equities Rule 2.3(d), which references ''sole proprietor applicants'' but not individual applicants for ETPs.

• Rule 2.4(g) states that a petition for review of the denial of a trading permit must be filed within thirty calendar days of the date on which the Corporation's decision was mailed. The Exchange believes that the reference to the ''Corporation'' in Rule 2.4(g) is erroneous and should be to the ''Exchange's'' decision, as ''Corporation'' is not a defined term in Exchange rules. Accordingly, the Exchange proposes to make the corresponding change.

• Rule 2.4(h) states that the approval shall be withdrawn if an approved application is not activated within six months, but NYSE Arca Equities Rule 2.3 does not have a similar provision. Accordingly, the Exchange proposes to clarify that the provision only applies to OTPs by adding ''for an OTP'' after ''application.''

• Rule 2.4(i) states that an ETP Holder may use an expedited process to become an OTP Holder. Consistent with NYSE Arca Equities Rule 2.3(b), the Exchange proposes to add a new second sentence stating that an OTP Holder may use an expedited process to become an ETP Holder. Consistent with the change, the Exchange proposes to add, in the current second sentence, the text ''and Short Form ETP Holder Application'' after ''Short Form OTP Holder Application'' and the text ''or OTP Holder, as applicable,'' after ''ETP Holder.

Rule 2.5 provides that the Exchange may deny or may condition trading privileges under an OTP. Consistent with NYSE Arca Equities Rule 2.4 (Denial of or Conditions to ETPs), the Exchange proposes to make the following changes:

• In Rule 2.5(b)(10), the Exchange proposes to add the heading ''Series 7 Requirement'' and corresponding text from NYSE Arca Equities Rule 2.4(b)(10).

• The first sentence of Rule 2.5(c) requires that applicants complete an Exchange Orientation Program prior to admission to the trading floor or participation on a trading system. NYSE Arca Equities Rule 2.4 does not have a similar provision. Accordingly, the Exchange proposes to change the term ''all applicants'' to ''all OTP applicants.''

• In Rule 2.5(f), the Exchange proposes to add a second sentence providing that the BCC ''may take action against an ETP Holder under Rule 10 when any of the above reasons for denying or conditioning issuance of an ETP come into existence after an application has been approved and an ETP has been issued,'' corresponding to NYSE Arca Equities Rule 2.4(f).

Rule 2.10 addresses carrying accounts for customers and conducting business under a firm name. The Exchange proposes to add a second paragraph to Rule 2.10, with the text from NYSE Arca Equities Rule. 2.09 (Only ETP Holder Organizations May Carry Customer Accounts).

Rule 2.11 addresses sole proprietors. The Exchange proposes to update the title by replacing ''OTP'' with ''Trading Permit'' and to add a new section (e) to the Rule, with the text from NYSE Arca Equities Rule 2.10(b) (Sole Proprietors).

Rule 2.14 sets forth provisions relating to allied persons and approved persons. Consistent with NYSE Arca Equities Rule 2.13 (Allied Persons and Approved Persons), the Exchange proposes to make the following changes:

• The Exchange proposes to add the text from NYSE Arca Equities Rule 2.13(c), (d), (g) and (i) to the end of Rule 2.14(c), (d), (g) and (i), respectively.

• Rule 2.14(f) states that the Exchange may require certain applicants to pass an examination. NYSE Arca Equities Rule 2.13(f) includes limited liability company member in its equivalent list.

Accordingly, the Exchange proposes to add the text '', or a limited liability company member of any ETP Holder,'' after ''OTP Firm.''

Rule 2.17 addresses amendments to trading permit holder documents. Consistent with NYSE Arca Equities Rule 2.16(c), the Exchange proposes to amend the first sentence of Rule 2.17(c) by revising ''termination of an OTP'' to state ''a person associated with that ETP Holder or an OTP, as applicable.''

Rule 2.18 states that activity assessment fees will be collected through the Options Clearing Corporation on behalf of the Exchange.

• Consistent with NYSE Arca Equities Rule 2.17 (Activity Assessment Fees), the Exchange proposes to add text to Rule 2.18(a) stating that ''Activity Assessment Fees shall be due and payable from ETP Holders at such times and intervals as prescribed by the Exchange.''

• NYSE Arca Equities Rule 2.17(b) provides that the Corporation may fix and impose certain other charges or fees to be paid by ETP Holders, without specifying to whom they are paid. Rule 2.18(b), however, states that the Board of Directors sets the charges or fees, and that they are to be paid to the Exchange or its subsidiaries. The Exchange does not propose to amend this aspect of Rule 2.18(b), however, as it believes that the provisions are substantially similar in intent.

• The Exchange proposes to add commentary .01 from NYSE Arca Equities Rule 2.17 to Rule 2.18.

Rule 2.19(a) sets forth the registration requirements for permit holders. The Exchange proposes to amend the references to ''member'' and ''member organization'' to include both terms, to incorporate NYSE Arca Equities Rule 2.18(a).

Rule 2.21 sets forth the provisions on transfer of trading permits. Consistent with NYSE Arca Equities Rule 2.20 (Limited Transferability), the Exchange proposes to add the following text to the end of the first sentence in Rule 2.21(a): '', and ETPs may not be purchased (other than from the Exchange), sold or leased.'' In addition, the Exchange proposes to add ''(other than from the Exchange'') after ''purported purchase'' in the second sentence.

C. Options Rules

The Options Rules would be substantially the same as current NYSE Arca Rules 4, 5, 6, 7, 8, and 9, with the following changes:

• The word ''—Options'' would be added at the end of the headings for proposed Rules 4–O and 9–O, which would be called ''Capital Requirements, Financial Reports, Margins—Options'' and ''Conducting Business with the Public—Options,'' respectively. Similarly, the word ''Options'' would be added to the heading of proposed Rule 7–O, so that it becomes ''General Options Trading Rules.''

• ''Corporation'' would be replaced with ''Exchange'' in proposed Rules 4.1–O (Minimum Net Capital) and 9.26–O (Registration of Options Principals), and in the title of Rule 9.1–O(a) (Register with the Corporation). The Exchange believes that the references should be to the Exchange, as ''Corporation'' is not a defined term in the NYSE Arca rules.

• The text of Rule 9.17 (Books and Records) would be replaced with ''Reserved'' and the requirements of Rule 9.17 would be integrated with proposed Rule 2.28 (Books and Records), as discussed above.[30]

• A cross reference to Rule 6.1(a)(24) in Rule 4.16(d)(9)(G) (Other Provisions) would be corrected to reference subsection (b)(24), as the Exchange believes that the current reference is incorrect.[31]

D. Equities Rules

The proposed new Equities Rules would be the same as current NYSE Arca Equities Rules 4, 5, 7, 8, 9, the Conduct Rules, and the Order Audit Trail System, subject to the following changes.

Organizational Changes

The Exchange proposes to make the following organizational changes throughout the Equities Rules:

• The Exchange proposes to add the word ''—Equities'' to the end of the titles of proposed Rules 4–E and 9–E, which would be called ''Capital Requirements, Financial Reports, Margins—Equities'' and ''Conducting Business with the Public—Equities,'' respectively. ''Equities'' would be added to the start of Rule 5–E, which would become ''Equities Listings.''

• The Conduct Rules, which are currently NYSE Arca Equities Rules 2010 through 5320, would be moved to the end of proposed Rule 9–E, becoming Rules 9.2010–E through 9.5320–E, with the exception of NYSE Arca Equities Rule 5220 (Disruptive Quoting and Trading Activity Prohibited), which would be integrated into Rule 11.21 (Disruptive Quoting and Trading Activity Prohibited).

• The Order Audit Trail System Rules, which are currently NYSE Arca Equities Rules 7410 through 7470, would be moved to Rule 6–E, becoming Rules 6.7410–E through 6.7470–E.[32]

Proposed Amendments

Several of the NYSE Arca Equities rules refer to the Delegation or reference the relationship between NYSE Arca Equities and the Exchange through the use of the term ''NYSE Arca Parent.''[33] After the Merger, such references would be obsolete. Accordingly, to reflect the Merger, the Exchange proposes to make the following changes when incorporating NYSE Arca Equities rules into the Exchange rules:

• The second sentence of NYSE Arca Equities Rule 5.1(a)(1) (General Provisions and Unlisted Trading Privileges) states that ''[f]or the purposes of the Securities Exchange Act of 1934 ('Exchange Act'), securities traded on the Corporation shall be admitted to unlisted trading privileges or listed on the NYSE Arca Parent, subject to the NYSE Arca Parent's delegation of the responsibility for the administration and enforcement of the unlisted trading privileges and listing requirements to the Corporation.'' The Exchange proposes not to include the sentence when incorporating the provision into Rule 5.1–E(a)(1) (General Provisions and Unlisted Trading Privileges).

• The Exchange proposes not to include the statement that '' 'NYSE Arca Equities, Inc.' (the 'Corporation') is a wholly owned subsidiary of ICE'' in NYSE Arca Equities Rule 5.1(c)(a)(3) (Listing of an Affiliate or Entity that Operates and/or Owns a Trading System or Facility of the Corporation) when incorporating the provision into proposed Rule 5.1–E(c)(a)(3) (Listing of an Affiliate or Entity that Operates and/or Owns a Trading System or Facility of the Exchange).

• The Exchange proposes to use the term ''Exchange'' instead of ''NYSE Arca Parent'' in proposed Rule 5.1–E(b)(4) (Definitions) and in place of ''Corporation and the NYSE Arca Parent'' in Rule 9.18–E(b)(3) (Doing A Public Business In Options). Similarly, the Exchange proposes to use the term ''Exchange'' instead of ''NYSE Arca

[30] *See* discussion accompanying notes 28 and 29, *supra.*

[31] *See* Exhibit A, Rule 4, to SR–PCX–2004–08 (February 10, 2004), available at *https://www.sec.gov/rules/sro/pcx/34–49451_a4.pdf. See also* Securities Exchange Release No. 49718 (May 17, 2004), 69 FR 29611 (May 24, 2004).

[32] Current NYSE Arca Equities Rule 6 (Business Conduct) would be integrated into Rule 11 (Business Conduct). *See* ''Rule 11 (Business Conduct)'', below.

[33] NYSE Arca Equities Rule 1(nn) defines ''NYSE Arca Parent'' as ''the NYSE Arca, Inc., a Delaware corporation and national securities exchange as that term is defined in Section 6 of the Securities Exchange Act of 1934, as amended.''

Equities'' in proposed Rule 7.29–E(b)(2)(I).

The Exchange proposes several changes to remove obsolete references in the Equities Rules, as follows:

• NYSE Arca Equities Rule 5.3(k)(4) (Independent Directors/Board Committees) sets forth two versions of paragraph (k)(4) (Compensation Committee). One provides the operative text through June 30, 2013, and one provides the operative text effective commencing July 1, 2013. Proposed NYSE Arca Rule 5.3–E(k)(4) would only include the text that was operative commencing July 1, 2013.

• Similarly, present NYSE Arca Equities Rule 5.3(n) (Listed Foreign Private Issuer) includes two versions of the rule. One provides the operative text through June 30, 2013, and one provides the operative text effective commencing July 1, 2013. Proposed NYSE Arca Rule 5.3–E(n) would only include the text that was operative commencing July 1, 2013.

• Present NYSE Arca Equities Rules 7.18(a) (Halts) and 7.46(f)(5)(C) and (F) (Tick Size Pilot Plan) cross reference Rules 7.11P, 7.31P(a)(2)(C) and (F), and Rule 7.31P(e), respectively. Because the ''P'' modifier has been deleted from such Rules, proposed NYSE Arca Rules 7.18–E(a) and 7.46–E(f)(5)(C) and (F) would not include the ''P'' modifier in the cross references.[34]

• NYSE Arca Equities Rule 7.25 (Crowd Participant Program) expired on June 23, 2016. Accordingly, the Exchange proposes not to include an equivalent to NYSE Arca Equities Rule 7.25 in the Equities Rules. Instead, it would mark proposed Rule 7.25–E as ''Reserved.''

• In proposed Rule 8.203–E(g) (Commodity Index Trust Shares) Commentary .03, an obsolete reference to ''PCXE Rule 7.34'' in NYSE Arca Equities Rule 8.203(g) would be updated to ''Rule 7.34–E.'' The term ''PCXE'' refers to the Pacific Exchange, Inc. The Pacific Exchange, Inc. was a predecessor of the Exchange, and so the reference is obsolete.

The Exchange proposes to make the following changes to cross references to the Exchange rules within the Equities Rules:

• Rule 4.15–E(d)(9)(G)(i) and (ii) (Other Provisions) includes references to ''Rule 6.1(a)(23) of the NYSE Arca Parent.'' The Exchange proposes to delete ''of the NYSE Arca Parent'' and revise the references to cite subsection (b)(24) instead of (a)(23), as the Exchange believes that the current reference is incorrect.[35]

• In Rule 9.18–E(b)(3) (Doing a Public Business in Options) the text ''Rules of the Corporation and the NYSE Arca Parent'' would be changed in the proposal to ''Rules of the Exchange.''

• In Rule 9.20–E(a) (Transactions for Public Customers) ''NYSE Arca Parent Rule 6.35'' would be changed in the proposal to ''Rule 6.35–O.''

Amendments That Are Approved but Not Yet Operative

NYSE Arca Equities Rules 7.10, 7.11, 7.31, and 7.35 have a notice stating that an amended version of the rule has been approved but is not yet operative. The notices include links to the amended version of the rule and the relevant approval order. The notices and links would be retained in proposed rules 7.10–E (Clearly Erroneous Executions), 7.11–E (Limit Up—Limit Down Plan and Trading Pauses in Individual Securities Due to Extraordinary Market Volatility), 7.31–E (Orders and Modifiers), and 7.35–E (Auctions). Exhibit 5C sets forth the proposed text of the amended but not yet operative versions of such rules. The Exchange will announce by Trader Update when the amended version of the rule will become operative.

E. Disciplinary and Miscellaneous Rules

Proposed revised Rules 10, 11, 12, 13, and 14, which would apply to both the equities and options markets, would incorporate changes based on NYSE Arca Equities 10 (Disciplinary Proceedings, Other Hearings, and Appeals), 6 (Business Conduct), 12 (Arbitration), 11 (Cancellation, Suspension and Reinstatement), 13 (Liability of Directors and Corporation) and 5220. The proposed changes to each rule are addressed in turn below.

Rule 10 (Disciplinary Proceedings and Appeals)

The Exchange proposes to revise Rule 10 to incorporate NYSE Arca Equities Rule 10 (Disciplinary Proceedings, Other Hearings, and Appeals), which sets forth the equivalent requirements for ETP Holders. As a result, a single set of rules would encompass all disciplinary proceedings and appeals. As described below, to implement the change, the Exchange proposes to amend the title of Rule 10 to ''Disciplinary Proceedings, Other Hearings and Appeals,'' add one new rule, and amend the existing rules.

Proposed New Rule

The Exchange proposes to incorporate the entire text of current NYSE Arca Equities Rule 10.10 (Miscellaneous Provisions) into new Rule 10.10 (Miscellaneous Provisions), which would provide that any charges, notices or other documents may be served upon the Respondent either personally or by leaving the same at Respondent's place of business or by deposit in the United States Post Office, postage prepaid via registered or certified mail addressed to the Respondent at its address as it appears on the books and records of the Exchange. The current text of NYSE Arca Rule 10.10 is marked ''Reserved.''

Proposed Amendments to Rule 10

The Exchange proposes to add references to ETP Holders to show revised Rule 10's applicability to both categories of trading permit holders. Accordingly, the following proposed Rules would be updated to include references to ''ETP Holder'' and/or ''ETP Holders'' including, where appropriate, when referring to person(s) associated with an ETP Holder: Rule 10.1(a) and (b) (Disciplinary Jurisdiction); [36] Rule 10.2 (Investigations and Regulatory Cooperation); Rule 10.3(c) (Ex Parte Communications); Rule 10.4(a) (Complaints); Rule 10.5(d) (Hearing); Rule10.6(c) (Offers of Settlement); Rule 10.9(a) (Judgment and Penalty); Rule 10.11(a), (b), (d)(3) and (d)(5) (Appeal of Floor Citations and Minor Rule Plan Sanctions); Rule 10.12(a), (b), and (g) (Minor Rule Plan); Rule 10.14 (Hearings and Review of Decisions by the Exchange); and Rule 10.18(a)(2) (Expedited Client Suspension Proceeding). Rule 10.18(a)(2) would also include a reference to an ''associated person of an ETP Holder.''

Similarly, the Exchange proposes to add references to the BCC, which is the NYSE Arca Equities disciplinary committee,[37] to Rule 10. Accordingly, a definition of the BCC would be added to Rule 10.3(a)(1) and the following rules would be updated to include references to the BCC [38]: Rule 10.3(a), (c) and (e); Rule 10.4(c); Rule 10.5(a); Rule 10.6(d), (h), (j) and (k); Rule 10.11(d)(1); Rule 10.12(c) and (d); and Rule 10.17(e)(2) (Release of Disciplinary Information Through the Public Disclosure Program). In addition,

[34] *See* Securities Exchange Act Release No. 79079 (October 11, 2016), 81 FR 71559 (October 17, 2016).

[35] *See* note 31, *supra.*

[36] The Exchange also proposes to delete a stray parenthetical in the first sentence, so that ''Rule 10.1)'' would be ''Rule 10.1.''

[37] *See* NYSE Arca Equities Rule 3.2(b)(1) (Equity Committees) and proposed new Rule 3.2(b)(2).

[38] Throughout the rules, when adding ''BCC'' or ''Business Conduct Committee'' to a rule, the Exchange would utilize a comma, ''and'' or ''or'' as necessary to integrate it into the text.

subsection (g) of Rule 10.12 would be amended to add ''Business Conduct Committee or the'' before ''Ethics and Business Conduct Committee.''

The Exchange proposes to make the following additional changes to Rule 10:

• In the first sentence of Rule 10.1, the Exchange proposes to make the following non-substantive changes: ''on the Exchange'' would be amended to ''of the Exchange,'' and ''or policy or procedure'' would be amended to ''or any policy of procedure.'' In Rule 10.1(b), the Exchange proposes to change the semicolon after ''such termination'' to a comma.

• A new Commentary .02 would be added to Rule 10.3 that would provide that a disciplinary proceeding will be considered to be pending from the date that Complaint has been issued pursuant to Rule 10.4 until the proceeding, including any appeals, becomes final. This is the same text as in current NYSE Arca Equities Rule 10.3.

• The Exchange notes that proposed Rule 10.5 differs from the current NYSE Arca Equities version in two respects. First, current NYSE Arca Rule 10.5 requires the EBCC to appoint three or more members to hear a matter. NYSE Arca Equities Rule 10.5 requires the BCC to appoint one or more. The Exchange determined to retain the three person NYSE Arca requirement in proposed Rule 10.5, which is consistent with the disciplinary rules of its affiliates NYSE and NYSE MKT.[39]

• In subsections (a) and (k) of proposed Rule 10.6, references to the ''Department of Enforcement'' would be shortened to ''Enforcement.''

• Rule 10.8 (Review) would be amended as follows.

• First, subsection (b) would incorporate text from NYSE Arca Equities Rule 10.8(b) requiring a decision of the Review Board (as defined therein) to become final 15 calendar days after notifying the parties and that the decision would be stayed pending a request for review of such determination by the NYSE Arca Board of Directors filed pursuant Rule 10.8(c) or 10.8(d). The proposed change would add clarity to the current rule by specifying that a Board review stays a determination from becoming final. The second and third paragraphs of subsection (b) would be amended to replace ''Board of Directors'' with ''CFR,'' which is the Board committee with the delegated authority to consider appeals on behalf of the Board and which appoints the Review Board under the Rule. As such, the proposed change would add clarity and transparency to the Exchange's Rules by specifying that the CFR, and not the full Board, would be acting with respect to the Review Board. In the third paragraph, the Exchange would also add ''or her'' before ''duties.''

• Second, paragraph (c) would be amended to incorporate text from current NYSE Arca Equities Rule 10.8(c), permitting the Complainant or Respondent to request review of a decision by the NYSE Arca Board of Directors and establishing the requirements for initiating such a review. ''NYSE Arca Board'' would be replaced with ''Board of Directors'' as ''NYSE Arca Board'' is not a defined term.

• The Exchange proposes various changes to Rule 10.11. In the second sentence of subsection (d)(4), the Exchange proposes the non-substantive change of adding the word ''of'' between ''standard'' and ''review.'' Subsection (b) would be amended to shorten ''Department of Enforcement'' to ''Enforcement.''

• The Exchange proposes various changes to Rule 10.12.

• Subsection (e) would be amended to shorten ''Department of Enforcement'' to ''Enforcement.''

• New subsection (i) would incorporate those current NYSE Arca Equities trading Rules eligible for minor rule violation treatment as set forth in NYSE Arca Equities Rule 10.12(g). The heading would be ''Minor Rule Plan: Minor Trading Rule Violations.'' Subsection (i) is currently marked ''Reserved.''

• Subsection (j) would be amended to add cross references to the relevant Equities Rules; add ''ETP Holder's or'' before ''OTP Holder'' in (j)(2); add ''filing and/or'' before ''notification'' in (j)(4); and add new item (13) to incorporate the provision in NYSE Arca Equities Rule 10.12(j)(13).

• The heading of Subsection (k) would be amended to add ''Options.''

• New subsection (l) would be entitled ''Equities Minor Rule Plan: Recommended Fine Schedule'' and incorporate the current NYSE Arca Equities Rules eligible for minor rule violation treatment. Fine levels and eligible rules would remain the same as current NYSE Arca Equities Rule 10.12(i). Proposed subsection (l) reproduces current NYSE Arca Equities Rule 10.12(i) in its entirety.

• The word ''—Options'' would be added to the end of the titles of Rules 10.13 (Summary Sanction Procedure) and 10.16 (NYSE Arca Sanctioning Guidelines). Such rules have no equities analogues and would only apply to options matters. In the first sentence of the fourth paragraph of Rule 10.16(a), ''Principals'' would be replaced with ''Principles.''

• The Exchange proposes various changes to Rule 10.14:

• In subsection (a), ''ETP'' would be added before ''OTP'' and a reference to Rule 7.23–E would be added.

• Consistent with NYSE Arca Equities Rule 10.13(a)(5), a new subsection (a)(7) would be added to incorporate actions taken by the Exchange pursuant to proposed Rule 7.22–E, including the denial of the application for, or the termination or suspension of, a Market Maker's registration in a security or securities, as eligible for relief under Rule 10.14.

• Consistent with NYSE Arca Equities Rule 10.13(a), subsection (a) would also be amended to provide that provisions of Rule 10.14 would not apply to reviews of delisting decisions for which review is already provided within Rule 5–E.

• Subsection (l) would be amended to add the Chairperson of the committee whose action was subject to the prior review as an additional person who can call a decision of the CFR Appeals Panel for review, consistent with NYSE Arca Equities Rule 10.13(k).

Rule 11 (Business Conduct)

The Exchange proposes to revise Rule 11 to incorporate NYSE Arca Equities Rule 6 (Business Conduct) and NYSE Arca Equities Rule 5220. To implement the change, the Exchange proposes to add three new rules and amend the existing rules.

Proposed New Rules

The Exchange proposes to import the text of current NYSE Arca Equities Rule 6.7 (Trading Ahead of Research Reports) into new proposed Rule 11.22 (Trading Ahead of Research Reports) without changes other than those made to the entire rulebook.[40]

The Exchange proposes to import the text of current NYSE Arca Equities Rule 6.9 (Taking or Supplying Securities to Fill Customer's Order) into new proposed Rule 11.23 (Taking or Supplying Securities to Fill Customer's Order) without changes other than those made to the entire rulebook and the use of ''Exchange'' in place of ''facilities of the Corporation'' in proposed Rule 11.23(5).

The Exchange proposes to import the text of current NYSE Arca Equities Rule 6.10 (ETP Holders Holding Options)

[39] *See* NYSE and NYSE MKT Rule 9231(b)(1), which requires a hearing Panel to be composed of a Hearing Officer and two panelists.

[40] *See* ''Proposed Changes Applicable to Entire Rulebook,'' above.

into new proposed Rule 11.24 (ETP Holders Holding Options) without changes other than those made to the entire rulebook and the use of ''Exchange'' in place of ''facilities of the Corporation.''

Proposed Amendments to Rule 11

The Exchange proposes to add references to ETP Holders to show revised Rule 11's applicability to both categories of trading permit holders. Accordingly, the following proposed rules would be updated to include references to ''ETP Holder'' and/or ''ETP Holders'': Rule 11.1 (Adherence to Law and Good Business Practice); Rule 11.2 (Prohibited Acts); Rule 11.3 (Prevention of the Misuse of Material, Nonpublic Information); Rule 11.4 (Rumors); Rule 11.5 (Manipulation); Rule 11.6 (Front-running of Block Transactions); Rule 11.10 (Excessive Trading); Rule 11.11 (Disclosure of Financial Arrangements of OTP Holders); Rule 11.12(a) (Joint Accounts); Rule 11.13 (Disciplinary Action By Other Organizations); Rule 11.18 (Supervision); Rule 11.19 (Anti-Money Laundering Compliance Program); Rule 11.20 (Miscellaneous Provisions); and Rule 11.21(a). Rule 11.21(a) would also include a reference to an ''associated person of an ETP Holder.''

Similarly, the heading of Rule 11.11 would be amended to include ''ETP Holders'' and Rules 11.3 Commentary .02 (Prevention of the Misuse of Material, Nonpublic Information), 11.11(a), 11.18(b) and 11.19 would be amended to include references to ''ETP Holder's.''

The Exchange proposes to make the following additional changes to Rule 11:

- The Exchange proposes to add a new subsection (g) to Rule 11.2 that would state that an ETP Holder may not split any order into multiple orders for any purpose other than seeking the best execution of the entire order, which is the same text as NYSE Arca Equities Rule 6.2(g).
- The Exchange proposes to make several revisions to proposed Rule 11.3. Subsection (a) of proposed Rule 11.3 would be amended to replace ''Options Surveillance Department'' with ''Regulatory staff.'' Subsection (b) would also be amended to delete ''the'' before ''Enforcement'' and ''Department'' after it. Finally, the Exchange proposes to add a new Commentary .04 which has the same text as NYSE Arca Equities Rule 6.3 Commentary .04.
- The Exchange proposes to make several revisions to proposed Rule 11.6. Rule 11.6 sets 5,000 shares as the threshold for when an OTP Holder, OTP Firm or Associated Person must take action under the Rule. Because NYSE Arca Equities Rule 6.6 sets a threshold of 10,000 shares, the Exchange proposes to amend Rule 11.6 by adding ''(10,000 shares or more in the case of an ETP Holder)'' after ''5,000 shares or more.'' In addition, the reference to ''Pacific Exchange, Inc.'' in Rule 11.6 would be replaced with ''Exchange.'' The Pacific Exchange, Inc. was a predecessor of the Exchange, and so the reference is obsolete.
- The Exchange proposes to make several changes to proposed Rule 11.12. In the last sentence of subsection (a), the phrase ''or Market Maker'' would be added after ''specialist,'' and ''or she'' after ''he.'' The Exchange proposes to add a new Commentary .01 to proposed Rule 11.12, which is the same text as Commentary .01 of NYSE Arca Equities Rule 6.12 (Joint Accounts). Finally, the Exchange proposes to add the text from NYSE Arca Equities Rule 6.12(b) to a new subsection (b) governing ''Reporting.''
- In subsection (a) of Rule 11.18, the Exchange proposes to add the text '') and no ETP Holder'' after ''(DEA''. In addition, the Exchange proposes to add the text of current NYSE Arca Equities Rule 6.18(d) and Commentary .01 and .02 to a new subsection (d) and Commentary.

Rule 12 (Arbitration)

The Exchange proposes to revise Rule 12 (Arbitration) to incorporate NYSE Arca Equities Rule 12 (Arbitration). To implement the change, the Exchange proposes to amend the existing rules as follows.

- Subsections (a) and (c) would be amended to include a reference to ''ETP Holder.''
- References to the ''NASD'' in ''NASD Dispute Resolution'' and in the defined term ''NASD DR'' would be replaced with ''FINRA.''

In addition, the Exchange proposes to delete the brackets around the title of Rule 12.

Rule 13 (Cancellation, Suspension and Reinstatement)

The Exchange proposes to revise Rule 13 to incorporate NYSE Arca Equities Rule 11 (Cancellation, Suspension and Reinstatement). To implement the change, the Exchange proposes to amend the existing rules.

The Exchange proposes to add references to ETP Holders to show the revised rules' applicability to both categories of trading permit holders. Accordingly, the following rules would be updated to include references to ''ETP Holder'' and/or ''ETP Holders'': Rule 13.1 (Notice of Expulsion or Suspension); Rule 13.2(a) (Procedures for Suspension); Rule 13.3 (Effect of Suspension or Cancellation); Rule 13.4 (Disciplinary Measures During Suspension); Rule 13.5 (Investigation Following Summary Suspension); Rule 13.6 (Grounds for Cancellation); Rule 13.7 (Reinstatement); Rule 13.8 (Failure to Obtain Reinstatement); and Rule 13.9 (Failure to Meet the Eligibility or Qualification Standards or Prerequisites for Access to Services).

Similarly, the Exchange proposes to add references to ETPs by adding ''the ETP or'' in place of ''an'' in the first sentence of Rule 13.3, and by adding ''ETP or'' before ''OTP'' in Rule 13.8.

The Exchange proposes to make the following additional changes to Rule 13.2:

- In subsection (a), the Exchange proposes to delete ''and'' from between ''bars'' and ''limitations,'' as a non-substantive grammatical change.
- The Exchange proposes to add the text of NYSE Arca Equities Rule 11.2(a)(1)(iii) as new subsection (a)(1)(C) of Rule 13.2. The current text of such subsection is marked ''Reserved.''
- The Exchange proposes to delete ''OTP'' before ''trading privileges'' in subsection (a)(2)(A), to reflect that the rule would apply to both OTP and ETP trading privileges.
- In subsection (a)(2)(B) and (C), the Exchange proposes to add a new cross reference to proposed Rule 3.8–E and correct a cross reference from Rule 10.2(b) to Rule 10.2(d).
- Subsection (a)(2)(E) provides that the Exchange may suspend all trading rights and privileges of an OTP Holder or OTP Firm for failure to comply with Rule 3.4. Rule 3.4 was deleted in 2012 at the time of the merger of Archipelago Holdings, Inc. into NYSE Group, and so the referenced obligations no longer exist.[41] Accordingly, the Exchange proposes to delete subsection (a)(2)(E) as obsolete and replace the text with ''Reserved.''
- Rule 13.9(c), (e), and (h) would be updated to include references to the BCC, the NYSE Arca Equities disciplinary committee.[42]

Rule 14 (Liability of Directors and Exchange)

The Exchange proposes to revise Rule 14 to incorporate NYSE Arca Equities Rule 13 (Liability of Directors and Corporation).

The Exchange proposes to add references to ETP Holders to show the

[41] *See* Securities Exchange Act Release No. 67435 (July 13, 2012), 77 FR 42533 (July 19, 2012), note 12. *See also* Rule 3.4 (Reserved).

[42] *See* NYSE Arca Equities Rule 3.2(b)(1) (Equity Committees) and proposed new Rule 3.2(b)(2).

revised rules' applicability to both categories of trading permit holders. Accordingly, the following rules would be updated to include references to ''ETP Holder'' and/or ''ETP Holders'': Rules 14.1 (Liability of Directors), 14.2 (Liability of Exchange), 14.3 (Legal Proceedings Against Exchange Directors, Officers, Employees or Agents) and 14.4 (Exchange's Costs of Defending Legal Proceedings).

Rule 14.5 (Deleted) would be deleted, as it is not needed as a placeholder.

IV. Fee Schedules

A. Proposed NYSE Arca Equities Fee Schedule

The Exchange proposes to delete the Equities Fee Schedule from the rules of the Exchange, and to adopt the NYSE Arca Equities Fee Schedule as the new fee schedule for the Exchange equity market.[43] The proposed NYSE Arca Equities Fee Schedule would be the same as the current Equities Fee Schedule, subject to the following changes:

- The title of the NYSE Arca Equities Fee Schedule would be ''NYSE Arca Equities Fees and Charges,'' consistent with the title of the Options Fee Schedule, which is ''NYSE Arca Options Fees and Charges.''
- The references to the current NYSE Arca Equities Rules would be amended to cite the proposed NYSE Arca Rules, by adding ''-E'' to the proposed rule numbers. In addition, in footnotes 8 and 9, the references to NYSE Arca Equities Rules 1.1(c) and 1.1(d) would be changed to refer to proposed NYSE Arca Rules 1.1(b) and (c), respectively.
- As noted above, NYSE Arca Equities Rule 7.25 expired on June 23, 2016, and the Exchange proposes not to include an equivalent to NYSE Arca Equities Rule 7.25 in the Equities Rules. Consistent with such change, the table under ''NYSE Arca Marketplace: Crowd Participant ('CP') Program Payments'' would not be included in the proposed NYSE Arca Equities Fee Schedule, as it is also obsolete.
- The heading ''NYSE Arca Equities: Regulatory Fees'' would be changed to ''Regulatory Fees.''
- In General Note 1 under the heading ''Co-Location Fees,'' the word ''Equities'' in ''NYSE Arca Equities Fee Schedule'' will be replaced with ''Options,'' as the Note is meant to refer to the options market fee schedule.

B. NYSE Arca Options Fee Schedule

In the Options Fee Schedule, Note 8 under ''NYSE Arca Options: General'' refers to the ''Schedule of Fees and Charges for NYSE Arca Equities, Inc.'' General Note 1 under the heading ''Co-Location Fees'' refers to the same document as the ''NYSE Arca Equities Fee Schedule.'' The Exchange proposes to conform the two references to the name ''NYSE Arca Equities Fee Schedule.''

In addition, the Exchange proposes to update cross references in Notes 2, 6, 9 and 15 to reflect the proposed addition of ''-O'' to the rule numbers.

C. Listing Fee Schedule

In the Listing Fee Schedule, the Exchange proposes to update cross references in Item 6 under ''Listing Fees''; Item 7 under ''Annual Fee (Payable January in Each Calendar Year)''; and Notes 3 and 4 to reflect the proposed addition of ''-E'' to the rule numbers.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act[44] in general, and with Section 6(b)(1)[45] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

Specifically, termination of the Delegation would result in the Exchange directly operating the equities market facility of the Exchange, while continuing to bear the responsibility to ensure the fulfillment of its statutory and self-regulatory obligations. As is true now, the independent regulatory oversight committee (''ROC'') of the Board would oversee the Exchange's regulatory and self-regulatory organization responsibilities with regards to both the equities and options markets, and the Exchange's regulatory department would continue to carry out its regulatory functions with respect to both markets under the oversight of the ROC.[46]

For the same reasons, the Exchange believes that the proposal to remove from the Exchange rules the organizational documents of NYSE Arca Equities and NYSE Arca Equities Rules 14.1 and 14.3 in connection with the proposed termination of the Delegation is also consistent with Section 6(b)(1) of the Act.

The Exchange believes that the proposed amendment to Bylaws Section 3.01(b) to incorporate the ETP Holders into the existing statement of the authority of the Board would also be consistent with Section 6(b)(1) of the Act. By incorporating the ETP Holders, the limits that section sets on the Board's ability to exercise all powers of the Exchange and do all lawful acts and things would include those things as are not by law, the certificate of incorporation, the Bylaws or the Rules directed or required to be exercised, done or approved by ETP Holders, as well as the OTP Holders or the holding member.

Further, the Exchange believes that the proposed rule change would be consistent with the fair representation requirement of Section 6(b)(3) of the Exchange Act,[47] which is intended to give members a voice in the selection of an exchange's directors and the administration of its affairs. The proposed changes would ensure that all Permit Holders, irrespective of whether they are OTP Holders or ETP Holders, would have the same rights to participate in the Nominating Committee and the nomination of Non-Affiliated Directors and, in the case of a contested nomination, the same voting rights. Such process would also be consistent with the process for nominating non-affiliated directors of NYSE MKT, which also has both options and equity markets, as well as with the governing documents of Nasdaq LLC and Nasdaq BX.[48]

The Exchange believes that the additional changes to Bylaws Section 3.02(a) would also allow the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange. By clearly stating that the holding member determines the size of the Board, presenting the Board composition requirements in numbered clauses, and setting forth how the minimum number of Non-Affiliated directors shall be calculated, the provision would contribute to the orderly operation of

[43] The Exchange does not propose to amend the fee schedule for market data fees, the NYSE Arca Equities Proprietary Market Data Fees, which does not reference NYSE Arca Equities, Inc.

[44] 15 U.S.C. 78f(b).

[45] 15 U.S.C. 78f(b)(1).

[46] *See* NYSE Arca Rule 3.3(a)(1). NYSE Arca Equities does not have a regulatory oversight committee.

[47] *See* 15 U.S.C. 78f(b)(3).

[48] *See* notes 12 and 14, *supra.*

the Exchange by adding clarity and transparency to the Bylaws. Further, the proposed amendments would align the provision with the governing documents of the SRO Affiliates.[49]

Similarly, the Exchange believes that the changes to Bylaws Article IV, Section 4.02, which would remove obsolete references to the Permit Holder Advisory Committee and add references to the Ethics and Business Conduct Committee of the Exchange, and the deletion of Rule 3.2(b)(2)(C)(i), which is an obsolete reference to the initial membership of the Board would contribute to the orderly operation of the Exchange by adding clarity and transparency to the Bylaws. Similarly, the Exchange believes that removing extraneous references to the voting process in the definitions of OTP Holder, OTP Firm and ETP Holder would add clarity and transparency to the Rules.

The Exchange believes that the proposed amendments to Rule 3 regarding the Board and Exchange Committees would allow the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange by ensuring that ETP Holders may participate in Exchange and Board Committees. Specifically, the proposed changes would ensure that ETP Holders and Allied Persons or Associated Persons of ETP Holders would be eligible for appointment to Exchange Committee [sic], just as OTP Holders and Allied Persons or Associated Persons of an OTP Firm are now. In addition, the proposed amendments would integrate the existing NYSE Arca Equities Business Conduct Committee into the Exchange rules, putting such committee on a par with the existing Ethics and Business Conduct Committee for OTP Holders. Similarly, the changes would mean that all reviews were conducted by a single CFR, and all CFR decisions were subject to the review of the Exchange Board, meaning that all Permit Holders were subject to the same rule. Presently, NYSE Arca and NYSE Arca Equities have separate CFRs, the NYSE Arca CFR decisions are subject to the review of the Exchange Board, and the NYSE Arca Equities CFR decisions are subject to the review of the NYSE Arca Equities board of directors.

The Exchange believes that the inclusion of the ETP Holders as well as OTP Holders in the Exchange and Board Committees would provide for the fair representation of members in the administration of the affairs of the Exchange, including rulemaking and the disciplinary process, consistent with Section 6(b)(3) of the Exchange Act.[50] Allowing ETP Holders and Allied Persons or Associated Persons of ETP Holders to be eligible for appointment to Exchange Committees, putting the NYSE Arca Equities disciplinary committee on a par with the Exchange disciplinary committee, having reviews conducted by a single CFR, and having those decisions subject to the review of the same Board, would provide for the fair representation of members in the ''administration of the affairs of the exchange,'' including the disciplinary process, consistent with Section 6(b)(3) of the Exchange Act.

The Exchange believes that the integration of its two rulebooks into a single rulebook, with three categories of rules, is consistent with Section 6(b) of the Exchange Act[51] in general, and with Section 6(b)(1)[52] in particular because the integration and re-organization would contribute to the orderly operation of the Exchange by adding clarity and transparency to its Rules.

For similar reasons, the Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Exchange Act[53] because the proposed rule change would be consistent with and would create a governance and regulatory structure that 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.

The Exchange believes that the termination of the Delegation would be consistent with and facilitate a governance and regulatory structure that 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, because the resulting structure would allow the Exchange to protect and maintain its self-regulatory functions and carry out its regulatory responsibilities under the Exchange Act.

The Exchange believes that the proposed amendments to (a) incorporate the ETP Holders into the existing statement of the authority of the Board; (b) integrate the ETP Holders into the process for appointing members of the Board; (c) have ETP Holders and Allied Persons or Associated Persons of ETP Holders be eligible for appointment to Exchange Committees; (d) integrate the existing NYSE Arca Equities Business Conduct Committee into the Exchange rules; and (e) have all reviews conducted by a single CFR would 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, because all Permit Holders would be subject to the same rules, irrespective of whether they were ETP Holders or OTP Holders. In addition, having the organization and administration rules for both the equities and options markets in the same Bylaws and Rule 3 would simplify and streamline the Exchange's rules, as persons subject to the Exchange's jurisdiction, regulators, and the investing public would not have to look at two separate sets of governing documents and organization and administration rules in order to fully understand the Exchange's markets.

The Exchange believes that the proposed deletion of the organizational documents of NYSE Arca Equities from the Exchange rules as well as NYSE Arca Equities Rules 14.1 and 14.2 in connection with the proposed termination of the Delegation would remove impediments to and perfect a national market system because it would reduce potential confusion that may result from having these documents and Rules 14.1 and 14.2 remain rules of the Exchange following the proposed termination of the Delegation, when NYSE Arca Equities would no longer have responsibilities to operate the Exchange's equity market.

Similarly, the Exchange believes that the proposed changes to (a) Bylaws Section 3.02(a), which would clearly state that the holding member determines the size of the Board, set forth the Board composition requirements in numbered clauses, and state how the minimum number of Non-

[49] *See* note 15, *supra*.

[50] *See* 15 U.S.C. 78f(b)(3).

[51] 15 U.S.C. 78f(b).

[52] 15 U.S.C. 78f(b)(1).

[53] 15 U.S.C. 78f(b)(5).

Affiliated directors shall be calculated; (b) Bylaws Article IV, Section 4.02, which would remove obsolete references to the Permit Holder Advisory Committee and add references to the Ethics and Business Conduct Committee of the Exchange; (c) deletion of Rule 3.2(b)(2)(C)(i), which would remove an obsolete reference to the initial membership of the Board; and (d) removing extraneous references to the voting process in the definitions of OTP Holder, OTP Firm and ETP Holder in Rule 1 would remove impediments to and perfect a national market system by adding clarity and transparency to the Bylaws, ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's governing documents.

The Exchange believes that the integration of its two rulebooks into one single rulebook, with three categories of rules, would remove impediments to and perfect a national market system and, in general, protect investors and the public interest, by adding clarity and transparency to the Bylaws, ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's rules.

The Exchange believes that (a) adding an ''-O'' or ''-E'' at the end of the number of any rule that applies only to the options or equities market, respectively, and (b) adding ''—Equities'' or ''—Options'' to the end of any rule that, despite being part of a rule of general application, only applies to one market, would allow trading permit holders and other market participants to quickly and easily identify which rules apply to each market, thereby removing impediments to and perfecting a national market system and, in general, protecting investors and the public interest.

Similarly, the Exchange believes that (a) incorporating the NYSE Arca Equities Conduct Rules into proposed Rule 9–E and Rule 11.21; (b) incorporating the NYSE Arca Equities Order Audit Trail System Rules into proposed Rule 6–E; and (c) creating a new NYSE Arca Equities Fee Schedule and updating the NYSE Arca Options Fee Schedule and Listing Fee Schedule would remove impediments to and perfect a national market system and, in general, protect investors and the public interest, because the proposed changes would ensure that all present NYSE Arca Equities rules were incorporated into the Exchange rulebook.

The Exchange believes that the proposed non-substantive changes to the rules, including (a) deleting definitions marked ''reserved'' in Rule 1; (b) deleting references to the Pacific Exchange Inc. in Rule 11.6 and proposed Rule 8.203–E(g); and (c) removing obsolete text from proposed Rules 3.2(b), 5.3–E, 13.2(a) and 14.5, would remove impediments to and perfect a national market system by adding clarity and transparency to the Rules by deleting obsolete references or correcting minor typographical errors, ensuring that persons subject to the Exchange's jurisdiction, regulators, and the investing public can more easily navigate and understand the Exchange's governing documents.

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 designed to address any competitive issue but rather is concerned solely with the corporate structure of the Exchange and the administration and function of its corporate governance structures.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2017–40 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–40. 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–NYSEArca–2017–40 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[54]

Eduardo A. Aleman,

Assistant Secretary.

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[54] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80938; File No. SR–Phlx–2017–44]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Exchange's Transaction Fees at Section VIII

June 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2017, NASDAQ 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 the Exchange's transaction fees at Section VIII (NASDAQ PSX Fees) to: (i) Assess a fee of $0.0026 per share executed for any PSCN order (other than PSKP) that receives an execution on NASDAQ PSX (''PSX'') or is routed away from PSX and receives an execution at an away market; and (ii) reduce the qualification criteria required to be met in order to receive a credit for providing liquidity through the PSX.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's transaction fees at Section VIII (NASDAQ PSX Fees) to: (i) Assess a fee of $0.0026 per share executed for any PSCN order (other than PSKP) that receives an execution on PSX or is routed away from PSX and receives an execution at an away market; and (ii) reduce the qualification criteria required to be met in order to receive a credit for providing liquidity through PSX.

First Change

The Exchange proposes to assess a charge of $0.0026 per share executed for PSCN orders [3] that execute on PSX or that are routed to other venues and receive an execution thereon. PSCN is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. If shares remain unexecuted after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another market center, the System will not route the order to the locking or crossing market center.

Currently, under Section VIII(a)(1) the Exchange assesses fees ranging from $0.0028 per share executed to $0.0030 per share executed for an order that executes on PSX, including PSCN orders. Section VIII(a)(2) concerns fees for routing of orders in all securities. Under Section VIII(a)(2) the Exchange does not charge a member organization entering a PSTG [4] or PSCN order that executes at NASDAQ BX, and assesses a fee of $0.0030 per share executed to a member organization entering such an order that executes at a venue other than PSX, to which the fee schedule under Section VIII(a)(1) would apply, or NASDAQ BX.

The Exchange is proposing to assess a member organization a fee of $0.0026 per share executed for a PSCN order that receives an execution on PSX or that is routed away from PSX and receives an execution on another venue. PSCN is meant to attract users to PSX, and generally providing a discount to member organizations for PSCN executions will provide greater incentive to member organizations to use PSX as a venue. Specifically, the Exchange believes that assessing the lowered rate will encourage member organizations to interact with PSX liquidity, while also encouraging such participants to take advantage of the sophisticated routing functionality offered by PSX. Last, since PSCN does not re-route when it is locked or crossed by an away market, the Exchange believes that increased use of PSCN will also increase displayed liquidity on PSX.

The Exchange notes that member organizations will realize a fee increase for any PSCN order that is executed on NASDAQ BX. As noted above, currently such PSCN orders are not assessed a fee. In offering the lower fees for all other PSCN orders, the Exchange must increase the fee assessed for PSCN orders executed on NASDAQ BX to help cover, in part, the cost to the Exchange in offering the reduced fees for PSCN executions.

The Exchange notes that it is not including PSKP orders [5] in the proposed changes. PSKP orders are a form of PSCN in which the entering firm instructs the System to bypass any market centers included in the PSCN System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. The Exchange is not including PSKP orders in the proposed change because the Exchange has only limited funds to apply to the proposed reduced PSCN fees. PSCN orders route to both venues with protected quotations and venues without protected quotations, which are often low-cost venues, based on the System routing table following the principal of best execution. By contrast, PSKP orders are routed only to venues with protected quotations, which typically assess the Exchange higher fees for execution thereon. Consequently, extending the proposed pricing to PSKP would result in significant cost to the Exchange in comparison to the proposed fee assessed for such executions. As such, the fees assessed for execution of PSKP orders will remain unchanged.

[3] *See* Rule 3315(a)(1)(A)(iv).

[4] PSTG is a routing option under which orders check the System for available shares and simultaneously route the remaining shares to destinations on the System routing table. If shares remain unexecuted after routing, they are posted on the book. Once on the book, should the order subsequently be locked or crossed by another accessible market center, the System shall route the order to the locking or crossing market center. PSKN is a form of PSTG in which the entering firm instructs the System to bypass any market centers included in the PSTG System routing table that are not posting Protected Quotations within the meaning of Regulation NMS. *See* Rule 3315(a)(1)(A)(iii).

[5] *See supra* note 3.

Second Change

The Exchange provides a credit of $0.0031 per share executed for displayed quotes and orders entered by a member organization that provides and accesses 0.35% or more of Consolidated Volume during the month. Consolidated Volume is defined by Section VIII(a)(1) as ''the total consolidated volume reported to all consolidated transaction reporting plans by all exchanges and trade reporting facilities during a month in equity securities, excluding executed orders with a size of less than one round lot.'' Moreover, the rule states that for purposes of calculating Consolidated Volume and the extent of a member's trading activity the date of the annual reconstitution of the Russell Investments Indexes shall be excluded from both total Consolidated Volume and the member's trading activity.

To qualify for the $0.0031 per share executed credit, a member organization must provide and access 0.35% or more of Consolidated Volume during the month. The Exchange is proposing to reduce the monthly percentage of Consolidated Volume provided and accessed from 0.35% to 0.30%, thereby making it easier to qualify for the credit.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[7] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

First Change

The Exchange believes that the proposed reduced fees assessed for PSCN executions are reasonable because they remain consistent with the fees currently assessed for executions on PSX and on other venues. As described above, these fees range from no charge to $0.0030 per share executed.

The Exchange believes that the proposed reduced fees assessed for PSCN executions are an equitable allocation and are not unfairly discriminatory because the Exchange is using the reduced fees to provide incentive to member organizations to use PSCN orders, which, as discussed above, will in turn promote greater interaction with PSX liquidity, while also encouraging such member organizations to take advantage of the sophisticated routing functionality offered by PSX. Promoting interaction with PSX liquidity will benefit all market participants on PSX by deepening liquidity and price discovery on PSX. Last, encouraging member organizations to use the Exchange's routing functionality will help smaller firms that do not have the resources to build their own routing functionality. The Exchange believes that increasing the fee assessed for PSCN executions on NASDAQ BX is an equitable allocation and is not unfairly discriminatory because the Exchange has limited funds to apply toward both lower fees and credits. In this case, the Exchange is applying the same charge assessed for all other PSCN executions to such executions occurring on NASDAQ BX to help offset the cost to the Exchange in offering the reduced charge for all other PSCN executions. Similarly, the Exchange believes that excluding PSKP orders from the proposal is an equitable allocation and is not unfairly discriminatory because applying the reduced fees to PSKP orders would likely result in a significant cost to the Exchange. As noted, the Exchange has limited funds to apply toward both lower fees and credits. PSCN orders allow the Exchange to route to both venues with a protected quote and lower cost venues without a protected quotation. By contrast, PSKP orders must be routed to venues with a protected quotation, which results in a higher overall cost to Exchange. Consequently, fees for PSKP orders will remain unchanged. For these reasons, the Exchange believes that the proposed amended criteria is an equitable allocation and is not unfairly discriminatory.

Second Change

The Exchange believes that the credit is reasonable because it is not changing. A $0.0031 per share executed credit represents a significant incentive to market participants to improve their levels of Consolidated Volume on the Exchange. The Exchange is maintaining this significant incentive, but is also potentially broadening eligibility for the credit, as discussed below.

The Exchange believes that the credit is an equitable allocation and is not unfairly discriminatory because the proposed amendment will ease the qualification criteria, thereby potentially expanding the number of member organizations that may qualify for the credit. From time to time, the Exchange must assess the effectiveness of the incentives it provides to member organizations. In the present case, the Exchange has observed that the $0.0031 per share executed credit has not provided adequate incentive to member organizations to provide the level of Consolidated Volume required by the qualification criteria. As a consequence, the Exchange is lowering the Consolidated Volume criteria in an effort to attract more member organizations to increase their levels of Consolidated Volume to reach the level required to receive the credit. The Exchange notes that the proposed criteria required to receive the credit will remain significantly higher than the next highest credit provided for displayed quotes and orders. Specifically, the Exchange provides a $0.0029 per share executed credit for quotes and orders entered by a member organization that provides and accesses 0.25% or more of Consolidated Volume during the month. For these reasons, the Exchange believes that the proposed amended criteria is an equitable allocation and is not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange is proposing to generally reduce the fee assessed for PSCN executions and to reduce the level of Consolidated Volume required to qualify for a credit available to all member organizations. The reduced fees for PSCN orders are designed to provide incentive to member organizations to use PSCN, which in turn should increase order

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4) and (5).

interaction on PSX. The proposed change to the credit is also designed to improve the market by providing incentive to member organizations to increase their activity on PSX. Thus, the proposed changes are designed to improve market quality for all market participants on PSX. The Exchange has observed that the current fee structure for PSCN order executions has not provided adequate incentive to member organizations to use PSCN. The Exchange believes that the proposed fee structure will provide such incentive. The Exchange has also observed that the credit has not provided adequate incentive to member organizations to increase their Consolidated Volume to meet the credit's qualification criteria. As a consequence, the Exchange is proposing to reduce the level of Consolidated Volume required to qualify for the credit, which should make the credit attainable by more member organizations while still requiring a high level of Consolidated Volume to receive the credit. Because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues, the proposed overall reduction in the fees assessed for PSCN order executions and the reduction in the qualification criteria of the credit should not impose a burden on competition. Ultimately, the Exchange believes that the proposal is pro-competitive because, to the extent it is effective in improving market quality on PSX, other markets may be compelled to provide similar incentives to improve market quality on their markets. Thus, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets or impose any burden on competition, but may rather promote competition.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[8]

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 No. SR–Phlx–2017–44 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 No. SR–Phlx–2017–44. 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 No. SR–Phlx–2017–44, and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12888 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80934; File No. SR–NYSE–2017–27]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Price List Regarding the Liquidity Provider Incentive Program

June 15, 2017.

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 June 1, 2017, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List regarding the Liquidity Provider Incentive Program. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List regarding the Liquidity Provider Incentive Program.[4] Specifically, the Exchange proposes to change the manner by which rebates would be payable under the Liquidity Provider Incentive Program.

Currently, pursuant to the Liquidity Provider Incentive Program, the Exchange pays Users [5] of NYSE Bonds a daily rebate based on the number of CUSIPs [6] on the NYSE Bonds Book for which a User meets the quoting requirements in one or more of three maturity classifications.

The daily rebate amount is tiered based on the number of qualifying CUSIPs that meet quoting requirements, as follows:

Number of qualifying CUSIPs	Daily rebate
400–599	$500
600–799	1,000
800 or more	1,500

For a CUSIP to be included in the daily rebate calculation, a User is required to provide continuous two-sided quotes for a minimum of 100 bonds for at least 80% of the day's Core Bond Trading Session,[7] and satisfy the average spread and average duration requirement.[8] The Exchange makes the determination of whether a User has met the prescribed quoting requirements each trading day to determine the amount of daily rebate for which a User qualifies. The Exchange then aggregates the daily rebate for each User and pays the total amount of the accumulated rebate to each User at the end of every month.

The Exchange proposes to change the Liquidity Provider Incentive Program to allow a User to enter quotes and orders under a Unique User ID to potentially qualify for more rebates. In connection with this proposal, the Exchange proposes to replace the term 'User' with 'Unique User' and adopt a definition of the term 'Unique User' in the Price List related to the Liquidity Provider Incentive Program. The term 'Unique User' would mean a User, a trading desk of a User, or a customer [9] of a User, on whose behalf a member or member organization enters quotes or orders under a Unique User ID that such User requests from and is provided by the Exchange. At the request of a User, the Exchange will assign a separate Unique User ID to each trading desk or customer of such User. A User may request any number of Unique User IDs from the Exchange. The proposed change would permit a User, based on a Unique User ID, that meets the quoting requirements under the Liquidity Provider Incentive Program to qualify for the rebates.

To illustrate, consider that ABC Securities (''ABC''), a NYSE User, has two separate trading desks, the Electronic Market Making Desk and the ETF Trading Desk, that operate independently of each other. Each of these desks has its own unique trading strategy. Under the proposal, at the User's request, the Exchange would assign each desk a Unique User ID, and monitor the quoting activity associated with each Unique User ID to calculate the appropriate rebate attributable to each desk independently. Under the proposal, ABC would be eligible to receive two separate rebate amounts based on the performance of each independent trade desk.

The Exchange is not proposing any other change to the manner in which rebates are calculated or the level of the rebates payable under the Liquidity Provider Incentive Program. The Exchange notes that to the extent a member or member organization delineates its activity, the member or member organization, as a result, may or may not qualify for the rebate.

The proposed rule change is intended to promote greater participation in the Liquidity Provider Incentive Program and provide participants with an incentive to transact more on the NYSE Bonds system.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that it is reasonable and equitable to amend the Liquidity Provider Incentive Program for the bonds trading platform, which would provide daily rebates based on activity associated with a Unique User ID that meets the Liquidity Provider Incentive Program's stated quoting requirements. The Liquidity Provider Incentive Program is already available to Users and the Exchange is proposing to change the program to permit participation in the Liquidity Provider Incentive Program based on Unique User IDs for providing quotes and trades to the Exchange, rather than based solely on the quoting and trading activity of individual Users.

The Exchange believes it is reasonable, equitable and not unfairly discriminatory to allow a member or member organization to qualify for rebates based on quotes and orders associated with a Unique User ID that a member or member organization requests. The purpose of the proposed rule change is to potentially permit Users to earn more rebates. The Exchange believes that providing additional opportunities to member and member organizations to earn rebates would encourage such participants to provide increased displayed liquidity on the Exchange for the benefit of all trading participants.

The Exchange believes that the current quoting requirements to qualify for the daily rebate, which are based on the average spread and average duration, would continue to apply to each Unique User ID under the proposal, and therefore would not unfairly discriminate between customers, issuers, and brokers or

[4] *See* Securities Exchange Act Release Nos. 77591 (April 12, 2016), 81 FR 22656 (April 18, 2016) (SR–NYSE–2016–26); 77812 (May 11, 2016), 81 FR 30594 (May 17, 2016) (SR–NYSE–2016–34); and 79210 (November 1, 2016), 81 FR 78213 (November 7, 2016) (SR–NYSE–2016–68).

[5] Rule 86(b)(2)(M) defines a User as any Member or Member Organization, Sponsored Participant, or Authorized Trader that is authorized to access NYSE Bonds. For purposes of the Liquidity provider Incentive Program, a User is a Member or Member Organization that is authorized to access NYSE Bonds.

[6] CUSIP stands for Committee on Uniform Securities Identification Procedures. A CUSIP number identifies most financial instruments, including: Stocks of all registered U.S. and Canadian companies, commercial paper, and U.S. government and municipal bonds. The CUSIP system—owned by the American Bankers Association and managed by Standard & Poor's—facilitates the clearance and settlement process of securities. *See http://www.sec.gov/answers/cusip.htm.*

[7] The Core Bond Trading Session commences at 8:00 a.m. ET and concludes at 5:00 p.m. ET. *See* Rule 86(i)(2).

[8] *See Quoting Requirements* under NYSE Bonds System, Liquidity Provider Incentive Program, on the Exchange Price List at *https://www.nyse.com/publicdocs/nyse/markets/nyse/NYSE_Price_List.pdf.*

[9] A customer may be, for example, a hedge fund that is not a member or member organization and therefore unable to access the NYSE Bonds.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4), (5).

dealers because all Users that opt in to the Liquidity Provider Incentive Program would be subject to the same requirements. The Exchange further believes that the proposed amendment is reasonable because it is designed to provide an incentive for member organizations to increase displayed liquidity at the Exchange, thereby increasing traded volume.

The Exchange believes the proposed amendment to the Liquidity Provider Incentive Program is intended to provide additional liquidity to the market and add competition to the existing group of liquidity providers. The Exchange believes that by providing Users with the ability to earn increased rebates, the Exchange is rewarding aggressive liquidity providers in the market, and by doing so, the Exchange will encourage the additional utilization of, and interaction with, the NYSE and provide customers with the premier venue for price discovery, liquidity, and competitive quotes.

Finally, the Exchange believes that the proposed rule change is equitable and not unfairly discriminatory in that it would apply uniformly to all Users of the NYSE Bonds system. Each User that is a member or member organization has the ability to request any number of Unique User IDs from the Exchange and each Unique User ID would equally qualify for the rebate under the program. All similarly situated Users would be subject to the same fee and rebate structure, and each User would have the ability to determine the extent to which the Exchange's proposed fee and rebate structure will provide it with an economic incentive to use the NYSE Bonds system, and model its business accordingly.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[12] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Debt securities typically trade in a decentralized OTC dealer market that is less liquid and transparent than the equities markets. The Exchange believes that the proposed change would increase competition with these OTC venues by enabling increased participation to engage in bonds transactions on the Exchange and rewarding market participants for actively quoting and providing liquidity in the only transparent bond market, which the Exchange believes will enhance market quality.

The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues that are not transparent. In such an environment, the Exchange must continually review, and consider adjusting its fees and rebates to remain competitive with other exchanges as well as with alternative trading systems and other venues that are not required to comply with the statutory standards applicable to exchanges. As a result of these considerations, the Exchange does not believe that the proposed change will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

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, it has become effective pursuant to Section 19(b)(3)(A) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[15] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[16] 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 proposed rule change may become operative immediately on filing. The Exchange states that waiver of the operative delay would be consistent with the protection of investors and the public interest because the proposed rule change would allow the Exchange, within 30 days after filing the proposed rule change, to expand the Liquidity Provider Incentive Program by allowing Users to identify additional Unique User IDs for purposes of calculating the rebate. The Exchange believes that the proposed rule change would increase the opportunity for participants to earn rebates under the Liquidity Provider Incentive Program and thereby incentivize member organizations to increase displayed bond liquidity on the Exchange. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Accordingly, the Commission hereby waives the operative delay and designates the proposed rule change operative upon filing.[17]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–27 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–2017–27. This file number should be included on the

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 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.

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] 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).

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–NYSE–2017–27, and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12884 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80928; File No. SR–NASDAQ–2017–056]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Transaction Fees at Rule 7018(a)(2)

June 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1], and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' 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 the Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's transaction fees at Rule 7018(a)(2) to eliminate a $0.0001 per share executed credit provided to a member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity in securities listed on the New York Stock Exchange.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Exchange's transaction fees at Rule 7018(a)(2) to eliminate a $0.0001 per share executed credit provided to a member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity in Tape A securities. Under Rule 7018(a), the Exchange assesses fees for the removal of liquidity and provides credits for the provision thereof. The Exchange currently provides a $0.0001 per share executed credit to a member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity if the member has shares of liquidity provided in all securities during the month representing at least 0.2% of Consolidated Volume during the month, through one or more of its Nasdaq Market Center MPIDs. This $0.0001 per share executed credit is provided in addition to the credits provided for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity under Rule 7018(a)(2).[3] This credit is also provided in addition to any rebates that a member qualifies for under the NBBO, and QMM programs under Rule 7014. The credit is not additive to DLP rebates under Rule 7014 or Designated Retail Order credits under Rule 7018.

The credit, together with an identical credit applicable to Tape B securities, was adopted to provide incentive to market participants to increase the level of liquidity provided to the Exchange, in which the Exchange had observed a decline in overall volume on the Exchange in Tape A and B securities in comparison to Tape C securities.[4] The Exchange has not observed a significant improvement to the volume in Tape A securities on the Exchange in relation to the Tape A credit and is therefore proposing to eliminate the credit so that it may explore other incentives to improve market quality in Tape A securities.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Elimination of the $0.0001 per share executed credit provided to a member for displayed quotes/orders (other than Supplemental Orders or Designated

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange also provides a $0.0001 per share executed credit with identical criteria applicable to Tape B securities. *See* Rule 7018(a)(3).

[4] *See* Securities Exchange Act Release No. 77378 (March 16, 2016), 81 FR 15358 (March 22, 2016) (SR–NASDAQ–2016–037). The Exchange has since replaced the qualification criteria required to receive the Tape B $0.0001 per share executed credit. Specifically, to now qualify for the $0.0001 per share executed credit in Tape B securities, a member must have shares of liquidity provided in securities that are listed on exchanges other than NASDAQ or NYSE during the month representing at least 0.06% but less than 0.12% of Consolidated Volume during the month through one or more of its Nasdaq Market Center MPIDs. *See* Securities Exchange Act Release No. 78977 (September 29, 2016), 81 FR 69140 (October 5, 2016) (SR–NASDAQ–2016–132).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

Retail Orders) that provide liquidity in Tape A securities under Rule 7018(a)(2) is reasonable because providing a credit in addition to the other credits provided under Rules 7018(a) and 7014, as described above, is no longer necessary. As noted above, the Exchange set the credit at $0.0001 per share executed because it believed that providing such a credit would improve the market in Tape A securities. The credit has not significantly provided such incentive and consequently the Exchange believes that it should eliminate the credit to focus its limited funds on other incentives to improve market quality. Accordingly, the Exchange believes eliminating this additional Tape A credit is reasonable.

Elimination of the $0.0001 per share executed credit provided to a member for displayed quotes/orders (other than Supplemental Orders or Designated Retail Orders) that provide liquidity in Tape A securities under Rule 7018(a)(2) is an equitable allocation and is not unfairly discriminatory because it is no longer needed to improve the market in Tape A securities. The Exchange has limited funds to apply in the form of incentives, and thus must deploy those limited funds to incentives that it believes will be the most effective and improve market quality in areas that the Exchange determines are in need of improvement. The Exchange has observed that the credit has not provided the incentive that was necessary to significantly improve the market in Tape A securities by attracting more order flow to the Exchange and is therefore removing the credit so that it may consider other incentives that may improve Tape A market quality. As noted above, the Exchange has limited funds to apply toward incentives, and although an incentive may not significantly achieve its goal of improving market quality, it may nonetheless result in a cost to the Exchange. Eliminating the credit will allow the Exchange deploy its limited funds to incentives in Tape A securities or other areas designed to improve market quality. Accordingly, the Exchange believes that eliminating the credit is an equitable allocation and is not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

In this instance, the Exchange is proposing to eliminate an incentive provided to market participants, which was designed to improve market quality in Tape A securities. The incentive has not significantly improved market quality in Tape A securities and the Exchange does not believe that continuing to offer the credit is the best use of its limited fund nor would it likely achieve the market improvement for which it was designed. Because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues, the proposed elimination of the credit should not impose a burden on competition. If the Exchange is incorrect in concluding that the incentive was not significantly effective, it will likely lose market share in Tape A securities to one of the many other trading venues to the extent market participants believe that those markets are more attractive. Thus, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets or impose any burden on competition.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[7]

[7] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2017–056) on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–056). 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–NASDAQ–2017–056, and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[8]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12769 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80922; File No. SR–ISE–2017–49]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Its Schedule of Fees To (1) Reduce the Priority Customer Taker Fee for Regular Orders in SPY to $0.35 Per Contract, and (2) Lower the Threshold of Net Zero Complex Contracts

June 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 31, 2017, Nasdaq ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees to (1) reduce the Priority Customer taker fee for regular orders in SPY to $0.35 per contract, and (2) lower the threshold of net zero complex contracts from 2,000 contracts to 1,000 contracts.

The text of the proposed rule change is available on the Exchange's Web site at *www.ise.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 proposed rule change is to amend the Schedule of Fees to (1) reduce the Priority Customer [3] taker fee for regular orders in SPY to $0.35 per contract, and (2) lower the threshold of net zero complex contracts from 2,000 contracts to 1,000 contracts. Each of these changes is described in more detail below.

Priority Customer Taker Fee

Currently, the Exchange charges a taker fee for regular orders in Select Symbols [4] that is $0.44 per contract for Market Maker [5] orders, $0.45 per contract for Non-Nasdaq ISE Market Maker,[6] Firm Proprietary,[7] Broker-Dealer,[8] and Professional Customer orders,[9] and $0.40 per contract for Priority Customer orders. The Exchange now proposes to adopt a reduced Priority Customer taker fee of $0.35 per contract for regular orders in SPY, which is the most actively traded name on the Exchange. This taker fee will remain unchanged for Select Symbols other than SPY. The Exchange believes that this reduction in fees will attract additional Priority Customer orders in SPY to the Exchange.

Net Zero Complex Orders

Currently, the Exchange does not provide Priority Customer rebates for complex orders that that leg in to the regular order book and trade at a net price per contract at or near $0.00 (*i.e.,* net zero complex orders), provided those orders are entered on behalf of originating market participants that execute an ADV of at least 2,000 contracts in net zero complex orders in a given month.[10] While these complex orders would generally not find a counterparty in the complex order book, they may leg in to the regular order book where they are typically executed by Market Makers or other market participants on the individual legs who pay a fee to trade with this order flow. The Exchange does not provide rebates for net zero complex orders to prevent members from engaging in rebate arbitrage by entering valueless complex orders solely to recover rebates. For purposes of determining which complex orders qualify as net zero, the Exchange counts all complex orders that leg in to the regular order book and are executed at a net price per contract that is within a range of $0.01 credit and $0.01 debit. The 2,000 contract threshold exists to differentiate market participants that are entering legitimate complex orders from those that are entering net zero complex orders solely to earn a rebate. The Exchange now proposes to lower the threshold of net zero complex contracts from 2,000 contracts to 1,000 contracts per day. As such, net zero priced complex orders that leg into the regular order book and are entered by firms with an ADV in this type of activity of 1,000 contracts or more in a given month will not earn the Priority Customer complex order rebate.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and Section 6(b)(4) of the Act,[12] in particular, in that it is designed

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in Nasdaq ISE Rule 100(a)(37A).

[4] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[5] The term ''Market Makers'' refers to ''Competitive Market Makers'' and ''Primary Market Makers'' collectively. See ISE Rule 100(a)(25).

[6] A ''Non-Nasdaq ISE Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[7] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[8] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[9] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[10] *See* Securities Exchange Act Release No. 80219 (March 13, 2017), 82 FR 14249 (March 17, 2017) (SR–ISE–2017–22). Priority Customer complex orders that do not meet the definition of a net zero complex order, or that are entered on behalf of originating market participants that do not reach the 2,000 contract ADV threshold, remain eligible for rebates based on the tier achieved.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(4).

to provide for the equitable allocation of reasonable dues, fees, and other charges among its members and other persons using its facilities.

Priority Customer Taker Fee

The Exchange believes that it is reasonable and equitable to reduce the Priority Customer taker fee for regular orders in SPY as the proposed fees are more favorable than those currently offered on the Exchange. The Exchange is targeting SPY for this change as SPY is the most actively traded symbol on the Exchange. With this change, the Exchange will charge lower taker fees for Priority Customer orders in SPY, thereby attracting additional order flow in this symbol to the benefit of all members that trade on the Exchange. The Exchange also believes that it is equitable and not unfairly discriminatory to only offer this reduced taker fee to Priority Customer orders. A Priority Customer is by definition not a broker or dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). This limitation does not apply to participants on the Exchange whose behavior is substantially similar to that of market professionals, including Professional Customers, who will generally submit a higher number of orders than Priority Customers.

Net Zero Complex Orders

The Exchange believes that the proposed change to lower the threshold of net zero complex contracts is reasonable, equitable, and not unfairly discriminatory as it is designed to remove financial incentives for market participants to engage in rebate arbitrage by entering valueless complex orders on the Exchange that do not have any economic purpose. The Exchange has determined that the current threshold is still too high to effectively discourage market participants from engaging in rebate arbitrage, and believes that the lower threshold proposed in this filing more accurately reflects the Exchange's original intent. No market participants meet the current ADV threshold, as firms have modified their activity to ensure that their complex ADV in the net zero range is lower than the current 2,000 ADV threshold. Between May 1, 2017 and May 26, 2017, for example, the market participant with the largest ADV in net zero contracts executed an ADV of 1,204 net zero contracts. By comparison the average net zero ADV of market participants that traded complex orders during this time period was only 24 contracts, with the vast majority of these market participants executing no net zero contracts.[13] The continued submission of a high volume of net zero complex orders that leg into the regular order book by these firms has generated complaints from the Market Makers that trade against these orders in the regular order book, as firms recognize these net zero complex orders as essentially non-economic.

The Exchange believes that lowering the threshold will make it more difficult for firms to continue to enter net zero complex orders purely to earn a rebate. In particular, the Exchange notes that any firm that engages in this activity will be prevented from doing so with an ADV of more than 1,000 contracts in net zero complex orders. This will reduce the cost of these trades to the Exchange and its members as firms are limited in the amount of this net zero complex order activity that they can conduct on the Exchange. The Exchange believes that market participants will stop entering net zero complex orders when they reach the proposed ADV threshold as these firms are entering these orders solely for the purpose of earning a rebate. Indeed, this is consistent with the Exchange's experience with this rule to date, as firms that were previously entering a high volume of net zero complex orders have reduced their volume in activity covered by this rule in response to other changes.

To the extent that market participants enter legitimate complex orders, however, they will continue to receive the same rebates that they do today. In addition, market participants that enter an insubstantial volume of net zero complex orders will also continue to receive rebates. The Exchange believes that it is reasonable, equitable, and not unfairly discriminatory to continue to provide rebates where appropriate based on the market participant executing only a low ADV of net zero complex orders. While the Exchange could prohibit rebates for any net zero complex orders without an ADV threshold, doing so would disadvantage innocent market participants that are not engaged in rebate arbitrage. The Exchange believes that the decision to allow rebates for firms with a limited ADV in net zero complex orders properly balances the need to encourage market participants to send order flow to the Exchange, and the need to prevent activity that is harmful to the market. Moreover, all market participants will be treated the same based on their net zero ADV.

[13] Excluding market participants that did not execute any net zero complex orders, the average net zero ADV was only 109 contracts.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[14] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed reduction in Priority Customer taker fees for regular orders in SPY is better for these market participants, and illustrates competition in the options industry. In addition, the proposed net zero complex order change is designed to reduce the ability for certain market participants to engage in rebate arbitrage to the detriment of the Exchange and its members. The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[15] and Rule 19b–4(f)(2)[16] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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.

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

[16] 17 CFR 240.19b–4(f)(2).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–49 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–ISE–2017–49. 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–ISE–2017–49 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12763 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80930; File No. 4–698]

Joint Industry Plan; Notice of Filing and Immediate Effectiveness of Amendment No. 2 to the National Market System Plan Governing the Consolidated Audit Trail by Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE MKT LLC and NYSE National, Inc.

June 14, 2017.

I. Introduction

On May 9, 2017, the Operating Committee for CAT NMS, LLC (the ''Company''), on behalf of the following parties to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan''): [1] Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc., Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC, NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE Arca, Inc., NYSE MKT LLC and NYSE National, Inc. (collectively, the ''Participants,'' ''self-regulatory organizations'' or ''SROs'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') pursuant to Section 11A(a)(3) of the Securities Exchange Act of 1934 (''Exchange Act'') [2] and Rule 608 thereunder,[3] a proposal to amend the Plan (''Amendment No. 2'').[4] The proposed amendment would add a fee schedule to a new Exhibit B of the Plan which sets forth the CAT fees to be paid by the Participants. A copy of proposed Exhibit B to the CAT NMS Plan is attached as Appendix A hereto. The Participants have also included, and as attached hereto, an Appendix B containing two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier. The Commission is publishing this notice to solicit comments from interested persons on Amendment No. 2.[5]

II. Description of the Plan

Set forth in this Section II is the statement of the purpose and summary of Amendment No. 2, along with the information required by Rule 608(a)(4) and (5) under the Exchange Act,[6] prepared and submitted by the Participants to the Commission.[7]

A. Description of the Amendments to the CAT NMS Plan

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Participants' obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific

[1] On February 27, 2015, BATS–Y Exchange, Inc. (n/k/a Bats BYX Exchange, Inc.), BATS Exchange, Inc. (n/k/a Bats BZX Exchange, Inc.), BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., EDGA Exchange, Inc. (n/k/a Bats EDGA Exchange, Inc.), EDGX Exchange, Inc. (n/k/a Bats EDGX Exchange, Inc.), Financial Industry Regulatory Authority, Inc., International Securities Exchange, LLC (n/k/a Nasdaq ISE LLC), ISE Gemini, LLC (n/k/a Nasdaq GEMX, LLC), Miami International Securities Exchange LLC, NASDAQ OMX BX, Inc. (n/k/a NASDAQ BX, Inc.), NASDAQ OMX PHLX LLC (n/k/a NASDAQ PHLX LLC), The NASDAQ Stock Market LLC, National Stock Exchange, Inc. (n/k/a NYSE National, Inc.), New York Stock Exchange LLC, NYSE MKT LLC, and NYSE Arca, Inc. filed with the Commission, pursuant to Section 11A of the Exchange Act and Rule 608 of Regulation NMS thereunder, the CAT NMS Plan. 15 U.S.C. 78k–1; 17 CFR 242.608. The Plan was published for comment in the **Federal Register** on May 17, 2016, and approved by the Commission, as modified, on November 15, 2016. *See* Securities Exchange Act Release Nos. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016); 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016). On January 30, 2017, the Commission noticed for immediate effectiveness an amendment to the Plan to add MIAX PEARL, LLC as a Participant. *See* Securities Exchange Act Release No. 79898, 82 FR 9250 (February 3, 2017).

[2] 15 U.S.C 78k–1(a)(3).

[3] 17 CFR 242.608.

[4] *See* Letter from Michael Simon, CAT NMS Plan Operating Committee Chair, to Brent J. Fields, Secretary, Commission, dated May 8, 2017 (''Transmittal Letter'').

[5] 17 CFR 242.608.

[6] *See* 17 CFR 242.608(a)(4) and (a)(5).

[7] *See* Transmittal Letter, *supra* note 4.

fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section A(2)(E) below)

• *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section A(2) below)

• *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section A(2)(B) below)

• *Execution Venue Fees.* Each Equity Execution Venue will be placed in one of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section A(2)(C) below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section A(2)(D) below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section A(2)(F) below)

• *Fee Schedule.* The quarterly CAT Fees for each tier for Participants are set forth in the two fee schedules in proposed Exhibit B to the CAT NMS Plan, one for Execution Venues for NMS Stocks and OTC Equity Securities and one for Execution Venues for Listed Options. (*See* Section A(3) below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [8] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [9]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [10] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[11]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[12] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[13] Additionally, a strictly variable or metered funding model based on message volume would

[8] Approval Order at 84796.

[9] *Id.* at 84794.

[10] *Id.* at 84795.

[11] *Id.* at 84794.

[12] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[13] In choosing a tiered fee structure, the self-regulatory organizations concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [14]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[15] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[16] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[17] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[18]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [19] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[20] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[21]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[22] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[23]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [24] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [25]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[26] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[] to the benefit of any private shareholder or individual.'' [27] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [28]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be

[14] Approval Order at 84796.

[15] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[16] Approval Order at 85005.

[17] *Id.*

[18] *Id.*

[19] *Id.* at 84796.

[20] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[21] Section 11.3(b) of the CAT NMS Plan.

[22] Section 11.2(c) of the CAT NMS Plan.

[23] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[24] Section 11.2(e) of the CAT NMS Plan.

[25] Approval Order at 84796.

[26] *Id.* at 84792.

[27] 26 U.S.C. 501(c)(6).

[28] Approval Order at 84793.

applied in practice, including the number of fee tiers and the applicable fees for each tier. The complete funding model is described below, including those fees that are to be paid by Industry Members. Proposed Exhibit B, however, does not apply to Industry Members; proposed Exhibit B only applies to Participants. The CAT Fees for Industry Members will be imposed separately by the Operating Committee pursuant to rules adopted by the individual self-regulatory organizations.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

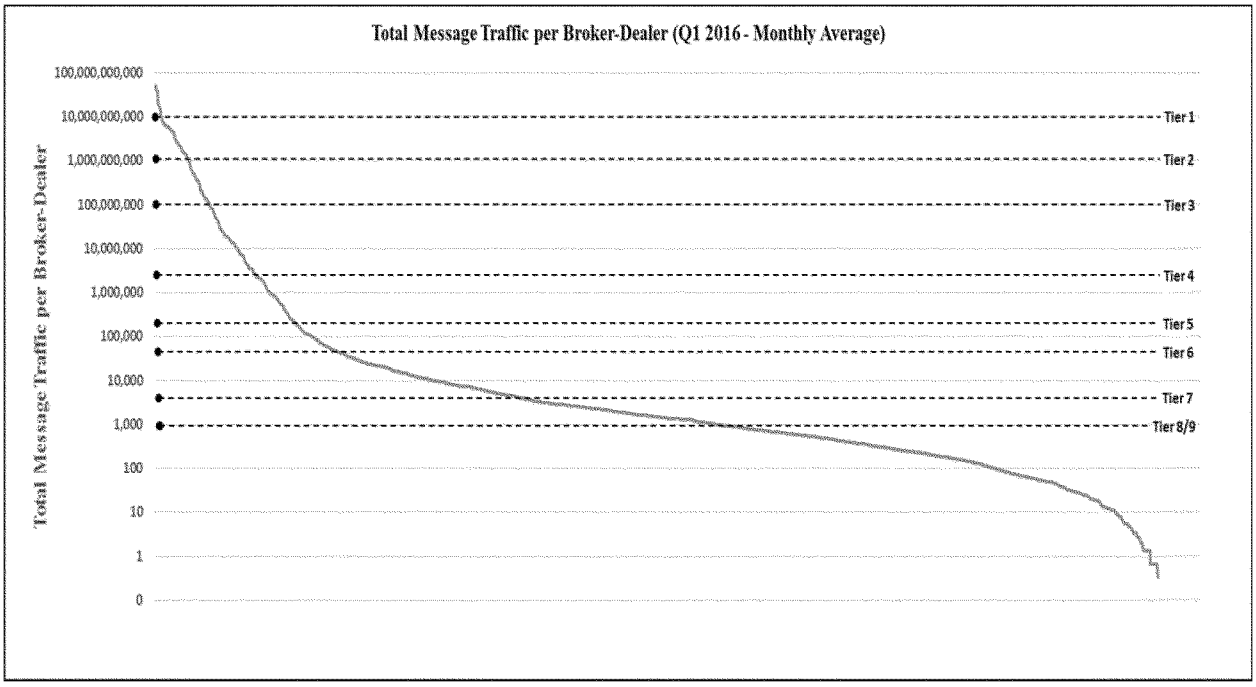
In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include

stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section A(2)(H).



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[29] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[30] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[31]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' [32]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[33]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts).

[29] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (Mar. 1, 2017 [sic], 81 FR 11856 (Mar. 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[30] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[31] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[32] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[33] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trading [sic] reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section A(2)(H).

Equity Execution Venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options Execution Venue tier	Percentage of Options Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section A(2)(H).

Options Execution Venue tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in Appendix B to this letter are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[34]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of

[34] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate filing.

the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
	Third Party Support Costs	5,200,000
Non-Plan Processor	Operational Reserve	[35] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Based on the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [36]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [37]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [38]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [39]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members

[35] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[36] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[37] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[38] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[39] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

(other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

CALCULATION OF ANNUAL TIER FEES FOR INDUSTRY MEMBERS ("IM")

Industry Member tier	Percentage of Industry Members	Percentage of Industry Member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry Member tier	Estimated number of Industry Members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

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Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 0.5\%\ [\%\ of\ Tier\ 1\ IMs] = 8\ [Estimated\ Tier\ 1\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 8.50\%\ [\%\ of\ Tier\ 1\ IM\ Recovery]}{8\ [Estimated\ Tier\ 1\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 2.5\%\ [\%\ of\ Tier\ 2\ IMs] = 41\ [Estimated\ Tier\ 2\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 35\%\ [\%\ of\ Tier\ 2\ IM\ Recovery]}{41\ [Estimated\ Tier\ 2\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 2.125\%\ [\%\ of\ Tier\ 3\ IMs] = 35\ [Estimated\ Tier\ 3\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 21.25\%\ [\%\ of\ Tier\ 3\ IM\ Recovery]}{35\ [Estimated\ Tier\ 3\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 4.625\%\ [\%\ of\ Tier\ 4\ IMs] = 75\ [Estimated\ Tier\ 4\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 15.75\%\ [\%\ of\ Tier\ 4\ IM\ Recovery]}{75\ [Estimated\ Tier\ 4\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 3.625\%\ [\%\ of\ Tier\ 5\ IMs] = 59\ [Estimated\ Tier\ 5\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 7.75\%\ [\%\ of\ Tier\ 5\ IM\ Recovery]}{59\ [Estimated\ Tier\ 5\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 4\%\ [\%\ of\ Tier\ 6\ IMs] = 65\ [Estimated\ Tier\ 6\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 5.25\%\ [\%\ of\ Tier\ 6\ IM\ Recovery]}{65\ [Estimated\ Tier\ 6\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 17.5\%\ [\%\ of\ Tier\ 7\ IMs] = 285\ [Estimated\ Tier\ 7\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 4.50\%\ [\%\ of\ Tier\ 7\ IM\ Recovery]}{285\ [Estimated\ Tier\ 7\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 20.125\%\ [\%\ of\ Tier\ 8\ IMs] = 328\ [Estimated\ Tier\ 8\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 1.50\%\ [\%\ of\ Tier\ 8\ IM\ Recovery]}{328\ [Estimated\ Tier\ 8\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [Estimated\ Tot.IMs] \times 45\%\ [\%\ of\ Tier\ 9\ IMs] = 735\ [Estimated\ Tier\ 9\ IMs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs] \times 75\%\ [IM\ \%\ of\ Tot.Ann.CAT\ Costs] \times 0.50\%\ [\%\ of\ Tier\ 9\ IM\ Recovery]}{735\ [Est.Tier\ 9\ IMs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$22}$$

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CALCULATION OF ANNUAL TIER FEES FOR EQUITY EXECUTION VENUES ("EV")

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity Execution Venue tier	Estimated number of Equity Execution Venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [Estimated\ Tot.Equity\ EVs]\ \times 25\%\ [\%\ of\ Tier\ 1\ Equity\ EVs] = 13\ [Estimated\ Tier\ 1\ Equity\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.\ Ann.CAT\ Costs]\times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs]\times 26\%\ [\%\ of\ Tier\ 1\ Equity\ EV\ Recovery]}{13\ [Estimated\ Tier\ 1\ Equity\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [Estimated\ Tot.Equity\ EVs]\ \times 75\%\ [\%\ of\ Tier\ 2\ Equity\ EVs] = 40\ [Estimated\ Tier\ 2\ Equity\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.\ Ann.CAT\ Costs]\times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs]\times 49\%\ [\%\ of\ Tier\ 2\ Equity\ EV\ Recovery]}{40\ [Estimated\ Tier\ 2\ Equity\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

CALCULATION OF ANNUAL TIER FEES FOR OPTIONS EXECUTION VENUES (''EV'')

Options Execution Venue tier	Percentage of Options Execution Venues	Percentage of Execution Venue recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options Execution Venue tier	Estimated number of Options Execution Venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [Estimated\ Tot.Options\ EVs]\ \times 75\%\ [\%\ of\ Tier\ 1\ Options\ EVs] = 11\ [Estimated\ Tier\ 1\ Options\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs]\times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs]\times 20\%\ [\%\ of\ Tier\ 1\ Options\ EV\ Recovery]}{11\ [Estimated\ Tier\ 1\ Options\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [Estimated\ Tot.Options\ EVs]\ \times 25\%\ [\%\ of\ Tier\ 2\ Options\ EVs] = 4\ [Estimated\ Tier\ 2\ Options\ EVs]$$

$$\left(\frac{\$50{,}700{,}000\ [Tot.Ann.CAT\ Costs]\times 25\%\ [EV\ \%\ of\ Tot.Ann.CAT\ Costs]\times 5\%\ [\%\ of\ Tier\ 2\ Options\ EV\ Recovery]}{4\ [Estimated\ Tier\ 2\ Options\ EVs]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

TRACEABILITY OF TOTAL CAT FEES

Type	Industry Member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420

TRACEABILITY OF TOTAL CAT FEES—Continued

Type	Industry Member tier	Estimated number of members	CAT fees paid annually	Total recovery
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [40]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [41]

EXECUTION VENUE COMPLEXES

Execution Venue complex	Listing of Equity Execution Venue tiers	Listing of Options Execution Venue tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry Member complex	Listing of Industry Member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1)	• Tier 2 (x1)	796,595

[40] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[41] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

INDUSTRY MEMBER COMPLEXES—Continued

Industry Member complex	Listing of Industry Member tiers	Listing of ATS tiers	Total fees by IM complex
	• Tier 7 (x1)		

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. The Operating Committee will issue a notice to the Participants when the billing mechanism has been established, specifying the date when such invoicing of Participants will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[42] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[43] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then the Operating Committee will file such changes with the SEC pursuant to Rule 608 of the Exchange Act, and any such changes will become effective in accordance with the requirements of Rule 608.

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. Any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1

[42] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the self-regulatory organizations, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[43] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

The Operating Committee proposes to add Exhibit B to the CAT NMS Plan to add a fee schedule setting forth the CAT Fees applicable to Participants. Proposed Exhibit B is set forth in Appendix A to this letter. Paragraph (a)(1) of proposed Exhibit B sets forth the CAT Fees applicable to Execution Venues for NMS Stocks and OTC Equity Securities. Specifically, paragraph (a)(1) states that the Company will assign each Execution Venue for NMS Stocks and/or OTC Equity Securities to a fee tier once every quarter, where such tier assignment is calculated by ranking each such Execution Venue based on its total market share for the three months prior to the quarterly tier calculation day and assigning each such Execution Venue to a tier based on that ranking and predefined percentages for such Execution Venues. The Execution Venues for NMS Stocks and/or OTC Equity Securities with the higher total quarterly market share will be ranked in Tier 1, and such Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (a)(1) states that, each quarter, each Execution Venue for NMS Stocks and/or OTC Equity Securities shall pay in the manner prescribed by the Company the following CAT Fee corresponding to the tier assigned by the CAT NMS, LLC for such Execution Venue for that quarter:

Tier	Percentage of Execution Venues for NMS stocks and/or OTC equity securities	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

In addition, paragraph (a)(2) of the proposed Exhibit B states that the Company will assign each Execution Venue for Listed Options to a fee tier once every quarter, where such tier assignment is calculated by ranking each such Execution Venue based on its total market share for the three months prior to the quarterly tier calculation day and assigning each such Execution Venue to a tier based on that ranking and predefined percentages for such Execution Venues. The Execution Venues for Listed Options with the higher total quarterly market share will be ranked in Tier 1, and such Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(1) states that, each quarter, each Execution Venue for Listed Options shall pay in the manner prescribed by the Company the following CAT Fee corresponding to the tier assigned by the CAT NMS, LLC for such Execution Venue for that quarter:

Tier	Percentage of Execution Venues for listed options (%)	Quarterly CAT fee
1	25.00	$57,615
2	75.00	39,612

B. Governing or Constituent Documents

Not applicable.

C. Implementation of Amendment

The terms of the proposed amendment will become effective upon filing pursuant to Rule 608(b)(3)(i) of the Exchange Act because it establishes a fee or other charge collected on behalf of all of the Participants in connection with access to, or use of, any facility contemplated by the plan (including changes in any provision with respect to distribution of any net proceeds from such fees or other charges to the sponsors and/or participants).[44] At any time within sixty days of the filing of this amendment, the Commission may summarily abrogate the amendment and require that it be refiled pursuant to paragraph (b)(1) [sic] of Rule 608, if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanisms of, a national market system or otherwise in furtherance of the purposes of the Exchange Act.

D. Development and Implementation Phases

Not applicable.

E. Analysis of Impact on Competition

The Operating Committee does not believe that the proposed amendment will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The Operating Committee notes that the proposed amendment implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist the Participants in meeting their regulatory obligations pursuant to the Plan. Because all national securities exchanges and FINRA are subject to the proposed CAT Fees set forth in the proposed amendment, this is not a competitive filing that raises competition issues between and among the exchanges and FINRA.

Moreover, as previously described, the Operating Committee believes that the proposed fee schedule fairly and equitably allocates costs among CAT Reporters. In particular, the proposed

[44] 17 CFR 242.608(b)(3)(i).

fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, the Operating Committee does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, the Operating Committee does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, SRO [sic] believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

F. Written Understanding or Agreements Relating to Interpretation of, or Participation in, Plan

Not applicable.

G. Approval by Plan Sponsors in Accordance With Plan

Section 12.3 of the Plan states that, subject to certain exceptions, the Plan may be amended from time to time only by a written amendment, authorized by the affirmative vote of not less than two-thirds of all of the Participants, that has been approved by the SEC pursuant to Rule 608 or has otherwise become effective under Rule 608. In addition, Section 4.3(a)(vi) of the Plan requires the Operating Committee, by Majority Vote, to authorize action to determine the appropriate funding-related policies, procedures and practices-consistent with Article XI. The Operating Committee has satisfied both of these requirements.

H. Description of Operation of Facility Contemplated by the Proposed Amendment

Not applicable.

I. Terms and Conditions of Access

Not applicable.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

Section A of this letter describes in detail how the Operating Committee developed the proposed CAT fees, including a detailed discussion of the proposed funding model for the CAT.

K. Method and Frequency of Processor Evaluation

Not applicable.

L. Dispute Resolution

Section 11.5 of the CAT NMS Plan addresses the resolution of disputes regarding Participants' CAT fees charged to Participants and Industry Members. Specifically, Section 11.5 states that disputes with respect to fees the Company charges Participants pursuant to Article XI of the CAT NMS Plan shall be determined by the Operating Committee or a Subcommittee designated by the Operating Committee. Decisions by the Operating Committee or such designated Subcommittee on such matters shall be binding on Participants, without prejudice to the rights of any Participant to seek redress from the SEC pursuant to Rule 608 or in any other appropriate forum.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the amendment is consistent with the Exchange 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 4–698 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 4–698.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 amendment that are filed with the Commission, and all written communications relating to the amendment 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 Participants' offices. 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 4–698 and should be submitted on or before July 11, 2017.

By the Commission.

Eduardo A. Aleman,

Assistant Secretary.

Appendix A

[Additions *underlined;* deletions bracketed]

Exhibit B

CAT Fees

(a) Participant CAT Fee Schedule.

(1) CAT Fees: Execution Venues for NMS Stocks and/or OTC Equity Securities.

The CAT NMS, LLC will assign each Execution Venue for NMS Stocks and/or OTC Equity Securities to a fee tier once every quarter, where such tier assignment is calculated by ranking each such Execution Venue based on its total market share for the three months prior to the quarterly tier calculation day and assigning each such Execution Venue to a tier based on that ranking and predefined percentages for such Execution Venues. The Execution Venues for NMS Stocks and/or OTC Equity Securities with the higher total quarterly market share will be ranked in Tier 1, and such Execution Venues with the lower quarterly market share will be ranked in Tier 2. Each quarter, each Execution Venue for NMS Stocks and/or OTC Equity Securities shall pay in the manner prescribed by the CAT NMS, LLC the following CAT Fee corresponding to the tier assigned by the CAT NMS, LLC for such Execution Venue for that quarter:

Tier	Percentage of Execution Venues for NMS stocks and/or OTC equity securities (%)	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(2) CAT Fees: Execution Venues for Listed Options

The CAT NMS, LLC will assign each Execution Venue for Listed Options to a fee tier once every quarter, where such tier assignment is calculated by ranking each such Execution Venue based on its total market share for the three months prior to the quarterly tier calculation day and assigning each such Execution Venue to a tier based on that ranking and predefined percentages for such Execution Venues. The Execution Venues for Listed Options with the higher total quarterly market share will be ranked in Tier 1, and such Execution Venues with the lower quarterly market share will be ranked in Tier 2. Each quarter, each Execution Venue for Listed Options shall pay in the manner prescribed by the CAT NMS, LLC the following CAT Fee corresponding to the tier assigned by the CAT NMS, LLC for such Execution Venue for that quarter:

Tier	Percentage of Execution Venues for listed options (%)	Quarterly CAT fee
1	25.00	$57,615
2	75.00	39,612

Appendix B

EQUITY EXECUTION VENUE RANK AND TIER

Market participant	Market share of share volume [45] (%)	Rank	Tier
OTC LINK ATS	29.90	1	1
Financial Industry Regulatory Authority, Inc	16.50	2	1
The NASDAQ Stock Market LLC	9.67	3	1
New York Stock Exchange LLC	9.08	4	1
NYSE Arca, Inc	7.05	5	1
Bats EDGX Exchange, Inc	4.89	6	1
Bats BZX Exchange, Inc	4.24	7	1
Bats BYX Exchange, Inc	3.06	8	1
NASDAQ BX, Inc	1.85	9	1
UBS ATS	1.78	10	1
Bats EDGA Exchange, Inc	1.69	11	1
Investors' Exchange, LLC	1.25	12	1
CROSSFINDER	1.09	13	1
SUPERX	0.79	14	2
MS POOL (ATS–4)	0.68	15	2
NASDAQ PHLX LLC	0.66	16	2
J.P. MORGAN AST ("JPM–X")	0.56	17	2
LEVEL ATS	0.49	18	2
INSTINCT X	0.48	19	2
BIDS TRADING L.P	0.44	20	2
BARCLAYS ATS ("LX")	0.43	21	2
KCG MATCHIT	0.42	22	2
SIGMA X	0.39	23	2
INSTINET CONTINUOUS BLOCK CROSSING SYSTEM (CBX)	0.34	24	2
Chicago Stock Exchange, Inc	0.31	25	2
POSIT	0.30	26	2
CROSSSTREAM	0.25	27	2
MS TRAJECTORY CROSS (ATS–1)	0.16	28	2
NYSE MKT LLC	0.14	29	2
LIQUIDNET ATS	0.13	30	2
IBKR ATS	0.13	31	2
MILLENNIUM	0.12	32	2
GLOBAL OTC	0.12	33	2
DEALERWEB, INC	0.11	34	2
CITICROSS	0.09	35	2
BLOCKCROSS ATS	0.08	36	2
LIQUIDNET H20 ATS	0.07	37	2
CODA MARKETS, INC	0.07	38	2
INSTINET CROSSING, INSTINET BLX	0.06	39	2
LUMINEX TRADING & ANALYTICS LLC	0.03	40	2
LIGHT POOL	0.02	41	2
MS RETAIL POOL	0.02	42	2
CITIBLOC	0.02	43	2
NYSE National, Inc	0.01	44	2
USTOCKTRADE SECURITIES, INC	0.01	45	2
AQUA SECURITIES L.P	0.0047	46	2
XE	0.0037	47	2
LIQUIFI	0.0014	48	2
VARIABLE INVESTMENT ADVISORS, INC. ATS (VIAATS)	0.000073	49	2
BARCLAYS DIRECTEX	0.0000303	50	2

[45] Based on November 2016 through January 2017 volume sourced from Bats and FINRA.

EQUITY EXECUTION VENUE RANK AND TIER—Continued

Market participant	Market share of share volume [45] (%)	Rank	Tier
FNC AG STOCK, LLC	0.0000225	51	2
AX TRADING, LLC	0.0000026	52	2
PRO SECURITIES ATS	0.0000002	53	2

OPTIONS EXECUTION VENUE RANK AND TIER

Market participant	Market share of share volume (Options contracts) [46] (%)	Rank	Tier
NASDAQ PHLX LLC	16.68	1	1
Chicago Board Options Exchange, Incorporated	16.08	2	1
Bats BZX Options Exchange, Inc.	11.53	3	1
Nasdaq ISE, LLC	10.63	4	1
NYSE Arca, Inc.	9.52	5	1
The NASDAQ Options Market LLC	9.01	6	1
NYSE MKT LLC	8.01	7	1
Miami International Securities Exchange, LLC	5.84	8	1
Nasdaq GEMX, LLC	4.16	9	1
Chicago Board Options Exchange, Incorporated 2	3.33	10	1
BOX Options Exchange LLC	3.02	11	1
Bats EDGX Options Exchange, Inc.	1.31	12	2
NASDAQ BX, Inc.	0.67	13	2
Nasdaq MRX, LLC	0.21	14	2
MIAX PEARL, LLC	N/A [47]	15	2

[FR Doc. 2017–12771 Filed 6–19–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80927; File No. SR–BatsBZX–2017–40]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.5 of Bats BZX Exchange, Inc. To Extend Through December 31, 2017, the Penny Pilot Program in Options Classes in Certain Issues

June 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to extend through December 31, 2017, the Penny Pilot Program (''Penny Pilot'') in options classes in certain issues (''Pilot Program'') previously approved by the Commission.[5]

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 purpose of this filing is to extend the Penny Pilot, which was previously approved by the Commission, through December 31, 2017, and to provide revised dates for adding replacement

[46] Based on November 2016 through January 2017 volume sourced from Bats.

[47] No market statistics as of January 2017. Launched trading operations on February 6, 2017.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The rules of BZX Options, including rules applicable to BZX Options' participation in the Penny Pilot, were approved on January 26, 2010. *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031). BZX Options commenced operations on February 26, 2010. The Penny Pilot was most recently extended for BZX Options through June 30, 2017. *See* Securities Exchange Act Release No. 34–79523 (December 9, 2016), 81 FR 90895 (December 16, 2016) (SR-BatsBZX–2016–84).

issues to the Pilot Program. The Exchange proposes that any Pilot Program issues that have been delisted may be replaced on the second trading day following July 1, 2017. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning December 1, 2016, and ending May 31, 2017).

The Exchange represents that the Exchange has the necessary system capacity to continue to support operation of the Penny Pilot. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

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.[6] In particular, the proposal is consistent with Section 6(b)(5) of the Act[7] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2017. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

(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. In this regard, the Exchange notes that the rule change is being proposed in order to continue the Pilot Program, which is a competitive response to analogous programs offered by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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[8] and paragraph (f)(6) of Rule 19b–4 thereunder,[9] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[10] 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. Without a waiver of the 30-day operative delay, CBOE's Pilot Program will expire before the extension of the Pilot Program is operative. The Commission believes that waiving the 30-day operative delay for the instant filing is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program. Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[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: (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-BatsBZX–2017–40 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 No. SR-BatsBZX–2017–40. 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

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A).

[9] 17 CFR 240.19b–4.

[10] 17 CFR 240.19b–4(f)(6).

[11] 17 CFR 240.19b–4(f)(6)(iii).

[12] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of 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 No. SR-BatsBZX–2017–40 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12768 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80933; File No. SR–NYSE–2017–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To Amend Section 102.01B of the NYSE Listed Company Manual To Provide for the Listing of Companies That List Without a Prior Exchange Act Registration and That Are Not Listing in Connection With an Underwritten Initial Public Offering and Related Changes to Rules 15, 104, and 123D

June 15, 2017.

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 June 13, 2017, 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 and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend: (i) Footnote (E) to Section 102.01B of the NYSE Listed Company Manual (the ''Manual'') to modify the provisions relating to the qualification of companies listing without a prior Exchange Act registration; (ii) Rule 15 to add a Reference Price for when a security is listed under Footnote (E) to Section 102.01B; (iii) Rule 104 to specify DMM requirements when a security is listed under Footnote (E) to Section 102.01B and there has been no trading in the private market for such security; and (iv) Rule 123D to specify that the Exchange may declare a regulatory halt in a security that is the subject of an initial public offering (''IPO'') or initial listing on the Exchange. 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: (i) Footnote (E) to Section 102.01B of the Manual to modify the provisions relating to the qualification of companies listing without a prior Exchange Act registration; (ii) Rule 15 to add a Reference Price for when a security is listed under Footnote (E) to Section 102.01B; (iii) Rule 104 to specify DMM requirements when a security is listed under Footnote (E) to Section 102.10B and there has been no trading in the private market for such security; and (iv) Rule 123D to specify that the Exchange may declare a regulatory halt in a security that is the subject of an IPO or initial listing on the Exchange

Amendments to Footnote (E) to Section 102.01B

Generally, the Exchange expects to list companies in connection with a firm commitment underwritten IPO, upon transfer from another market, or pursuant to a spin-off. Companies listing in connection with an IPO must demonstrate that they have $40 million in market value of publicly-held shares,[4] while companies that are listing upon transfer from another exchange or the over-the counter market or pursuant to a spin-off must demonstrate that they have $100 million in market value of publicly-held shares.

Section 102.01B currently contains a provision under which the Exchange recognizes that some companies that have not previously had their common equity securities registered under the Exchange Act, but which have sold common equity securities in a private placement, may wish to list their common equity securities on the Exchange at the time of effectiveness of a registration statement filed solely for the purpose of allowing existing shareholders to sell their shares. Footnote (E) to Section 102.01B provides that the Exchange will, on a case by case basis, exercise discretion to list such companies. In exercising this discretion, Footnote (E) provides that the Exchange will determine that such company has met the $100 million aggregate market value of publicly-held shares requirement based on a combination of both (i) an independent third-party valuation (a ''Valuation'') of the company and (ii) the most recent trading price for the company's common stock in a trading system for unregistered securities operated by a national securities exchange or a registered broker-dealer (a ''Private Placement Market''). The Exchange will attribute a market value of publicly-held shares to the company equal to the lesser of (i) the value calculable based on the Valuation and (ii) the value calculable based on the most recent trading price in a Private Placement Market.

Any Valuation used for purposes of Footnote (E) must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations. The Valuation must be of a recent date as of the time of the approval of the company for listing and the evaluator must have considered, among other factors, the annual financial statements required to be included in the registration statement, along with financial statements for any completed fiscal quarters subsequent to the end of the

[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] Shares held by directors, officers, or their immediate families and other concentrated holdings of 10 percent or more are excluded in calculating the number of publicly-held shares.

last year of audited financials included in the registration statement. The Exchange will consider any market factors or factors particular to the listing applicant that would cause concern that the value of the company had diminished since the date of the Valuation and will continue to monitor the company and the appropriateness of relying on the Valuation up to the time of listing. In particular, the Exchange will examine the trading price trends for the stock in the Private Placement Market over a period of several months prior to listing and will only rely on a Private Placement Market price if it is consistent with a sustained history over that several month period evidencing a market value in excess of the Exchange's market value requirement. The Exchange may withdraw its approval of the listing at any time prior to the listing date if it believes that the Valuation no longer accurately reflects the company's likely market value.

While Footnote (E) to Section 102.01B provides for a company listing upon effectiveness of a selling shareholder registration statement, it does not make any provision for a company listing in connection with the effectiveness of an Exchange Act registration statement in the absence of an IPO or other Securities Act registration. A company is able to become an Exchange Act registrant without a concurrent public offering by filing a Form 10 (or, in the case of a foreign private issuer, a Form 20–F) with the SEC. The Exchange believes that it is appropriate to list companies that wish to list immediately upon effectiveness of an Exchange Act registration statement without a concurrent Securities Act registration provided the applicable company meets all other listing requirements. Consequently, the Exchange proposes to amend Footnote (E) to Section 102.01B to explicitly provide that it applies to companies listing upon effectiveness of an Exchange Act registration statement without a concurrent Securities Act registration as well as to companies listing upon effectiveness of a selling shareholder registration statement.

The Exchange notes that the requirement of Footnote (E) that the Exchange should rely on recent Private Placement Market trading in addition to a Valuation may cause difficulties for certain companies that are otherwise clearly qualified for listing. Some companies that are clearly large enough to be suitable for listing on the Exchange do not have their securities traded at all on a Private Placement Market prior to going public. In other cases, the Private Placement Market trading is too limited to provide a reasonable basis for reaching conclusions about a company's qualification. Consequently, the Exchange proposes to amend Footnote (E) to provide an exception to the Private Placement Market trading requirement for companies with respect to which there is a recent Valuation available indicating at least $250 million in market value of publicly-held shares. Adopting a requirement that the Valuation must be at least two-and-a-half times the $100 million requirement will give a significant degree of comfort that the market value of the company's shares will meet the standard upon commencement of trading on the Exchange. The Exchange notes that it is unlikely that any Valuation would reach a conclusion that was incorrect to the degree necessary for a company using this provision to fail to meet the $100 million requirement upon listing, in particular because any Valuation used for this purpose must be provided by an entity that has significant experience and demonstrable competence in the provision of such valuations.

The Exchange proposes to further amend Footnote (E) by providing that a valuation agent will not be deemed to be independent if:

- At the time it provides such valuation, the valuation agent or any affiliated person or persons beneficially own in the aggregate as of the date of the valuation, more than 5% of the class of securities to be listed, including any right to receive any such securities exercisable within 60 days.
- The valuation agent or any affiliated entity has provided any investment banking services to the listing applicant within the 12 months preceding the date of the valuation. For purposes of this provision, ''investment banking services'' includes, without limitation, acting as an underwriter in an offering for the issuer; acting as a financial adviser in a merger or acquisition; providing venture capital, equity lines of credit, PIPEs (private investment, public equity transactions), or similar investments; serving as placement agent for the issuer; or acting as a member of a selling group in a securities underwriting.
- The valuation agent or any affiliated entity has been engaged to provide investment banking services to the listing applicant in connection with the proposed listing or any related financings or other related transactions.

The Exchange believes that this proposed new requirement will provide a significant additional guarantee of the independence of any entity providing a Valuation for purposes of Footnote (E).

The proposed amendments would enable the Exchange to compete for listings of companies that the Exchange believes would be able to list on the Nasdaq Stock Market (''Nasdaq'') but would not be able to list on the NYSE under its current rules. Nasdaq's initial listing rules do not explicitly address how Nasdaq determines compliance with its initial listing market capitalization requirements by private companies seeking to list upon effectiveness of a selling shareholder registration statement or Exchange Act registration without a concurrent underwritten public offering. However, over an extended period of time Nasdaq has listed a number of previously private companies in conjunction with the effectiveness of a selling shareholder registration statement without an underwritten offering. In light of this precedent and the absence of any Nasdaq rule provision explicitly limiting the ability of a company to qualify for listing without a public offering or prior public market price, the Exchange believes that Nasdaq would take the position that it could also list a previously private company upon effectiveness of an Exchange Act registration statement without a concurrent public offering. Therefore, the Exchange believes that its proposed amendment would permit it to compete on equal terms with Nasdaq for the listing of companies seeking to list in either of these circumstances.

The Exchange believes that it is important to have a transparent and consistent approach to determining compliance with applicable market capitalization requirements by previously private companies seeking to list without a public offering and that Footnote (E) to Section 102.01B as amended would provide such a mechanism. In the absence of the proposed amendments, companies listing upon effectiveness of an Exchange Act registration statement would have no means of listing on the NYSE, while the Exchange believes that Nasdaq would interpret its own rules as enabling it to list a company under those circumstances. As such, the proposed amendment would address a significant competitive disadvantage faced by the NYSE, while also providing certain companies with an alternative listing venue where none currently exists.

Proposed Amendments to NYSE Rules

The Exchange proposes to amend its rules governing the opening of trading to specify procedures for the opening trade on the day of initial listing of a company that lists under the amended provisions of Footnote (E) to Section 102.01B of the Manual and that did not

have any recent trading in a Private Placement Market before listing on the Exchange.[5] The Exchange proposes that the issuer must retain a financial advisor to provide specified functions, as described below.

Rule 15

Rule 15(b) provides that a designated market maker (''DMM'') will publish a pre-opening indication either (i) before a security opens if the opening transaction on the Exchange is anticipated to be at a price that represents a change of more than the ''Applicable Price Range,'' as specified in Rule 15(d), from a specified ''Reference Price,'' as specified in Rule 15(c), or (ii) if a security has not opened by 10:00 a.m. Eastern Time. Rule 15(c)(1) specifies the Reference Price for a security other than an American Depository Receipt, which would be either (A) the security's last reported sale price on the Exchange; (B) the security's offering price in the case of an IPO; or (C) the security's last reported sale price on the securities market from which the security is being transferred to the Exchange, on the security's first day of trading on the Exchange.

The Exchange proposes to amend Rule 15(c)(1) to add new sub-paragraph (D) to specify the Reference Price for a security that is listed under Footnote (E) to Section 102.01B of the Manual. As proposed, the Reference Price in such scenario would be the most recent transaction price in a Private Placement Market or, if none, a price determined by the Exchange in consultation with a financial advisor to the issuer of such security.

Rule 104

Rule 104(a)(2) provides that the DMM has a responsibility for facilitating openings and reopenings for each of the securities in which the DMM is registered as required under Exchange rules, which includes supplying liquidity as needed.[6] The Exchange proposes to amend Rule 104(a)(2) to specify the role of a financial adviser to an issuer that is listing under Footnote (E) to Section 102.01B of the Manual and that has not had any recent trading in a Private Placement Market.

As described above, an issuer that seeks to list under Footnote (E) to Section 102.01B and that does not have any recent Private Market Placement trading would be required to have a financial advisor in connection with such listing. The Exchange proposes that the DMM would be required to consult with such financial advisor when facilitating the open of trading of the first day of trading of such listing. This requirement is based in part on Nasdaq Rule 4120(c)(9), which requires that a new listing on Nasdaq that is not an IPO have a financial advisor willing to perform the functions performed by an underwriter in connection with pricing an IPO on Nasdaq.[7]

The Exchange believes that such a financial advisor would have an understanding of the status of ownership of outstanding shares in the company and would have been working with the issuer to identify a market for the securities upon listing. Such financial advisor would be able to provide input to the DMM regarding expectations of where such a new listing should be priced, based on pre-listing selling and buying interest and other factors that would not be available to the DMM through other sources.

To effect this change, the Exchange proposes to amend Rule 104(a)(3) to provide that when facilitating the opening of a security that is listed under Footnote (E) to Section 102.01B of the Manual and that has not had any recent trading in a Private Placement Market, the DMM would be required to consult with a financial advisor to the issuer of such security in order to effect a fair and orderly opening of such security.

Notwithstanding the proposed obligation to consult with the financial advisor, the DMM would remain responsible for facilitating the opening of trading of such security, and the opening of such security must take into consideration the buy and sell orders available on the Exchange's book in connection. Accordingly, just as a DMM is not bound by an offering price in an IPO, and will open such a security at a price dictated by the buying and selling interest entered on the Exchange in that security, a DMM would not be bound by the input he or she receives from the financial advisor.

Rule 123D

The Exchange further proposes to amend its rules to provide authority to declare a regulatory halt for a new listing. As proposed, Rule 123D(d) would provide that the Exchange may declare a regulatory halt in a security that is the subject of: (1) An initial public offering on the Exchange; or (2) an initial pricing on the Exchange of a security that has not been listed on a national securities exchange or traded in the over-the-counter market pursuant to FINRA Form 211 (''OTC market'') immediately prior to the initial pricing.[8]

Proposed Rule 123D(d)(1) is based on Nasdaq Rule 4120(a)(7), which provides that Nasdaq may halt trading in a security that is the subject of an IPO on Nasdaq.

Proposed Rule 123D(d)(2) is based in part on Nasdaq Rule 4120(c)(9), which provides that the process for halting and initial pricing of a security that is the subject of an IPO on Nasdaq is also available for the initial pricing of any other security that has not been listed on a national securities exchange or traded in the OTC market immediately prior to the initial public offering, provided that a broker-dealer serving in the role of financial advisor to the issuer of the securities being listed is willing to perform the functions under Rule 4120(c)(7)(B) that areperformed by an underwriter with respect to an initial public offering.[9]

Proposed Rule 123D(d)(2) would provide authority for the Exchange to declare a regulatory halt for a security that is having its initial listing on the Exchange, is not an IPO, and has not been listed on a national securities exchange or traded in the OTC market immediately prior to the initial pricing (''non-IPO listing''). The Exchange does not propose to include the last clause of Nasdaq Rule 4120(c)(9) in proposed Rule 123D(d)(2). Rather, as described above, the Exchange proposes to address the role of a financial advisor to an

[5] For purposes of the proposed provision, the Exchange would generally require an issuer to have a financial advisor if there had been no trades on a Private Placement Market within 90 days of the date of listing.

[6] Rules 15, 115A, and 123D specify the procedures for opening securities on the Exchange.

[7] Nasdaq operates an automated IPO opening process, which is described in Nasdaq Rule 4120(c)(8). In contrast to the NYSE, which has DMMs to facilitate the opening of trading, for an IPO, Nasdaq requires that the underwriter of the IPO perform specified functions, including (i) notifying Nasdaq that the security is ready to trade; (ii) determining whether an IPO should be postponed; and (iii) selecting price bands for purposes of applying Nasdaq's automated price validation test. Nasdaq Rule 4120(c)(9) requires that if a new listing does not have an underwriter, the issuer must have a financial advisor willing to perform the above-described functions. The functions that the underwriter/financial advisor performs on Nasdaq as described in Rule 4120(c)(8) are not applicable to the Exchange. The Exchange opening process does not have a concept of ''price bands'' because, as described in Rule 115A, market orders and limit orders priced better than the opening price are guaranteed to participate in the IPO opening. In addition, because the Exchange does not conduct an automated opening process, the DMM functions as an independent financial expert responsible for facilitating the opening of trading to ensure a fair and orderly opening.

[8] The Exchange proposes to re-number current Rule 123D(d) as Rule 123D(e).

[9] The Exchange believes that the correct cross reference should be to Nasdaq Rule 4120(c)(8)(B). Nasdaq Rule 4120(c)(8) specifies Nasdaq procedures for how it conducts its crossing trade following a trading halt declared for an IPO on Nasdaq, including the role of an underwriter in determining when an IPO may be released for trading.

issuer in specified circumstances in Rule 104(a)(3).

The Exchange believes that it would be consistent with the protection of investors and the public interest for the Exchange, as a primary listing exchange, to have to authority to declare a regulatory halt for security that is the subject of an IPO or a non-IPO listing. For example, the Exchange believes that it would be consistent with the protection of investors and the public interest for the Exchange to have the authority to declare a regulatory halt if there is a systems or technology issue in connection with the opening IPO transaction.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) [10] of the Act, in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular in that it is designed 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 is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers. The proposed rule change would foster cooperation and coordination with persons engaged in clearing and settling transactions in securities, thereby facilitating such transactions.

The proposal to permit companies listing upon effectiveness of an Exchange Act registration statement without a concurrent public offering or Securities Act registration is designed to protect investors and the public interest, because such companies will be required to meet all of the same quantitative requirements met by other listing applicants. The proposal to amend Footnote (E) to Section 102.01B of the Manual to allow companies to avail themselves of that provision without any reliance on Private Placement Market trading is designed to protect investors and the public interest because any company relying solely on a valuation to demonstrate compliance with the market value of publicly-held shares requirement will be required to demonstrate a market value of publicly-held shares of $250 million, rather than the $100 million that is generally applicable. The proposal to include a definition of valuation agent independence in Footnote (E) is consistent with the protection of investors, as it ensures that any entity providing a Valuation for purposes of Footnote (E) will have a significant level of independence from the listing applicant.

The Exchange believes that the proposed amendments to Rules 15 and 104 would remove impediments to and perfect the mechanism of a free and open market and a national market system because the proposed rule changes would specify requirements relating to the opening of a trading of a security that would be listed under the proposed amended text of Footnote (E) to Section 102.01B of the Manual. The proposed amendments to Exchange rules are designed to provide DMMs with information to assist them in meeting their obligations to open a new listing under the amended provisions of the Manual. Rule 15 would be amended to specify the Reference Price that the DMM would use for purposes of determining whether a pre-opening indication is required and Rule 104 would be amended to provide that the DMM will consult with a financial advisor when facilitating the opening of a security that is listed under Footnote (E) to Section 102.01B of the Manual and that has not had any recent trading in a Private Placement Market.

The Exchange believes that the proposed amendments to Rule 123D to provide authority to declare a regulatory halt in a security subject to an IPO on non-IPO listing would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would provide the Exchange with authority to halt trading across all markets for a security that has not previously listed on the Exchange, but for which a regulatory halt would promote fair and orderly markets. The proposed rule change would also align halt rule authority among primary listing exchanges. The Exchange further believes that having the authority to declare a regulatory halt for a security that is the subject of an IPO or non-IPO listing is consistent with the protection of investors and the public interest and would promote fair and orderly markets by helping to protect against volatility in pricing and initial trading of unseasoned securities.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed amendment to Footnote (E) to Section 102.01B of the Manual will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Exchange Act. Rather, the proposed rule change will increase competition for new listings by enabling companies to list that meet all quantitative requirements but are currently unable to list because of the methodology required by the current rules to demonstrate their compliance.

As noted above, Nasdaq's listing rules do not include explicit limitations applicable to the listing of companies in these circumstances. Additionally, Nasdaq has listed previously private companies upon effectiveness of a selling shareholder registration statement without a concurrent underwritten offering on several occasions in the past. In light of this precedent and the absence of any Nasdaq rule provision explicitly limiting the ability of a company to qualify for listing without a public offering or prior public market price, the Exchange believes that Nasdaq would take the position that it could also list a previously private company upon effectiveness of an Exchange Act registration statement without a concurrent public offering. As such, the proposed amendment to Footnote (E) to Section 102.01B of the Manual would increase competition by enabling the NYSE to compete with Nasdaq for these listings.

The Exchange does not believe that the proposed amendments to its Rule Book will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. Specifically, the Exchange believes that the changes are not related to competition, but rather are designed to promote fair and orderly markets in a manner that is consistent with the protection of investors and the public interest. The proposed changes do not impact the ability of any market participant or trading venue to compete.

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

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2017–30 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–30. 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–NYSE–2017–30 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12804 Filed 6–19–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80921; File No. SR–GEMX–2017–23]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Amend the Fee Schedule

June 14, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2017, Nasdaq GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Fee Schedule to add a percentage measurement as an alternative way of qualifying for Tiers 2–4 of the Total Affiliated Member ADV for purposes of calculating a member's fees and rebates for purposes of Section I, as described further below.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqgemx.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 proposed rule change is to amend the Exchange's Fee Schedule to add a percentage measurement as an alternative way of qualifying for Tiers 2–4 of the Total Affiliated Member ADV for purposes of calculating a member's fees and rebates for purposes of Section I.

The Exchange currently uses volume-based tiers, referred to as the Total Affiliated Member ADV, to assess the level of taker fees and maker rebates applicable to members. These tiers apply to both Penny Symbols and SPY, and to Non-Penny Symbols (excluding index options). These tiers apply to all different categories of market participants set forth in Section I, such as Market Makers, Firm Proprietary/Broker-Dealer, and Priority Customers.[3] The Total Affiliated Member ADV category includes all volume in all symbols and order types, including both maker and taker volume and volume executed in the Price Improvement Mechanism (''PIM''), Facilitation, Solicitation, and Qualified Contingent Cross (''QCC'') mechanisms. All eligible volume from affiliated members will be aggregated in determining applicable tiers, provided there is at least 75% common ownership between the members as reflected on each member's Form BD, Schedule A.

The Exchange currently uses numeric thresholds for the purpose of determining a member's eligibility for Tiers 1–4. Currently, a member would qualify for Tier 1 if its ADV is 0–99,999 contracts in a given month; Tier 2 if its ADV is 100,000–224,999 contracts in a given month; Tier 3 if its ADV is 225,000–349,999 contracts in a given month, and Tier 4 if its ADV is 350,000 or more contracts in a given month.

The Exchange now proposes to add a percentage-based calculation that may be used as an alternative to the numeric

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Exchange also uses a separate set of tiers to determine the amount of a Priority Customer's maker rebate. These volume requirements of these tiers are a subset of a member's Total Affiliated Member ADV. The Exchange is not changing the Priority Customer Maker ADV tiers as part of this proposed rule change.

thresholds for determining a member's eligibility for the Total Affiliated Member ADV tiers. Specifically, a member would be eligible for Tier 2 if it executes 100,000–224,999 contracts or 1% to less than 2% of Customer Total Consolidated Volume; Tier 3 if it executes 225,000–349,999 contracts or 2% to less than 3% of Customer Total Consolidated Volume; and Tier 4 if it executes 350,000 or more contracts or 3% or greater of Customer Total Consolidated Volume. For purposes of measuring Total Affiliated Member ADV, Customer Total Consolidated Volume means the total volume cleared at The Options Clearing Corporation in the Customer range in equity and ETF options in that month. The Exchange developed these percentage requirements based on historical data, and believes that there is a close correlation between the proposed percentage requirements and the current numeric requirements.

As is the case currently, the Total Affiliated Member ADV category will continue to include all volume in all symbols and order types, including both maker and taker volume and volume executed in the PIM, Facilitation, Solicitation, and QCC mechanisms. Similarly, all eligible volume from affiliated members will continue to be aggregated in determining applicable tiers, provided there is at least 75% common ownership between the members as reflected on each member's Form BD, Schedule A.

The fees and rebates in Section I to which the Total Affiliated Member ADV tiers apply remain unchanged.

In using a percentage-based measurement that considers a member's volume relative to total customer industry volume, rather than a member's absolute volume, the Exchange is providing members with an alternative way to achieve a tier even if that member's absolute volume no longer meets the tier's requirements. In using a relative measurement, the Exchange is recognizing that both the industry and a member's volume may change due to a variety of factors, and is providing an alternative measurement that may allow that member to continue to meet its existing tier. At the same time, the proposed requirements, which are closely aligned to the current numeric requirements, still require a member to add meaningful volume in order to qualify for a given tier.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[4] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[5] 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, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [6]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [7] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[8] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [9]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [10] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that determining a member's eligibility for a Total Affiliated Member ADV tier by using percentage requirements as an alternative to the existing numeric requirements is reasonable. In using a percentage-based measurement that considers a member's volume relative to total customer industry volume, rather than a member's absolute volume, the Exchange is providing members with an alternative way to achieve a tier even if that member's absolute volume no longer meets the tier's requirements. The Exchange also believes that the actual proposed percentage requirements are reasonable. Using historical data, the Exchange has formulated percentage requirements that it believes are closely correlated to the existing numeric requirements. In using a relative measurement, the Exchange is recognizing that both the industry and a member's volume may change due to a variety of factors, and is providing an alternative measurement that may allow that member to continue to meet its existing tier. At the same time, the proposed requirements, which are closely aligned to the current numeric requirements, still require a member to add meaningful volume in order to qualify for a given tier.

The Exchange believes that it is reasonable to calculate the percentage based on the total volume cleared at the OCC in the Customer range in that month. The Exchange notes that other exchanges have similar programs that use percentage requirements based on national customer volume. For example, NASDAQ PHLX LLC (''Phlx'') operates a Customer Rebate Program, which has five volume tiers that consist of percentage thresholds of national customer volume in multiply-listed equity and ETF options classes (excluding monthly SPY options).[11] Similarly, the NASDAQ Options Market (''NOM'') operates a tiered rebate program, which consists of eight tiers, using both numeric and percentage thresholds, that is based on the total industry customer equity and ETF option average daily volume contracts per day in a month.[12] As with these programs, the Exchange believes that the use of customer volume in equity and ETF options here as the baseline provides a meaningful metric by which to measure a member's activity.

The Exchange believes that it is reasonable to add the percentage requirements to Tiers 2–4. Since a

[4] 15 U.S.C. 78f(b).

[5] 15 U.S.C. 78f(b)(4) and (5).

[6] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[7] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[8] *See NetCoalition,* at 534–535.

[9] *Id.* at 537.

[10] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

[11] *See* Phlx Pricing Schedule, Preface B.

[12] *See* NOM Chapter XV, Section 2.

member may qualify for the Tier 1 with an ADV of 0, the Exchange does not believes that a percentage requirement is necessary for this Tier.

The Exchange also believes that it is reasonable to add percentage requirements to the Total Affiliated Member ADV, and not Priority Customer Maker ADV, because the proposed change will apply to all members subject to maker rebates and taker fees in Section I, not just the subset of market participants and activity that is covered by the Priority Customer Maker ADV tiers.

The Exchange also believes that the proposal is an equitable allocation and is not unfairly discriminatory. As noted above, the Total Affiliated Member ADV applies to all market participants that are subject to Maker Rebates and Taker Fees pursuant to Section I, and the proposed percentage requirements will correspondingly apply. The percentage requirements, which are closely aligned to the current numeric requirements, recognize that both a member's and industry volume may change for a number of reasons, and provides members with an alternative way to qualify for a given tier that uses a relative, rather than an absolute, measurement. At the same time, the Exchange will apply the same percentage requirements to all similarly situated members. The Exchange believes it is equitable and not unfairly discriminatory to add the percentage requirements to Tiers 2–4, since, as described above, it believes the percentage requirement for Tier 1 is unnecessary. The Exchange believes that it is equitable and not unfairly discriminatory to add percentage requirement to the Total Affiliated Member ADV, and not Priority Customer Maker ADV, because the proposed change will apply to all members subject to maker rebates and taker fees in Section I, not just the subset of market participants and activity that is covered by the Priority Customer Maker ADV tiers.

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. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed addition of percentage requirements to Tiers 2–4 of the Total Affiliated Member ADV tiers does not impose a burden on competition not necessary or appropriate because the Exchange's execution services are completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. More specifically, the Total Affiliated Member ADV applies to all market participants that are subject to Maker Rebates and Taker Fees pursuant to Section I, and the proposed percentage requirements will correspondingly apply. The percentage requirements recognize that both a member's and industry volume may change for a number of reasons, and provides members with an alternative way to qualify for a given tier that uses a relative, rather than an absolute, measurement. At the same time, the Exchange will apply the same percentage requirements to all similarly situated members.

The Exchange believes that adding the percentage requirements to Tiers 2–4 does not impose a burden on competition not necessary or appropriate since, as described above, it believes the percentage requirement for Tier 1 is unnecessary. The Exchange believes that adding the percentage requirement to the Total Affiliated Member ADV, and not Priority Customer Maker ADV, does not impose a burden on competition not necessary or appropriate because the proposed change will apply to all members subject to maker rebates and taker fees in Section I, not just the subset of market participants and activity that is covered by the Priority Customer Maker ADV tiers.

In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[13] and Rule 19b–4(f)(2)[14] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–GEMX–2017–23 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–GEMX–2017–23. 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

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 240.19b–4(f)(2).

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–GEMX–2017–23 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12762 Filed 6–19–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80941; File No. SR–OCC–2017–013]

Self-Regulatory Organizations; The Options Clearing Corporation; Notice of Filing of Proposed Rule Change Concerning the Adoption of a New Stock Options and Futures Settlement Agreement Between The Options Clearing Corporation and the National Securities Clearing Corporation

June 15, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 1, 2017, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by OCC. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

This proposed rule change by OCC is filed in connection with proposed changes relating to a new Stock Options and Futures Settlement Agreement (''New Accord'') between OCC and the National Securities Clearing Corporation (''NSCC,'' collectively NSCC and OCC may be referred to herein as the ''clearing agencies'') and amendments to OCC's By-Laws and Rules to accommodate the proposed provisions of the New Accord.

The proposed changes to OCC's By-Laws and Rules and the proposed New Accord were attached as Exhibits 5A–5C of the filing, respectively.[3] The proposed changes are described in detail in Item 3 below. All terms with initial capitalization not defined herein have the same meaning as set forth in OCC's By-Laws and Rules.[4]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC 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. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of these statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

OCC issues and clears U.S.-listed options and futures on a number of underlying financial assets including common stocks, currencies and stock indices. OCC's Rules, however, provide that delivery of, and payment for, securities underlying certain physically settled stock options and single stock futures cleared by OCC are effected through the facilities of a correspondent clearing corporation (*i.e.,* NSCC) and are not settled through the facilities OCC. OCC and NSCC are parties to a Third Amended and Restated Options Exercise Settlement Agreement, dated February 16, 1995, as amended (''Existing Accord''),[5] which governs the delivery and receipt of stock in the settlement of put and call options issued by OCC (''Stock Options'') that are eligible for settlement through NSCC's Continuous Net Settlement (''CNS'') Accounting Operation and are designated to settle on the third business day following the date the related exercise or assignment was accepted by NSCC (''Options E&A''). All OCC Clearing Members that intend to engage in Stock Options transactions are required to also be Members of NSCC or to have appointed or nominated an NSCC Member to act on its behalf.[6]

OCC proposes to adopt a New Accord with NSCC, which would provide for the settlement of certain Stock Options and delivery obligations arising from certain matured physically-settled stock futures contracts cleared by OCC (''Stock Futures''). Specifically, the New Accord would, among other things: (1) Expand the category of securities that are eligible for settlement and guaranty under the agreement to certain securities (including stocks, exchange-traded funds and exchange-traded notes) that (i) are required to be delivered in the exercise and assignment of Stock Options and are eligible to be settled through NSCC's Balance Order Accounting Operation (in addition to its CNS Accounting Operation) or (ii) are delivery obligations arising from Stock Futures that have reached maturity and are

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] OCC has filed an advance notice with the Commission in connection with the New Accord. *See* SR–OCC–2017–804. NSCC also has filed proposed rule change and advance notice filings with the Commission in connection with the New Accord. *See* NSCC filings SR–NSCC–2017–007 and SR–NSCC–2017–803, respectively.

[4] OCC's By-Laws and Rules can be found on OCC's public Web site: *http://optionsclearing.com/about/publications/bylaws.jsp.* Other terms not defined herein or in the OCC By-Laws and Rules can be found in the Rules & Procedures of NSCC (''NSCC Rules''), available at *http://www.dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf,* as the context implies.

[5] The Existing Accord and the proposed changes thereunder were previously approved by the Commission. *See* Securities Exchange Act Release No. 37731 (September 26, 1996), 61 FR 51731 (October 3, 1996) (SR–OCC–96–04 and SR–NSCC–96–11) (Order Approving Proposed Rule Change Related to an Amended and Restated Options Exercise Settlement Agreement Between the Options Clearing Corporation and the National Securities Clearing Corporation); Securities Exchange Act Release No. 43837 (January 12, 2001), 66 FR 6726 (January 22, 2001) (SR–OCC–00–12) (Order Granting Accelerated Approval of a Proposed Rule Change Relating to the Creation of a Program to Relieve Strains on Clearing Members' Liquidity in Connection With Exercise Settlements); and Securities Exchange Act Release No. 58988 (November 20, 2008), 73 FR 72098 (November 26, 2008) (SR–OCC–2008–18 and SR–NSCC–2008–09) (Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Changes Relating to Amendment No. 2 to the Third Amended and Restated Options Exercise Settlement Agreement).

[6] A firm that is both an OCC Clearing Member and an NSCC Member, or is an OCC Clearing Member that has designated an NSCC Member to act on its behalf is referred to herein as a ''Common Member.''

eligible to be settled through NSCC's CNS Accounting Operation or Balance Order Accounting Operation; (2) modify the time of the transfer of responsibilities from OCC to NSCC and, specifically, when OCC's guarantee obligations under OCC's By-Laws and Rules with respect to such transactions (''OCC's Guaranty'') end and NSCC's obligations under Addendum K of the NSCC Rules with respect to such transactions (''NSCC's Guaranty'') begin (such transfer being the ''Guaranty Substitution''); and (3) put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the agreement. Furthermore, OCC proposes to make certain clarifying and conforming changes to the OCC By-Laws and Rules as necessary to implement the New Accord.

The primary purpose of the proposed changes is to (1) provide consistent treatment across all expiries for products with ''regular way'' [7] settlement cycle specifications; (2) reduce the operational complexities of the Existing Accord by eliminating the cross-guaranty between OCC and NSCC and the bifurcated risk management of exercised and assigned transactions between the two clearing agencies by delineating a single point in time at which OCC's Guaranty ceases and NSCC's Guaranty begins; (3) further solidify the roles and responsibilities of OCC and NSCC in the event of a default of a Common Member at either or both clearing agencies; and (4) improve procedures, information sharing, and overall governance under the agreement.

The New Accord would become effective, and wholly replace the Existing Accord, at a date specified in a service level agreement to be entered into between NSCC and OCC.[8]

[7] Under the New Accord, ''regular way settlement'' shall have a meaning agreed to by the clearing agencies. Generally, regular way settlement is understood to be the financial services industry's standard settlement cycle. Currently, regular way settlement of Stock Options or Stock Futures transactions are those transactions designated to settle on the third business day following the date the related exercise, assignment or delivery obligation was accepted by NSCC. NSCC has proposed to change the NSCC Rules with respect to the meaning of regular way settlement in order to be consistent with the anticipated industry-wide move to a shorter standard settlement cycle of two business days after trade date. *See* Securities Exchange Act Release No. 79734 (January 4, 2017), 82 FR 3030 (January 10, 2017) (SR–NSCC–2016–007). *See also* Securities Exchange Act Release No. 78962 (September 28, 2016), 81 FR 69240 (October 5, 2016) (S7–22–16) (Amendment to Securities Transaction Settlement Cycle).

[8] Such effective date would be a date following approval of all required regulatory submissions to be filed by OCC and NSCC with the appropriate regulatory authorities, including this proposed rule change. *See supra* note 1.

The Existing Accord

Key Terms of the Existing Accord

Under the Existing Accord, the settlement of Options E&A generally proceeds according to the following sequence of events. NSCC maintains and delivers to OCC a list (''CNS Eligibility Master File'') that enumerates all CNS Securities, which are defined in NSCC's Rule 1 and generally include securities that have been designated by NSCC as eligible for processing through NSCC's CNS Accounting Operation and eligible for book entry delivery at NSCC's affiliate, The Depository Trust Company (for purposes of this proposed rule change, such securities are referred to as ''CNS Eligible Securities'').[9] OCC, in turn, uses this file to make a final determination of which securities NSCC would not accept and therefore would need to be settled on a broker-to-broker basis. OCC then sends to NSCC a transactions file,[10] listing the specific securities that are to be delivered and received in settlement of an Options E&A that have not previously been reported to NSCC and for which settlement is to be made through NSCC (''OCC Transactions File'').[11] With respect to each Options E&A, the OCC Transactions File includes the CUSIP number of the security to be delivered, the identities of the delivering and receiving Common Members, the quantity to be delivered, the total value of the quantity to be delivered based on the exercise price of the option for which such security is the underlying security, and the exercise settlement date. After receiving the OCC Transactions File, NSCC then has until 11:00 a.m. Central Time on the following business day to reject any transaction listed in the OCC Transactions File. NSCC can reject a transaction if the security to be delivered has not been listed as a CNS Eligible Security in the CNS Eligible Master File or if information provided in the OCC Transactions File is incomplete. Otherwise, if NSCC does not so notify OCC of its rejection of an Options E&A by the time required under the Existing Accord, NSCC will become unconditionally obligated to effect settlement of the Options E&A.

Under the Existing Accord, even after NSCC's trade guarantee has come into effect,[12] OCC is not released from its guarantee with respect to the Options E&A until certain deadlines [13] have passed on the first business day following the scheduled settlement date without NSCC notifying OCC that the relevant Common Member has failed to meet an obligation to NSCC or NSCC has ceased to act for such Common Member pursuant to the NSCC Rules.[14] As a result, there is a period of time when NSCC's trade guarantee overlaps with OCC's guarantee and where both clearing agencies are holding margin against the same Options E&A position.

In the event that NSCC or OCC ceases to act on behalf of or suspends a Common Member, that Common Member becomes a ''defaulting member.'' Once a Common Member becomes a defaulting member, the Existing Accord provides that NSCC will make a payment to OCC equal to the lesser of OCC's loss or the positive mark-to-market amount relating to the defaulting member's Options E&A and that OCC will make a payment to NSCC equal to the lesser of NSCC's loss or the negative mark-to-market amount relating to the defaulting member's Options E&A to compensate for potential losses incurred in connection with the default. A clearing agency must request the transfer of any such payments by the close of business on the tenth business day following the day of default and, after a request is made, the other clearing agency is required to make payment within five business days of the request.

The New Accord

Overview

As noted above, NSCC proposes to adopt a New Accord with OCC, which would provide for the settlement of certain Stock Options and Stock Futures

[9] *See supra* note 2.

[10] Delivery of the OCC Transactions File with respect to an Options E&A typically happens on the date of the option's exercise or expiration, though this is not expressly stated in the Existing Accord. In theory, however, an Options E&A could, due to an error or delay, be reported later than the date of the option's exercise or expiration.

[11] This process would be substantially the same under the New Accord with the exception that the CNS Eligibility Master File and OCC Transactions File would be renamed and would be expanded in scope to include additional securities that would be eligible for guaranty and settlement under the New Accord, as discussed in further detail below.

[12] Pursuant to Addendum K of the NSCC Rules, NSCC guarantees the completion of CNS transactions and balance order transactions that have reached the point at which, for bi-lateral submissions by Members, such trades have been validated and compared by NSCC, and for locked-in submission, such trades have been validated by NSCC, as described in the NSCC Rules. Transactions that are covered by the Existing Accord, and that would be covered by the New Accord, are expressly excluded from the timeframes described in Addendum K. *See supra* note 2.

[13] The deadline is 6:00 a.m. Central Time for NSCC notifying OCC of a Common Member failure and, if NSCC does not immediately cease to act for such defaulting Common Member, 4:00 p.m. Central Time for notifying OCC that it has ceased to act.

[14] *See* NSCC Rule 46 (Rule 46 (Restrictions on Access to Services). *See supra* note 2.

transactions. The New Accord is primarily designed to, among other things, expand the category of securities that are eligible for settlement and guaranty under the agreement; simplify the time of the transfer of responsibilities from OCC to NSCC (specifically, the transfer of guarantee obligations); and put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the agreement. The material provisions of the New Accord are described in detail below.

Key Elements of the New Accord

Expanded Scope of Eligible Securities

Pursuant to the proposed New Accord, on each day that both OCC and NSCC are open for accepting trades for clearing (''Activity Date''), NSCC would deliver to OCC an ''Eligibility Master File,'' which would identify the securities, including stocks, exchange-traded funds and exchange-traded notes, that are (1) eligible to settle through NSCC's CNS Accounting Operation (as is currently the case under the Existing Accord) or NSCC's Balance Order Accounting Operation (which is a feature of the New Accord) and (2) to be delivered in settlement of (i) exercises and assignments of Stock Options (as is currently the case under the Existing Accord) or (ii) delivery obligations arising from maturing physically settled Stock Futures (which is a feature of the New Accord) (all such securities collectively being ''Eligible Securities''). OCC, in turn, would deliver to NSCC its file of E&A/Delivery Transactions [15] that list the Eligible Securities to be delivered, or received, and for which settlement is proposed to be made through NSCC on that Activity Date. Guaranty Substitution (discussed further below) would not occur with respect to an E&A/Delivery Transaction that is not submitted in the proper format or that involves a security that is not identified as an Eligible Security on the then-current Eligibility Master File. This process is similar to the current process under the Existing Accord with the exception of the expanded scope of Eligible Securities (and additional fields necessary to accommodate such securities) that would be listed on the Eligibility Master File and the E&A/Delivery Transactions file.

Like the Existing Accord, the proposed New Accord would continue to facilitate the processes by which Common Members deliver and receive stock in the settlement of Stock Options that are eligible to settle through NSCC's CNS Accounting Operation and are designated to settle regular way. The New Accord would also expand the category of securities eligible for settlement under the agreement. In particular, the New Accord would facilitate the processes by which Common Members deliver and receive stock in settlement of Stock Futures that are eligible to settle through NSCC's CNS Accounting Operation and are designated to settle regular way. It would also provide for the settlement of both Stock Options and Stock Futures that are eligible to settle through NSCC's Balance Order Accounting Operation on a regular way basis. The primary purpose of expanding the category of securities that are eligible for settlement and guaranty under the agreement is to provide consistent treatment across all expiries for products with regular way settlement cycle specifications and simplify the settlement process for these additional securities transactions.

The New Accord would not apply to Stock Options or Stock Futures that are designated to settle on a shorter timeframe than the regular way settlement timeframe. These Stock Options would continue to be processed and settled as they would be today, outside of the New Accord. The New Accord also would not apply to any Stock Options or Stock Futures that are neither CNS Securities nor Balance Order Securities.[16] Transactions in these securities are, and would continue to be, processed on a trade-for-trade basis away from NSCC's facilities. Such transactions may utilize other NSCC services for which they are eligible, but would not be subject to the New Accord.[17]

Proposed Changes Related to Guaranty Substitution

The New Accord would adopt a fundamentally different approach to the delineation of the rights and responsibilities of OCC and NSCC with respect to E&A/Delivery Transactions. The purpose of the proposed changes related to the Guaranty Substitution, defined below, is to reduce the operational complexities of the Existing Accord by eliminating the cross-guaranty between OCC and NSCC and the bifurcated risk management of exercised and assigned transactions between the two clearing agencies and delineating a single point in time at which OCC's Guaranty ceases and NSCC's Guaranty begins. Moreover, the proposed changes would solidify the roles and responsibilities of OCC and NSCC in the event of a default of a Common Member at either or both clearing agencies.

As described above, the Existing Accord provides that NSCC will make a payment to OCC following the default of a Common Member in an amount equal to the lesser of OCC's loss or the positive mark-to-market amount relating to the Common Member's Options E&A, and provides that OCC will make a payment to NSCC following the default of a Common Member equal to the lesser of NSCC's loss or the negative mark-to-market amount relating to the Common Member's Options E&A to compensate for potential losses incurred in connection with the Common Member's default. The proposed New Accord, in contrast, would focus on the transfer of responsibilities from OCC to NSCC and, specifically, the point at which OCC's Guaranty ends and NSCC's Guaranty begins (*i.e.,* the Guaranty Substitution) with respect to E&A/Delivery Transactions. By focusing on the timing of the Guaranty Substitution, rather than payment from one clearing agency to the other, the New Accord would simplify the agreement and the procedures for situations involving the default of a Common Member. The New Accord additionally would minimize ''double-margining'' situations when a Common Member may simultaneously owe margin to both NSCC and OCC with respect to the same E&A/Delivery Transaction.

After NSCC has received an E&A/Delivery Transaction, the Guaranty Substitution would normally occur when NSCC has received all Required Deposits to its Clearing Fund, calculated taking into account such E&A/Delivery Transaction, of Common Members (''Guaranty Substitution Time'').[18] At the Guaranty Substitution Time, NSCC's Guaranty takes effect, and OCC does not

[15] ''E&A/Delivery Transactions'' are transactions involving the settlement of Stock Options and Stock Futures under the New Accord. The delivery of E&A/Delivery Transactions to NSCC would replace the delivery of the ''OCC Transactions File'' from the Existing Accord. The actual information delivered by OCC to NSCC would be the same as is currently provided on the OCC Transactions File, but certain additional terms would be included to accommodate the inclusion of Stock Futures, along with information regarding the date that the instruction to NSCC was originally created and the E&A/Delivery Transaction's designated settlement date.

[16] Balance Order Securities are defined in NSCC Rule 1, and are generally securities, other than foreign securities, that are eligible to be cleared at NSCC but are not eligible for processing through the CNS Accounting Operation. *See supra* note 2.

[17] OCC will continue to guarantee settlement until settlement actually occurs with respect to these Stock Options and Stock Futures.

[18] Procedure XV of the NSCC Rules provides that all Clearing Fund requirements and other deposits must be made within one hour of demand, unless NSCC determines otherwise. *See supra* note 2.

retain any settlement obligations with respect to such E&A/Delivery Transactions. The Guaranty Substitution would not occur, however, with respect to any E&A/Delivery Transaction if NSCC has rejected such E&A/Delivery Transaction due to an improper submission, as described above, or if, during the time after NSCC's receipt of the E&A/Delivery Transaction but prior to the Guaranty Substitution Time, a Common Member involved in the E&A/Delivery Transaction has defaulted on its obligations to NSCC by failing to meet its Clearing Fund obligations, or NSCC has otherwise ceased to act for such Common Member pursuant to the NSCC Rules (in either case, such Common Member becomes a ''Defaulting NSCC Member'').

NSCC would be required to promptly notify OCC if a Common Member becomes a Defaulting NSCC Member, as described above. Upon receiving such a notice, OCC would not submit to NSCC any further E&A/Delivery Transactions involving the Defaulting NSCC Member for settlement, unless authorized representatives of both OCC and NSCC otherwise consent. OCC would, however, deliver to NSCC a list of all E&A/Delivery Transactions that have already been submitted to NSCC and that involve the Defaulting NSCC Member (''Defaulted NSCC Member Transactions''). The Guaranty Substitution ordinarily would not occur with respect to any Defaulted NSCC Member Transactions, unless both clearing agencies agree otherwise. As such, NSCC would have no obligation to guaranty such Defaulted NSCC Member Transactions, and OCC would continue to be responsible for effecting the settlement of such Defaulted NSCC Member Transactions pursuant to OCC's By-Laws and Rules. Once NSCC has confirmed the list of Defaulted NSCC Member Transactions, Guaranty Substitution would occur for all E&A/Delivery Transactions for that Activity Date that are not included on such list. NSCC would be required to promptly notify OCC upon the occurrence of the Guaranty Substitution Time on each Activity Date.

If OCC suspends a Common Member after NSCC has received the E&A/Delivery Transactions but before the Guaranty Substitution has occurred, and that Common Member has not become a Defaulting NSCC Member, the Guaranty Substitution would proceed at the Guaranty Substitution Time. In such a scenario, OCC would continue to be responsible for guaranteeing the settlement of the E&A/Delivery Transactions in question until the Guaranty Substitution Time, at which time the responsibility would transfer to NSCC. If, however, the suspended Common Member also becomes a Defaulting NSCC Member after NSCC has received the E&A/Delivery Transactions but before the Guaranty Substitution has occurred, Guaranty Substitution would not occur, and OCC would continue to be responsible for effecting the settlement of such Defaulted NSCC Member Transactions pursuant to OCC's By-Laws and Rules (unless both clearing agencies agree otherwise).

Finally, the New Accord also would provide for the consistent treatment of all exercise and assignment activity under the agreement. Under the Existing Accord, ''standard'' [19] option contracts become guaranteed by NSCC when the Common Member meets its morning Clearing Fund Required Deposit at NSCC while ''non-standard'' exercise and assignment activity becomes guaranteed by NSCC at midnight of the day after trade date (T+1). Under the New Accord, all exercise and assignment activity for Eligible Securities would be guaranteed by NSCC as of the Guaranty Substitution Time, under the circumstances described above, further simplifying the framework for the settlement of such contracts.

Other Terms of the New Accord

The New Accord also would include a number of other provisions intended to either generally maintain certain terms of the Existing Accord or improve the procedures, information sharing, and overall governance process under the new agreement. Many of these terms are additions to or improvements upon the terms of the Existing Accord.

Under the proposed New Accord, OCC and NSCC would agree to address the specifics regarding the time, form and manner of various required notifications and actions in a separate service level agreement which the parties would be able to revisit as their operational needs evolve. The service level agreement would also specify an effective date for the New Accord, which, as mentioned above, would occur on a date following approval and effectiveness of all required regulatory submissions to be filed by OCC and NSCC with the appropriate regulatory authorities. Similar to the Existing Accord, the proposed New Accord would remain in effect (a) until it is terminated by the mutual written agreement of OCC and NSCC, (b) until it is unilaterally terminated by either clearing agency upon one year's written notice (as opposed to six months under the Existing Accord), or (c) until it is terminated by either NSCC or OCC upon the bankruptcy or insolvency of the other, provided that the election to terminate is communicated to the other party within three business days by written notice.

Under the proposed New Accord, NSCC would agree to notify OCC if NSCC ceases to act for a Common Member pursuant to the NSCC Rules no later than the earlier of NSCC's provision of notice of such action to the governmental authorities or notice to other NSCC Members. Furthermore, if an NSCC Member for which NSCC has not yet ceased to act fails to satisfy its Clearing Fund obligations to NSCC, NSCC would be required to notify OCC promptly after discovery of the failure. Likewise, OCC would be required to notify NSCC of the suspension of a Common Member no later than the earlier of OCC's provision of notice to the governmental authorities or other OCC Clearing Members.

Under the Existing Accord, NSCC and OCC agree to share certain reports and information regarding settlement activity and obligations under the agreement. The New Accord would enhance this information sharing between the clearing agencies. Specifically, NSCC and OCC would agree to share certain information, including general risk management due diligence regarding Common Members, lists of Common Members, and information regarding the amounts of Common Members' margin and settlement obligations at OCC or Clearing Fund Required Deposits at NSCC. NSCC and OCC would also be required to provide the other clearing agency with any other information that the other reasonably requests in connection with the performance of its obligations under the New Accord. All such information would be required to be kept confidential, using the same care and discretion that each clearing agency uses for the safekeeping of its own members' confidential information. NSCC and OCC would each be required to act in good faith to resolve and notify the other of any errors, discrepancies or delays in the information it provides.

The New Accord also would include new terms to provide that, to the extent one party is unable to perform any obligation as a result of the failure of the other party to perform its responsibilities on a timely basis, the time for the non-failing party's performance would be extended, its

[19] Option contracts with ''standard'' expirations expire on the third Friday of the specified expiration month, while ''non-standard'' contracts expire on other days of the expiration month.

performance would be reduced to the extent of any such impairment, and it would not be liable for any failure to perform its obligations. Further, NSCC and OCC would agree that neither party would be liable to the other party in connection with its performance of its obligations under the proposed New Accord to the extent it has acted, or omitted or ceased to act, with the permission or at the direction of a governmental authority. Moreover, the proposed New Accord would provide that in no case would either clearing agency be liable to the other for punitive, incidental or consequential damages. The purpose of these new provisions is to provide clear and specific terms regarding each clearing agency's liability for non-performance under the agreement.

The proposed New Accord would also contain the usual and customary representations and warranties for an agreement of this type, including representations as to the parties' good standing, corporate power and authority and operational capability, that the agreement complies with laws and all government documents and does not violate any agreements, and that all of the required regulatory notifications and filings would be obtained prior to the New Accord's effective date. It would also include representations that the proposed New Accord constitutes a legal, valid and binding obligation on each of OCC and NSCC and is enforceable against each, subject to standard exceptions. Furthermore, the proposed New Accord would contain a force majeure provision, under which NSCC and OCC would agree to notify the other no later than two hours upon learning that a force majeure event has occurred and both parties would be required to cooperate in good faith to mitigate the effects of any resulting inability to perform or delay in performing.

Proposed Amendments to OCC's By-Laws and Rules

Given the key differences between the Existing Accord and the New Accord, as described above, OCC proposes certain changes to its By-Laws and Rules in order to accommodate the terms of the New Accord. The primary purpose of the proposed changes is to: (1) Reflect the expanded scope of the New Accord, (2) reflect changes related to the new Guaranty Substitution mechanics of the New Accord; and (3) make other changes necessary to conform to the terms of the New Accord or to otherwise provide additional clarity around the settlement and margining [20] treatment of: (i) Eligible Securities under the New Accord, (ii) non-regular way securities settling through the facilities of NSCC but outside of the New Accord, and (iii) those securities settling outside of the New Accord and away from NSCC on a broker-to-broker basis. These proposed changes are discussed in greater detail below.

Changes Related to the Expanded Scope of the New Accord

First, OCC proposes to amend and replace the defined term ''CNS-eligible'' [21] in order to reflect the expanded definition of Eligible Securities under the New Accord. The term ''CNS-eligible'' currently describes the securities underlying the physically-settled stock options that are eligible under the Existing Accord to be settled through NSCC's CNS Accounting Operation. Under the New Accord, however, the term Eligible Securities is more broadly defined to include securities (both Stock Options and Stock Futures) eligible for settlement via NSCC's CNS Accounting Operation and NSCC's Balance Order Accounting Operation. Accordingly, OCC proposes to use ''CCC,'' for ''correspondent clearing corporation'' [22] to describe the Eligible Securities. Thus, the term ''CCC-eligible'' would replace ''CNS-eligible'' throughout OCC's By-Laws and Rules.

Next, because the New Accord would include the settlement of Stock Futures, OCC proposes to make several changes to its rules regarding Stock Futures to accommodate this expansion. More specifically, OCC proposes a conforming amendment to Rule 901 Interpretation and Policy (.02) to clarify that, under the New Accord, OCC will, subject to its discretion, cause the settlement of all matured Stock Futures to be made through the facilities of NSCC to the extent that the underlying securities are CCC-eligible as the term is currently proposed.

OCC also proposes clarifying and conforming revisions to newly renumbered Rule 901(e) (currently Rule 901(d)) to specify that settlements made through the facilities of the correspondent clearing corporation are governed by Rule 901 and to clarify that, under the New Accord, specifications made in any Delivery Advice may be revoked up until the point at which NSCC's Guaranty has taken effect (the ''obligation time'' as discussed below) and not the opening of business on the delivery date.

Changes Related to Guaranty Substitution

OCC also proposes a series of amendments to its Rules to accurately reflect the process under which the Guaranty Substitution occurs under the New Accord. First, OCC proposes to amend Rule 901(c) so that the term ''obligation time''—the time that the correspondent clearing corporation becomes unconditionally obligated, in accordance with its rules, to effect settlement in respect thereof or to close out the securities contract arising therefrom—is synonymous with the Guaranty Substitution Time under the New Accord and (*i.e.,* (i) settlement obligations are reported to and are not rejected by NSCC; (ii) NSCC has not notified OCC that it has ceased to act for the relevant Clearing Member; and (iii) the Clearing Fund requirements of the relevant Clearing Member are received by NSCC). Under the New Accord, if a default occurs prior to the Guaranty Substitution Time, the Guaranty Substitution will not occur for any E&A/Delivery Transactions involving the Defaulting NSCC Member, and OCC will continue to guarantee settlement for those Defaulted NSCC Member Transactions.

Next, OCC proposes to amend language in newly renumbered Rule 901(i) (currently Rule 901(h)) regarding the timing of the end of a Clearing Member's obligations to OCC with respect to securities to be settled through NSCC. Under the Existing Accord and OCC's existing Rules, a Clearing Member's obligations to OCC end only once settlement is completed. Under the New Accord, however, a Clearing Member's obligations to OCC will end when OCC's obligations with respect to guaranteeing settlement of the security would end (*i.e.,* the Guaranty Substitution Time or ''obligation time''). OCC therefore proposes to amend newly renumbered Rule 901(i) to specify that a Clearing Member's obligations to OCC will be deemed completed and performed once the ''obligation time'' has occurred.

[20] OCC notes that, while it is proposing changes to its Rules concerning margin requirements (*e.g.,* which transactions would be included as part of OCC's margin calculation at a given point in time), OCC is not proposing any changes to its margin model (with the exception that OCC would no longer collect and hold margin for positions after NSCCs Guaranty has taken effect under the New Accord).

[21] *See* Article I, Section (C)(23) of OCC's By-Laws.

[22] Under Article I of OCC's By-Laws, the term ''correspondent clearing corporation'' means the National Securities Clearing Corporation or any successor thereto which, by agreement with the Corporation, provides facilities for settlements in respect of exercised option contracts or BOUNDs or in respect of delivery obligations arising from physically-settled stock futures.

As discussed above, the New Accord eliminates the provisions of the Existing Accord whereby OCC and NSCC guaranteed each other the performance of Common Members and made certain payments to the other upon the default of a Common Member. As such, OCC proposes to delete discussions of such guarantees and payments from newly renumbered Rule 901(i) and Rule 1107.

OCC also proposes amendments to Rules 910 and 911, which set forth procedures for handling failures to make or take delivery of securities in settlement of exercised or assigned Stock Options and matured physically-settled Stock Futures, to add language to both rules to clarify that the failure procedures set forth therein would not apply with respect to any delivery to be made through NSCC pursuant to Rule 901. Under the New Accord, once the Guaranty Substitution Time with respect to a specific E&A/Delivery Transaction occurs, OCC's Guaranty ends and NSCC's Guaranty begins, leaving OCC with no involvement with or responsibility for the settlement of the securities underlying that transaction. Therefore, if there is a failure to make or take delivery with respect to that transaction after Guaranty Substitution has occurred, the NSCC Rules will govern that failure. With respect to deliveries made on a broker-to-broker basis under OCC Rules 903 through 912 (including those that may utilize NSCC's Obligation Warehouse services), and which are not governed by Rule 901, Guaranty Substitution does not occur and OCC's failure procedures would apply.

Changes to OCC's Margin Rules

Under the New Accord, OCC will no longer collect margin on a transaction once it is no longer guaranteeing settlement for that transaction. As such, OCC proposes to add language to Rule 601(f) to clarify that OCC's margin calculations will not include delivery obligations arising from any Stock Options or Stock Futures that are eligible for settlement through NSCC and for which OCC has no further settlement obligations because either (i) Guaranty Substitution has occurred for E&A/Delivery Transactions under the New Accord (as described in revised Rule 901(c)) or (ii) NSCC has otherwise accepted transactions for non-regular way settlement under the NSCC Rules (as describe in newly proposed Rule 901(d)).[23] By not including these transactions as part of OCC's margin calculation, OCC is hoping to alleviate instances of ''double-margining'' for Common Members that may otherwise simultaneously owe margin to NSCC and OCC with respect to the same position.

OCC also proposes to delete Rule 608A in its entirety. The New Accord seeks to eliminate the situation under the Existing Accord where Common Members are effectively ''double-margined'' or required to simultaneously post margin with OCC and NSCC with respect to the same position. As the New Accord eliminates this double-margining scenario, Rule 608A, which provides procedures pursuant to which a Clearing Member could use the securities deposited as margin with OCC as collateral to secure a loan to pay its margin obligations to NSCC, is now unnecessary.

Other Clarifying Changes Not Related to the New Accord

OCC also proposes to amend its Rules to make clarifying changes that are not directly required by the New Accord but would provide additional clarity in its Rules in light of other changes being made to accommodate the New Accord. Specifically, OCC proposes to revise Rule 901 Interpretation and Policy (.02) to provide that transactions that involve the delivery of non-CCC eligible securities made on a broker-to-broker basis (and away from NSCC) may nevertheless involve the use of certain services of NSCC (*e.g.,* NSCC's Obligation Warehouse). For such transactions, because they are not covered by the New Accord and NSCC at no point guarantees settlement, OCC Rule 901 would not apply and delivery is governed by the broker-to-broker settlement procedures set forth in OCC Rules 903 through 912, as is the case currently today. Additionally, while OCC's existing Rules do not prohibit broker-to-broker settlements from being facilitated through the services of a correspondent clearing corporation, they do not explicitly contemplate the possibility. OCC also proposes to make clarifying amendments to Rule 904(b) and 910A(a) to more clearly distinguish between settlements effected through NSCC's CNS Accounting Operation or Balance Order Accounting Operations in accordance with OCC Rule 901 and deliveries effected on a broker-to-broker basis utilizing services of NSCC under OCC Rules 903 through 912 and to clearly state which OCC Rules apply in each context.

Further, OCC proposes to add a new paragraph (d) to Rule 901 to clarify that OCC still intends, at its discretion, to effect settlement of Stock Options and Stock Futures that are scheduled to be settled on the first business day after exercise or maturity through NSCC pursuant to Rule 901 and the relevant provisions of the NSCC Rules, even though such contracts are outside the scope of the New Accord. These contracts would continue to be settled as they are currently today.

OCC also proposes clarifying and conforming changes to the introductory language of Chapter IX of the Rules. Specifically, OCC proposes conforming changes to the Rule to reflect the replacement of the defined term ''CNS-eligible'' with ''CCC-eligible'' as described above. The proposed changes would also clarify that OCC's broker-to-broker settlement rules are contained in Rules 903–912, as Rule 902 concerns Delivery Advices, which also may be applicable to settlements made through the correspondent clearing corporation pursuant to Rule 901. In addition, the proposed changes to the introductory language of Chapter IX of the Rules would provide additional clarity around OCC's existing authority to alter a previous designation of a settlement method at any time prior to the designated delivery date by specifying that this authority would apply to both settlements to be made through the facilities of the correspondent clearing corporation pursuant to Rule 901 or settlements to be made on a broker-to-broker basis pursuant to Rules 903 through 912. Finally, OCC proposes a number of conforming changes to Rules 901 and 912 to reflect the renumbering of various Rule provisions due to the proposed amendments described above.

2. Statutory Basis

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and to foster cooperation and coordination with persons engaged in the clearance and settlement of securities transactions.[24] OCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act[25] and the rules thereunder applicable to OCC for the reasons set forth below.

In connection with the proposal to enhance the timing of the Guaranty Substitution, the proposed New Accord, and related changes to OCC's By-Laws

[23] Related revisions to Rule 901(c) and newly proposed Rule 901(d) are discussed in more detail below.

[24] 15 U.S.C. 78q–1(b)(3)(F).

[25] *Id.*

and Rules, would establish clear, transparent, and enforceable terms for the settlement of OCC's cleared Stock Options and Stock Futures through the facilities of NSCC. Specifically, the New Accord would continue to provide a sound framework for the settlement of certain Stock Options issued and cleared by OCC through the facilities of NSCC and would extend this framework to a clearly defined scope of additional Stock Options and Stock Futures transactions. In addition, the proposed rule change would simplify the settlement process for those Stock Options currently settled under the Existing Accord by clarifying the timing and mechanisms by which OCC's guaranty ends and NSCC's guaranty begins by focusing on the timing of the Guaranty Substitution, as described in detail above. By clarifying and simplifying the settlement process for these transactions, the New Accord would operate to minimize the risk of interruptions to clearing agency operations in the event of a Common Member default, and, in this way, would promote the prompt and accurate clearance and settlement of securities transactions.

In addition, by eliminating any ambiguity regarding which clearing agency is responsible for guaranteeing settlement at any given moment, the proposal to enhance the timing of the Guaranty Substitution would provide greater certainty that in the event of a Common Member default, the default would be handled pursuant to the rules and procedures of the clearing agency whose guarantee is then in effect and the system for the clearance and settlement of Stock Options and Stock Futures would continue with minimal interruption. This greater certainty would strengthen OCC's and NSCC's ability to plan for and manage, and therefore would mitigate, the risk presented by Common Member defaults. It would also minimize the ''double margining'' issue that occurs under the Existing Accord so that Common Members would no longer be required to post margin at both clearing agencies to cover the same E&A/Delivery Transactions, thereby reducing their potential exposures across multiple clearing agencies for the same positions. In this way, the New Accord is designed to safeguard the securities and funds which are in the custody or control of OCC or for which it is responsible.

The proposals to expand the category of securities eligible for settlement and guarantee and to apply uniform treatment to standard and non-standard options under the New Accord would provide consistent treatment across all expiries for products with regular way settlement cycle specifications, and would promote the prompt and accurate clearance and settlement of these additional securities transactions.

In connection with the proposal to enhance the information sharing arrangement between NSCC and OCC, NSCC and OCC would agree to share certain information, including general risk management due diligence regarding Common Members, lists of Common Members, and information regarding the amounts of Common Members' margin and settlement obligations at OCC or Clearing Fund Required Deposits at NSCC. In this way, the New Accord would foster cooperation and coordination between OCC and NSCC in the settlement of securities transactions.

Finally, other proposed changes to OCC's Rules would provide additional clarity, transparency, and certainty around the settlement and margining treatment of various securities transactions cleared by OCC (including those settled under the New Accord, those otherwise settled through the facilities of NSCC, and those that settle on a broker-to-broker basis away from NSCC). By providing its Clearing Members with this additional clarity, transparency, and certainty in OCC's Rules, the proposed rule change would promote the prompt and accurate clearance and settlement of securities transactions and the safeguarding of securities and funds which are in the custody or control of OCC or for which it is responsible.

Therefore, for the reasons stated above, OCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act.[26]

Rule 17Ad–22(e)(1) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for a well-founded, clear, transparent, and enforceable legal basis for each aspect of its activities in all relevant jurisdictions.[27] The New Accord would constitute a legal, valid and binding obligation on each of OCC and NSCC, which is enforceable against each clearing agency. In connection with the proposal to enhance the timing of the Guaranty Substitution, the New Accord would establish clear, transparent, and enforceable terms for the settlement of OCC's cleared Stock Options and Stock Futures through the facilities of NSCC and would simplify the settlement process for those Stock Options currently settled under the Existing Accord. By clarifying the timing and mechanisms by which OCC's Guaranty ends and NSCC's Guaranty begins by focusing on the timing of the Guaranty Substitution, the new Accord, specifically the proposal to enhance the timing of the Guaranty Substitution, would provide a clear, transparent and enforceable legal basis for OCC's and NSCC's obligations during the event of a Common Member default. As a result, OCC believes that the proposal is consistent with the requirements of Rule 17Ad–22(e)(1).[28]

Rule 17Ad–22(e)(20) under the Act requires, in part, that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies or financial market utilities.[29]

OCC is proposing to adopt the New Accord in order to address the risks it has identified related to its existing link with the NSCC within the Existing Accord. Specifically, under the terms of the Existing Accord, even after NSCC's guarantee has come into effect, OCC is not released from its guarantee with respect to the Options E&A until certain deadlines have passed on the first business day following the scheduled settlement date without NSCC notifying OCC that the relevant Common Member has failed to meet an obligation to NSCC and/or NSCC has ceased to act for such firm. This current process results in a period of time where NSCC's trade guarantee and OCC's guarantee both apply to the same positions, and, therefore, both clearing agencies are holding margin against the same Options E&A position. As a result, the Existing Accord provides for a more complicated framework for the settlement of certain Stock Options. These complications could give rise to inconsistencies with regard to the development and application of interdependent policies and procedures between OCC and NSCC, which could lead to unanticipated disruptions in OCC's or NSCC's clearing operations.

In connection with the proposal to enhance the timing of the Guaranty Substitution, the New Accord would provide for a clearer, simpler framework for the settlement of certain Stock Options and Stock Futures by pinpointing a specific moment in time, the Guaranty Substitution Time, at

[26] *Id.*

[27] 17 CFR 240.17Ad–22(e)(1).

[28] *Id.*

[29] 17 CFR 240.17Ad–22(e)(20).

which guarantee obligations would transfer from OCC to NSCC. The New Accord would eliminate any ambiguity regarding which clearing agency is responsible for guaranteeing settlement at any given moment. Establishing a precise Guaranty Substitution Time would also provide greater certainty that in the event of a Common Member default, the default would be handled pursuant to the rules and procedures of the clearing agency whose guarantee is then in effect and the system for the clearance and settlement of Stock Options and Stock Futures would continue with minimal interruption. This greater certainty would strengthen OCC's and NSCC's ability to plan for and manage, and therefore would mitigate, the risk presented by Common Member defaults to OCC and NSCC, other members, and the markets the clearing agencies serve. Therefore, through the adoption of the proposal to enhance the timing of the Guaranty Substitution, OCC would more effectively manage its risks related to the operation of the New Accord.

Moreover, in connection with the proposal to put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the New Accord, NSCC and OCC would agree to share certain information, including general surveillance information regarding their members, so that each clearing agency would be able to effectively identify, monitor, and manage risks that may be presented by certain Common Members. Accordingly, OCC believes the proposed changes are reasonably designed to identify, monitor, and manage risks related to the link established between OCC and NSCC for the settlement of certain Stock Options and Stock Futures in a manner consistent with Rule 17Ad–22(e)(20).[30]

Finally, Rule 17Ad–22(e)(21) under the Act requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, be efficient and effective in meeting the requirements of its participants and the markets it serves.[31] As noted above, under the Existing Accord, even after NSCC's guarantee has come into effect, OCC is not released from its guarantee with respect to the Options E&A until certain deadlines have passed on the first business day following the scheduled settlement date without NSCC notifying OCC that the relevant Common Member has failed to meet an obligation to NSCC and/or NSCC has ceased to act for such firm. This results in a period of time where NSCC's guarantee overlaps with OCC's guarantee and where both clearing agencies are holding margin against the same Options E&A positions. In connection with the proposal to enhance the timing of the Guaranty Substitution, the New Accord would minimize this ''double margining'' issue by introducing a new Guaranty Substitution Time, which would normally occur as soon as NSCC has received all Required Deposits to the Clearing Fund from Common Members, which have been calculated taking into account the relevant E&A/Delivery Transactions, rather than require reimbursement payments from one clearing agency to the other. As a result, Common Members would no longer be required to post margin at both clearing agencies to cover the same E&A/Delivery Transactions. OCC believes that, by simplifying the terms of the existing agreement in this way, the New Accord is designed to be efficient and effective in meeting the requirements of OCC's and NSCC's participants and the markets they serve.

Additionally, the proposal to put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the New Accord would create new efficiencies in the management of this important link between OCC and NSCC. The proposal to enhance information sharing between OCC and NSCC would allow the clearing agencies to more effectively identify, monitor, and manage risks that may be presented by certain Common Members, and would create new efficiencies in their general surveillance efforts with respect to these firms.

In these ways, OCC believes the proposed New Accord is consistent with the requirements of Rule 17Ad–22(e)(21).[32]

The proposed rule change is not inconsistent with the existing rules of OCC, including any other rules proposed to be amended.

(B) Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act [33] requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. OCC does not believe the proposed rule change would have any impact or impose any burden on competition. The primary purpose of the proposed rule change is to adopt a clearer, simpler framework for the settlement of Stock Options issued by OCC and settled through the facilities of NSCC through the introduction of a new Guaranty Substitution Time. The proposed New Accord would also extend this framework to both (1) Stock Options contracts in securities that are eligible to be settled through NSCC's Balance Order Accounting Operation and (2) certain delivery obligations arising from matured physically-settled Stock Futures contracts cleared by OCC that are eligible to be settled through NSCC's CNS Accounting Operation or Balance Order Accounting Operation. The New Accord would put additional arrangements into place concerning the procedures, information sharing, and overall governance processes under the agreement. OCC is also proposing to make certain clarifying and conforming changes to the OCC Rules as necessary to implement the New Accord or to otherwise provide more clarity in OCC's Rules. None of these proposed rule changes, either individually or together, would affect Common Members' access to OCC's services, nor would any of these proposed changes disadvantage or favor any particular user in relationship to another user. As such, OCC believes that the proposed changes would not have any impact or impose any burden on competition.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change and none have been received. OCC will notify the Commission of any written comments received by OCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

[30] *Id.*

[31] 17 CFR 240.17Ad–22(e)(21).

[32] *Id.*

[33] 15 U.S.C. 78q–1(b)(3)(I).

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–OCC–2017–013 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–OCC–2017–013. 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 OCC and on OCC's Web site at *http://www.theocc.com/components/docs/legal/rules_and_bylaws/sr_occ_17_013.pdf.*

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–OCC–2017–013 and should be submitted on or before July 11, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated Authority.[34]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–12891 Filed 6–19–17; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF STATE

[Public Notice: 10040]

Global Magnitsky Human Rights Accountability Act Report

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: This notice contains the text of the report, submitted by the President, that is required by the Global Magnitsky Human Rights Accountability Act.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Kraut, Email: *Krautb@state.gov,* Phone: (202) 647–9452.

SUPPLEMENTARY INFORMATION: On April 21, 2017, the President approved the following report under the Global Magnitsky Human Rights Accountability Act (Pub. L. 114–328, Subtitle F). The text follows:

The Global Magnitsky Human Rights Accountability Act (Pub. L. 114–328, Subtitle F) (the ''Act''), enacted on December 23, 2016, authorizes the President to impose financial sanctions and visa restrictions on foreign persons in response to certain human rights violations and acts of corruption.

The President submits this report to detail (1) U.S. government actions to administer the Act and (2) efforts to encourage the governments of other countries to impose sanctions that are similar to the sanctions authorized by Section 1263 of the Act.

With the passage of the Act, the United States now has a specific authority to identify and hold accountable persons responsible for gross violations of human rights and acts of significant corruption. The global reach of this authority, combined with a judicious selection of individuals and entities, will send a powerful signal that the United States continues to seek an end to impunity with respect to human rights violations and corruption. The Administration is committed to implementing the Act to support efforts to promote human rights and fight corruption. By complementing current sanctions programs and diplomatic outreach, the Act creates an additional authority to allow the Administration to respond to crises and pursue accountability, including where country-specific sanctions programs may not exist or where the declaration of a national emergency under the National Emergencies Act may not be appropriate. With the establishment of the first dedicated global human rights and corruption sanctions program, the United States is uniquely positioned to lead the international community in pursuing accountability abroad consistent with our values.

Sanctions

Although no financial sanctions were imposed under the Act during the 120 days since its enactment, the United States is actively seeking to identify persons to whom this Act may apply and collecting the necessary evidence to impose sanctions.

In addition, the Department of the Treasury has issued a number of sanctions designations related to human rights abuses and corruption under existing sanctions programs. Sanctions programs that feature one or both of these designation criteria include programs related to Belarus, Burundi, the Central African Republic, the Democratic Republic of Congo, Iran, Libya, North Korea, Russia, Somalia, South Sudan, Syria, Ukraine, Venezuela, and Zimbabwe, as well as the Sergei Magnitsky Rule of Law Accountability Act of 2012 (the ''Magnitsky Act'').

Examples of Treasury Department designations issued in recent years consistent with the human rights- and corruption-related designation criteria of these programs are provided below. This is not an exhaustive list; rather, it illustrates designations that align with the Act's focus on human rights and corruption.

Andrey Konstantinovich Lugovoy: On January 9, 2017, Russian national and member of the Russian State Duma Andrey Konstantinovich Lugovoy was designated under the Magnitsky Act, which includes a provision targeting persons responsible for extrajudicial killings, torture, or other gross human rights violations committed against individuals seeking to expose illegal activity by Russian government officials. Lugovoy was responsible for the 2006 extrajudicial killing of whistleblower Alexander Litvinenko in London, with Dmitriy Kovtun (also sanctioned) acting as his agent or on his behalf. Lugovoy and Kovtun were two of five individuals designated under the Magnitsky Act on January 9, 2017.

Evariste Boshab: On December 12, 2016, Evariste Boshab was designated under E.O. 13413 (''Blocking Property of

[34] 17 CFR 200.30–3(a)(12).

Certain Persons Contributing to the Conflict in the Democratic Republic of the Congo''), as amended by E.O. 13671 (''Taking Additional Steps to Address the National Emergency With Respect to the Conflict in the Democratic Republic of the Congo''), for engaging in actions or policies that undermine democratic processes or institutions in the Democratic Republic of the Congo (DRC). Boshab offered to pay DRC National Assembly members for their votes in favor of a bill to amend electoral law to delay elections and prolong President Joseph Kabila's term beyond its constitutional limit.

Kalev Mutondo: Also on December 12, 2016, Kalev Mutondo was designated under E.O. 13413, as amended by E.O. 13671, for engaging in actions or policies that undermine democratic processes or institutions in the DRC. Kalev supported the extrajudicial arrest and detainment of opposition members, many of whom were reportedly tortured. Kalev also directed support for President Kabila's ''MP'' political coalition using violent intimidation and government resources.

North Korean Ministry and Minister of People's Security: On July 6, 2016, the North Korean Ministry of People's Security was designated pursuant to E.O. 13722 (''Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea'') for having engaged in, facilitated, or been responsible for an abuse or violation of human rights by the Government of North Korea or the Workers' Party of Korea. The Ministry of People's Security operates a network of police stations and interrogation detention centers, including labor camps, throughout North Korea. During interrogations, suspects are systematically degraded, intimidated, and tortured. The Ministry of People's Security's Correctional Bureau supervises labor camps (*kyohwaso*) and other detention facilities, where human rights abuses occur, such as torture, execution, rape, starvation, forced labor, and lack of medical care. A Department of State report issued simultaneously with these designations cites defectors who have regularly reported that the ministry uses torture and other forms of abuse to extract confessions, including techniques involving sexual violence, hanging individuals from the ceiling for extended periods of time, prolonged periods of exposure, and severe beatings. Choe Pu Il, the Minister of People's Security, was also designated for having acted for or on behalf of the Ministry of People's Security.

Joseph Mathias Niyonzima: On December 18, 2015, Joseph Mathias Niyonzima was designated under E.O. 13712 (''Blocking Property of Certain Persons Contributing to the Situation in Burundi'') for being responsible for or complicit in or for engaging in actions or policies that threaten the peace, security, or stability of Burundi. Niyonzima supervised and provided support to elements of the Imbonerakure pro-government militia in Burundi, a group that has been linked to the arrest and torture of individuals suspected of opposing the Nkurunziza regime. He was also involved in plans to assassinate prominent opposition leaders.

Fahd Jassem al-Freij: On May 16, 2013, Syrian Minister of Defense Fahd Jassem al-Freij was designated pursuant to, among other authorities, E.O. 13572 (''Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria'') for his role in the commission of human rights abuses in Syria. During his time as Syrian Minister of Defense, the Syrian military forces wantonly and capriciously killed Syrian civilians, including through the use of summary executions and indiscriminate airstrikes against civilians. Some of these airstrikes killed civilians waiting outside of bakeries.

The examples above demonstrate the Treasury Department's history of designating persons under the human rights- and corruption-related criteria of various sanctions authorities. Such designations under existing authorities strongly complement the intent of the Act.

The individuals and entities referenced above were designated for ''human rights abuses'' and other broad criteria that provide significant flexibility in issuing human rights-related designations. While the human rights-related designation criterion found in the Act (*i.e.,* gross violations of internationally recognized human rights) is narrower in focus, will actively seek to designate individuals and entities where sufficient information exists to meet the applicable evidentiary standard.

Visa Sanctions

Although no visa sanctions were imposed under the Act during the 120 days since its enactment, the Department of State is continuously reviewing available information in order to take appropriate actions with respect to visa ineligibilities. In addition, the Department of State continues to take action, as appropriate, to implement the authorities pursuant to which it can impose visa restrictions on those responsible for human rights violations and corruption, including Presidential Proclamation 7750, Presidential Proclamation 8697, and Section 7031(c) of the FY2016 State, Foreign Operations, and Related Programs Appropriations Act. In addition to those authorities, Presidential Proclamation 8693 establishes a mechanism for imposing visa restrictions on Specially Designated Nationals and Blocked Persons (SDNs) designated under certain E.O.s., as well as individuals designated otherwise for travel bans in UN Security Council Resolutions. The Department of State also continues to make visa ineligibility determinations pursuant to the Immigration and Nationality Act (INA), including Section 212(a)(3)(E)(iii), which makes individuals who have participated in acts of genocide or committed acts of torture, extrajudicial killings, and other human rights violations ineligible for visas.

Termination of Sanctions

No sanctions imposed under the Act were terminated in the 120 days since its enactment.

Efforts To Encourage Governments of Other Countries To Impose Sanctions Similar to Those Authorized by the Act

The United States is committed to encouraging other countries to impose sanctions that are similar to those provided for by the Act. The Department of State actively participates in global outreach, including the G–20 Denial of Entry Experts Network, a sub-group of the G–20 Anti-Corruption Working Group, in which countries share best practices among visa and immigration experts. Through this network, the United States has encouraged other G–20 members to establish and strengthen corruption-related visa sanctions regimes. We note that the United Kingdom recently enacted legislation similar to the Act, and we will be consulting closely with the UK government as we implement our respective laws. The Department of State also has ongoing bilateral human rights discussions with other key allies, including the European Union and its member states, Japan, the Republic of Korea, and Australia, and will be raising the possibility of their imposing sanctions similar to those authorized by this Act.

Patricia M. Haslach,

Acting Assistant Secretary of State, Bureau of Economic and Business Affairs, Department of State.

[FR Doc. 2017–12791 Filed 6–19–17; 8:45 am]

BILLING CODE 4710–AE–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket Number USTR–2017–0008]

Request for Comments and Notice of Public Hearing Concerning an Out-of-Cycle Review of Rwanda, Tanzania, and Uganda Eligibility for Benefits Under the African Growth and Opportunity Act

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of review, public hearing and request for comments.

SUMMARY: The Office of the United States Trade Representative (USTR), in consultation with the Trade Policy Staff Committee (TPSC), is announcing the initiation of an out-of-cycle review of the eligibility of the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda to receive benefits under the African Growth and Opportunity Act (AGOA) in response to a petition. The AGOA Subcommittee of the TPSC (Subcommittee) will consider written comments, written testimony, and oral testimony in response to this notice to develop recommendations for the President as to whether the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda are meeting the AGOA eligibility criteria.

DATES:

June 30, 2017: Deadline for filing requests to appear at the July 13, 2017 public hearing, and for filing pre-hearing briefs, statements, or comments on the AGOA eligibility of the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda.

July 13, 2017: The AGOA Implementation Subcommittee of the TPSC will convene a public hearing on the AGOA eligibility of the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda.

July 21, 2017: Deadline for filing post-hearing briefs, statements, or comments on this matter.

ADDRESSES: USTR strongly prefers electronic submissions made through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in section 3 below. The docket number is USTR–2017–0008. For alternatives to on-line submissions, please contact Yvonne Jamison, Trade Policy Staff Committee, at (202) 395–3475.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments or participating in the public hearing, contact Yvonne Jamison at (202) 395–3475. Direct all other questions regarding this notice to Alan Treat, Director for African Affairs, at (202) 395–9514.

SUPPLEMENTARY INFORMATION:

1. Background

AGOA (Title I of the Trade and Development Act of 2000, Pub. L. 106–200) (19 U.S.C. 2466a, *et seq.*), as amended, authorizes the President to designate sub-Saharan African countries as beneficiaries eligible for duty-free treatment for certain additional products not included for duty-free treatment under the Generalized System of Preferences (GSP) (Title V of the Trade Act of 1974 (19 U.S.C. 2461, *et seq.*) (1974 Act), as well as for the preferential treatment for certain textile and apparel articles.

The President may designate a country as a beneficiary sub-Saharan African country eligible for these AGOA benefits if he determines that the country meets the eligibility criteria set forth in section 104 of the AGOA (19 U.S.C. 3703) and section 502 of the 1974 Act (19 U.S.C. 2462).

Section 104 of AGOA includes requirements that the beneficiary country has established or is making continual progress toward establishing: A market-based economy; the rule of law, political pluralism, and the right to due process; the elimination of barriers to U.S. trade and investment; economic policies to reduce poverty; a system to combat corruption and bribery; and the protection of internationally recognized worker rights. In addition, the country may not engage in activities that undermine U.S. national security or foreign policy interests or engage in gross violations of internationally recognized human rights. Please see section 104 of the AGOA and section 502 of the 1974 Act for a complete list of the AGOA eligibility criteria.

Section 506 of the Trade Preferences Extension Act of 2015 (TPEA) requires the President to establish a petition process to allow any interested person, at any time, to file a petition with USTR concerning compliance of any sub-Saharan African country listed in section 107 of the AGOA (19 U.S.C. 3706), with the eligibility requirements set forth in section 104 of the AGOA and section 502 of the 1974 Act. On February 26, 2016, the President delegated this authority to the United States Trade Representative. USTR has established a petition process. *See* 15 CFR part 2017.

II. The Petition

On March 21, 2017, the Secondary Materials and Recycled Textiles Association (SMART) submitted a petition to USTR requesting an out-of-cycle review to determine whether the Republic of Kenya, Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda are meeting the AGOA eligibility criteria. The SMART petition asserts that a March 2016 decision by the East African Community (EAC), which includes the Republic of Kenya, Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda, to phase in a ban on imports of used clothing and footwear is imposing significant economic hardship on the U.S. used clothing industry, and is in violation of the AGOA statutory eligibility criteria to make continual progress toward establishing a market based economy and eliminating barriers to U.S. trade and investment.

In response to the SMART petition, USTR has determined, in consultation with the TPSC, that there are exceptional circumstances warranting an out-of-cycle review of the AGOA eligibility of the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda. With respect to the Republic of Kenya, USTR has determined that an out-of-cycle review of Kenya's AGOA eligibility is not warranted at this time, due to recent actions Kenya has taken, including reversing tariff increases, effective July 1, 2017, and committing not to ban imports of used clothing through policy measures that are more trade-restrictive than necessary to protect human health. USTR will continue to monitor Kenya's actions to ensure that Kenya follows through on its commitments. The USTR has consulted with Congress about these determinations.

Section 506A of the 1974 Act requires the President to terminate the designation of a country as a beneficiary sub-Saharan African country if he determines that the beneficiary country is not making continual progress in meeting the eligibility requirements. As amended by the TPEA, the President may withdraw, suspend, or limit the application of duty-free treatment with respect to articles from the country if he determines that it would be more effective in promoting compliance with AGOA-eligibility requirements than terminating the designation of the country as a beneficiary sub-Saharan African country.

The Subcommittee is seeking public comments in connection with this out-of-cycle review of the AGOA eligibility of the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda. The Subcommittee will consider the written comments, written testimony, and oral testimony in developing recommendations for the

President as to whether the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda are meeting the AGOA eligibility criteria.

III. Notice of Public Hearing

In addition to written comments from the public on the matters listed above, the Subcommittee will convene a public hearing at 10:00 a.m. on Friday, July 13, 2017, to receive testimony related to the AGOA eligibility of the Republic of Rwanda, United Republic of Tanzania, and Republic of Uganda. The hearing will be held at 1724 F Street NW., Washington, DC 20508 and will be open to the public and to the press. We will make a transcript of the hearing available on *www.regulations.gov* within approximately two weeks of the date of the hearing.

We must receive your written requests to present oral testimony at the hearing and pre-hearing briefs, statements, or comments by noon on Friday, June 30, 2017. You must make the intent to testify notification in the ''Type Comment'' field under docket number USTR–2017–0008 on the *www.regulations.gov* Web site and you should include the name, address, telephone number and email address, if available, of the person presenting the testimony. You should attach a summary of the testimony by using the ''Upload File'' field. The name of the file also should include who will be presenting the testimony. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the Subcommittee.

You should submit all documents in accordance with the instructions in section IV below.

IV. Requirements for Submissions

In order to be assured of consideration, persons submitting a notification of intent to testify and/or written comments must do so in English by noon on Friday, June 30, 2017. USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter docket number USTR–2017–0008 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use Regulations.gov'' on the bottom of the home page. We will not accept hand-delivered submissions.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC''. Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information also must submit a public version of their comments that we will place in the docket for public inspection. The file name of the public version should begin with the character ''P''. The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments or reply comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted, USTR strongly urges submitters to file comments through *www.regulations.gov.* You must make any alternative arrangements with Yvonne Jamison in advance of transmitting a comment. You can contact Ms. Jamison at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov.*

We will post comments in the docket for public inspection, except business confidential information. You can view comments on the *www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Edward Gresser,

Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.

[FR Doc. 2017–12784 Filed 6–19–17; 8:45 am]

BILLING CODE 3290–F7–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Tenth RTCA SC–233 Plenary

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

ACTION: Tenth RTCA SC–233 Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Tenth RTCA SC–233 Plenary

DATES: The meeting will be held July 13, 2017 from 10:00 a.m.–11:00 a.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Rebecca Morrison at *rmorrison@rtca.org* or 202–330–0654, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Tenth RTCA SC–233 Plenary. The agenda will include the following:

Thursday, July 13, 2017, 10:00 a.m.–11:00 a.m.

1. Introduction, Upcoming PMC Dates and Deliverable
2. February 2017 Minutes Approval
3. Consider a motion to submit the document to Final Review and Comment
4. Other Business
5. Action Items
6. Review of key dates
7. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 15, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17 NextGen, Procurement Services Division,Federal Aviation Administration.

[FR Doc. 2017–12852 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Forty Seventh RTCA SC206 Aeronautical Information and Meteorological Data Link Services Plenary

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

ACTION: Forty Seventh RTCA SC206 Aeronautical Information and Meteorological Data Link Services Plenary.

SUMMARY: The FAA is issuing this notice to advise the public of a meeting of Forty Seventh RTCA SC206 Aeronautical Information and Meteorological Data Link Services Plenary.

DATES: The meeting will be held July 10, 2017, 09:30 a.m.–12:00 p.m.

ADDRESSES: The meeting will be held at: RTCA Headquarters, 1150 18th Street NW., Suite 910, Washington, DC 20036.

FOR FURTHER INFORMATION, CONTACT: Karan Hofmann at *khofmann@rtca.org* or 202–330–0680, or The RTCA Secretariat, 1150 18th Street NW., Suite 910, Washington, DC 20036, or by telephone at (202) 833–9339, fax at (202) 833–9434, or Web site at *http://www.rtca.org.*

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., App.), notice is hereby given for a meeting of the Forty Seventh RTCA SC206 Plenary. The agenda will include the following:

Monday, May 10, 2017—9:00 a.m.–12:00 p.m.

1. Opening remarks: DFO, RTCA, and Chairman
2. Attendees' introductions
3. Review and approval of meeting agenda
4. Approval of December 2016 meeting minutes (Washington, DC)
5. Action item review
6. Sub-Groups reports
   a. SG1: CSC JC and Other SC Coordination
   b. SG5: FIS–B MOPS
7. Document approval
   a. SG7: Wind Document FRAC Resolution
   b. SG4: EDR Guidelines for FRAC Release
8. TOR Changes
   a. SG4: Document type and title
   b. SG5: Schedule change for new products and scope
9. Adjourn

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section. Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on June 15, 2017.

Mohannad Dawoud,

Management & Program Analyst, Partnership Contracts Branch, ANG–A17, NextGen, Procurement Services Division, Federal Aviation Administration.

[FR Doc. 2017–12843 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on the Interstate 395 Express Lanes Northern Extension Study in the City of Alexandria, Arlington County, and Fairfax County, Virginia

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA.

SUMMARY: This notice announces actions taken by the FHWA that are final. The actions relate to the conversion of two existing High Occupancy Vehicle (HOV) lanes within the existing median of Interstate 395 (I–395) to three High Occupancy Toll (HOT) lanes from the current I–395 HOT lanes terminus at Turkeycock Run to Eads Street near the Pentagon. Those actions grant licenses, permits, and approvals for the project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(*l*)(1). A claim seeking judicial review of the Federal agency actions on the project will be barred unless the claim is filed on or before November 17, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA: Mr. John Simkins, Planning and Environment Team Leader, FHWA Virginia Division, 400 North 8th Street, Richmond, Virginia 23219; telephone: (804) 775–3347; email: *John.Simkins@dot.gov*. The FHWA Virginia Division Office's normal business hours are 8:00 a.m. to 4:30 p.m. (Eastern Time). For the Virginia Department of Transportation: Amanda Baxter, 4975 Alliance Drive, Fairfax, Virginia 22030; email: *Amanda.Baxter@VDOT.Virginia.gov*; telephone: (703) 259–1996. The Virginia Department of Transportation's normal business hours are 7:00 a.m. to 4:00 p.m.

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA has taken final agency actions subject to 23 U.S.C. 139(*l*)(1) by issuing licenses, permits, and approvals for the following project in the State of Virginia: Interstate 395 Express Lanes Northern Extension study in the City of Alexandria, Arlington County, and Fairfax County. The project involves the conversion of two existing High Occupancy Vehicle (HOV) lanes within the existing median of I–395 to three High Occupancy Toll (HOT) lanes from the current I–395 HOT lanes terminus at Turkeycock Run to Eads Street near the Pentagon. The actions taken by FHWA, and the laws under which such actions were taken, are described in the Environmental Assessment (EA), the Request for the Finding of No Significant Impact (FONSI) that included a Revised EA, and the FONSI. The EA was signed on September 8, 2016. The FONSI was signed on February 28, 2017. The EA, Request for the FONSI, and FONSI can be viewed on the project's internet site at *http://www.virginiadot.org/projects/northernvirginia/395_express.asp.* These documents and other project records are also available by contacting FHWA or the Virginia Department of Transportation at the phone numbers and addresses listed above.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act (FAHA) [23 U.S.C. 109 and 23 U.S.C. 128].

2. *Air:* Clean Air Act [42 U.S.C. 7401–7671(q)].

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303; 23 U.S.C. 138].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 306108].

6. *Social and Economic:* Farmland Protection Policy Act [7 U.S.C. 4201–4209].

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning

and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(*l*)(1).

Issued on: June 8, 2017.

John Simkins,

Planning and Environment Team Leader.

[FR Doc. 2017–12629 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0037]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations (CFR) and 49 U.S.C. 20502(a), this document provides the public notice that on April 20, 2017, Union Pacific Railroad (UP) petitioned the Federal Railroad Administration (FRA) seeking approval to discontinue or modify a signal system. FRA assigned the petition Docket Number FRA–2017–0037.

Applicant: Union Pacific Railroad, Mr. Kevin D. Hicks, AVP Engineering—Design, 1400 Douglas Street, MS 0910, Omaha, NE 68179.

UP seeks to retire the power crossover connecting to the Alton Industrial Lead and the power switch connecting to the Wood River Yard at control point X262 on the Springfield Subdivision in Alton, IL. Both mainline switch machines will be replaced with electric locks. The power crossover connecting the two mainline signals will remain. The signals governing movement into and out of the yard and industrial lead will be retired, and the mainline signals upgraded to current standards and aspect progressions. The purpose of this retirement is to facilitate switching operations in the yard and industrial lead and increase mainline velocity.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 4, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Safety, Chief Safety Officer.

[FR Doc. 2017–12795 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0040]

Notice of Application for Approval of Discontinuance or Modification of a Railroad Signal System

Under part 235 of Title 49 of the Code of Federal Regulations and 49 U.S.C. 20502(a), this document provides the public notice that on April 24, 2017, the National Railroad Passenger Corporation (Amtrak) petitioned the Federal Railroad Administration (FRA) seeking approval for the discontinuance or modification of a signal system. FRA assigned the petition Docket Number FRA–2017–0040.

Applicant: National Railroad Passenger Corporation, Mr. Nicholas J. Croce III, PE, Deputy Chief Engineer C&S, Acting, 2995 Market Street, Philadelphia, PA 19104.

Amtrak seeks to remove the wayside automatic signals' Numbers 532–2, 532–3, 533–2 and 533–3, milepost (MP) 53.3, and automatic signals' Numbers 552–2, 552–3, 553–2 and 553–3, MP 55.2, between interlockings Prince and Bacon, on Amtrak's Northeast Corridor, Mid-Atlantic Division, Perryville, MD.

The reason for removal of the signals is that Amtrak is installing new clear block signals at Prince and Bacon interlockings to establish Northeast Operating Rules Advisory Committee Rule 562 territory, cab signals without fixed automatic block signals, on Amtrak's Northeast Corridor, Mid-Atlantic Division, Main Line Philadelphia to Washington. With the proposed addition of the clear block signals at Prince and Bacon the automatic block signals are not necessary and require additional maintenance. The changes proposed are to remove the wayside signals on both Track No. 2 and No. 3 at automatic block points 553 and 552. Both locations will remain in service as block points without wayside signals.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be

submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 4, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2017–12796 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2017–0044]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on November 28, 2016, the Village of New Lenox, IL, (Village) petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR 222.9. FRA assigned the petition Docket Number FRA–2017–0044.

The Village is seeking a waiver from the definition of a non-traversable curb in 49 CFR 222.9, to allow for quiet zone risk reduction credit for the 6-inch high medians that extend approximately 330 feet to the west of the Laraway Road crossing (DOT #478794H) and 655 feet to the east of the crossing. Specifically, New Lenox is requesting an exception to the requirement that non-traversable curbs may be used only at locations where highway speeds do not exceed 40 mph.

The Village asserts the Laraway Road crossing is under the jurisdiction of the Will County Department of Transportation, which is unwilling to reduce the current 45 mph highway speed limit at the crossing. Therefore, while the current highway speed limit would likely remain unchanged, the Village notes that the Will County Division of Transportation would be willing to install 40-mph speed advisory signs approximately 300 feet in advance of the Laraway Road crossing for both eastbound and westbound highway traffic.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Ave. SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 4, 2017 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety Chief Safety Officer.

[FR Doc. 2017–12797 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA 2017–0017]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Requirements (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describe the nature of the information collection and their expected burdens. The **Federal Register** notice with a 60-day comment period soliciting comments on the following collections of information was published on March 14, 2017 (81 FR 13723).

DATES: Comments must be submitted on or before July 20, 2017.

FOR FURTHER INFORMATION CONTACT: Tia Swain, Office of Administration, Management Planning Division, 1200 New Jersey Avenue SE., Mail Stop TAD–10, Washington, DC 20590, (202) 366–0354 or *tia.swain@dot.gov.*

SUPPLEMENTARY INFORMATION: The Paperwork Reduction Act of 1995 (PRA), Pub. L. 104–13, Section 2, 109

Stat. 163 (1995) (codified as revised at 44 U.S.C. 3501–3520), and its implementing regulations, 5 CFR part 1320, require Federal agencies to issue two notices seeking public comment on information collection activities before OMB may approve paperwork packages. 44 U.S.C. 3506, 3507; 5 CFR 1320.5, 1320.8(d)(1), 1320.12. On March 14, 2017, published a 60-day notice (82 FR 13723) in the **Federal Register** soliciting comments on the ICR that the agency was seeking OMB approval. FTA received no comments after issuing this 60-day notice. Accordingly, DOT announces that these information collection activities have been re-evaluated and certified under 5 CFR 1320.5(a) and forwarded to OMB for review and approval pursuant to 5 CFR 1320.12(c).

Before OMB decides whether to approve these proposed collections of information, it must provide 30 days for public comment. 44 U.S.C. 3507(b); 5 CFR 1320.12(d). Federal law requires OMB to approve or disapprove paperwork packages between 30 and 60 days after the 30 day notice is published. 44 U.S.C. 3507 (b)–(c); 5 CFR 1320.12(d); *see also* 60 FR 44978, 44983, Aug. 29, 1995. OMB believes that the 30 day notice informs the regulated community to file relevant comments and affords the agency adequate time to digest public comments before it renders a decision. 60 FR 44983, Aug. 29, 1995. Therefore, respondents should submit their respective comments to OMB within 30 days of publication to best ensure having their full effect. 5 CFR 1320.12(c); *see also* 60 FR 44983, Aug. 29, 1995.

The summaries below describe the nature of the information collection requirements (ICRs) and the expected burden. The requirements are being submitted for clearance by OMB as required by the PRA.

Title: Pre-award, Post-delivery Audit Requirements Under Buy America.

OMB Control Number: 2132–0544.

Type of Request: Revision of a currently approved information collection.

Abstract: FTA's Buy America requirements prevent FTA from obligating an amount that may be appropriated to carry out its program for a project unless ''the steel, iron, and manufactured goods used in the project are produced in the United States.'' 49 U.S.C. 5323(j)(1). FTA's Buy America requirements apply to third-party procurements by FTA grant recipients. A Grantee must include in its bid or request for proposal (RFP) specification for procurement of steel, iron or manufactured goods (including rolling stock) an appropriate notice of the Buy America provision and require, as a condition of responsiveness, that the bidder or offeror submit with the bid or offer a completed Buy America certificate in accordance with 49 CFR 661.6 or 661.12. Under limited circumstances, FTA may waive Buy America if FTA finds that: (1) Application of Buy America is inconsistent with the public interest; (2) the steel, iron, and goods produced in the U.S. are not produced in a sufficient and reasonably available amount or are not of a satisfactory quality; or (3) including domestic material will increase the cost of the overall project by more than 25 percent for rolling stock. The process for seeking a waiver is set forth in 49 CFR part 661. Grantees are encouraged to apply for a waiver as soon as possible and to provide detailed requests in order to expedite FTA's review of waiver requests. FTA's determination on waiver requests will be published in the **Federal Register** for notice and comment.

When procuring rolling stock, which includes train control, communication, traction power equipment, and rolling stock prototypes, the cost of the components and subcomponents produced in the U.S. must be more than: 60 percent for FY2016 and FY2017, more than 65 percent for FY2018 and FY2019 and more than 70 percent for FY2020 and beyond. Final assembly for rolling stock also must occur in the U.S. Additionally, rolling stock procurements are subject to the pre-award and post-delivery Buy America audit provisions set forth in 49 U.S.C. 5323(m) and 49 CFR part 663.

Unlike rolling stock, manufactured goods must be 100 percent produced in the U.S. A manufactured good is considered produced in the United States if: (1) All of the manufacturing processes for the product take place in the United States; and (2) All of the components of the product are of U.S. origin. A component is considered of U.S. origin if it is manufactured in the United States, regardless of the origin of its subcomponents. 49 CFR 661.5(d).

Annual Estimated Total Burden Hours: 2,786 hours.

Annual Estimated Number of Respondents: 700.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: FTA Desk Officer. Alternatively, comments may be sent via email to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget, at the following address: *oira_submissions@omb.eop.gov.*

Comments are Invited On: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this notice in the **Federal Register**.

William Hyre,

Deputy Associate Administrator for Administration.

[FR Doc. 2017–12787 Filed 6–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2017–0097]

Request for Comments on the Renewal of a Previously Approved Information Collection: Voluntary Intermodal Sealift Agreement (VISA)

AGENCY: Maritime Administration.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. The information requested is needed by the Maritime Administration (MARAD) and the Department of Defense (DoD), including representatives from U.S. Transportation Command and its components, to assess respondents' eligibility for participation in the VISA program. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information collection was published on March 22, 2017 (FR 14796, Vol. 82, No. 54).

DATES: Comments must be submitted on or before July 20, 2017.

ADDRESSES: Send comments regarding the burden estimate, including

suggestions for reducing the burden, to the Office of Management and Budget, Attention: Desk Officer for the Office of the Secretary of Transportation, 725 17th Street NW., Washington, DC 20503.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: William McDonald, 202–366–0688, Office of Sealift Support, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W25–310, Washington, DC 20590.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Intermodal Sealift Agreement (VISA).

OMB Control Number: 2133–0532.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The Voluntary Intermodal Sealift Agreement (VISA) is a voluntary agreement, in accordance with section 708, Defense Production Act, 1950, as amended, under which participants agree to provide commercial sealift capacity and intermodal shipping services and systems, necessary to meet national defense requirements. In order to meet national defense requirements, the Government must assure the continued availability of commercial sealift resources.

Respondents: Operators of qualified dry cargo vessels.

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 40.

Estimated Number of Responses: 40.

Estimated Hours per Response: 5.

Annual Estimated Total Annual Burden Hours: 200.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.93)

* * *

By Order of the Executive Director in lieu of the Maritime Administrator.

Dated: June 15, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–12793 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0033]

Pipeline Safety: Gas and Liquid Advisory Committee Member Nominations

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice; request for nominations for members: Gas and Liquid Pipeline Advisory Committees; vacancies.

SUMMARY: PHMSA is requesting nominations for individuals to serve on the Gas Pipeline Advisory Committee (GPAC), also known as the Technical Pipeline Safety Standards Committee, and the Liquid Pipeline Advisory Committee (LPAC), also known as the Technical Hazardous Liquid Pipeline Safety Standards Committee. Each committee is composed of 15 members each appointed by the Secretary of Transportation (the Secretary).

With this notice, PHMSA is seeking nominations for personnel, preferably executive level leadership, from the Federal Government and from industry to fill vacancies on both committees. Specifically, PHMSA will fill one Federal Government vacancy and one industry vacancy on the GPAC and one Federal Government vacancy and three industry vacancies on the LPAC. PHMSA may also consider candidates for any government or industry vacancies that may occur during the processing of the vacancies mentioned above.

DATES: Nominations must be received by July 5, 2017.

ADDRESSES: All nomination material can be submitted to Cheryl Whetsel, Advisory Committee Program Manager, at *Cheryl.whetsel@dot.gov,* by fax at 202–366–4566, or mailed to the Pipeline and Hazardous Materials Safety Administration, 1200 New Jersey Ave. SE., PHP–30, E24–445, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Cheryl Whetsel, 202–366–4431 or *cheryl.whetsel@dot.gov.* Information about the GPAC and LPAC can also be obtained by visiting PHMSA's Web site by using the following link: *http://www.phmsa.dot.gov/pipeline/regs/technical-advisory-comm.*

SUPPLEMENTARY INFORMATION:

I. Advisory Committee Background

The GPAC and LPAC are statutorily mandated advisory committees that provide recommendations and advice on PHMSA's proposed safety standards. Additionally, the committees may propose safety standards to the Secretary, and, if requested by the Secretary, shall make policy development recommendations. Both committees were established in accordance with the Federal Advisory Committee Act, 5 U.S.C. App. 2, and 49 U.S.C. 60115.

No later than 90 days after receiving a proposed standard and supporting analyses, the appropriate committee prepares and submits a report to the Secretary of Transportation on the technical feasibility, reasonableness, cost-effectiveness, and practicability of the proposed standard. The Secretary must publish each report, including any recommended actions and minority views. The report, if timely made, is part of the proceeding for prescribing the standard. The Secretary is not bound by the committee's conclusions. However, if the Secretary rejects the committee's conclusions, the Secretary must publish the reasons.

Pursuant to 49 U.S.C. 60115, the Secretary of Transportation has the authority to appoint to each committee (1) five individuals from departments, agencies, and instrumentalities of the U.S. Government and of the states; (2) five individuals from the natural gas or hazardous liquid industry, selected in consultation with industry representatives; and (3) five individuals selected from the general public.

II. Criteria for Committee Members

With this notice, PHMSA is seeking nominations for personnel, preferably executive level leadership, from the Federal Government and from industry to fill vacancies on both committees. PHMSA will fill one Federal Government vacancy and one industry vacancy on the GPAC and one Federal Government vacancy and two industry vacancies on the LPAC. PHMSA may also consider candidates for any government or industry vacancies that may occur during the processing of the vacancies mentioned above.

Each GPAC member selected by the Secretary of Transportation must be experienced in the safety regulation of transporting gas and of gas pipeline facilities or technically qualified, by training, experience, or knowledge in at least one field of engineering applicable to transporting gas or operating a gas pipeline facility, to evaluate gas pipeline safety standards or risk management principles.

Similarly, each LPAC member selected by the Secretary of Transportation must be experienced in

the safety regulation of transporting hazardous liquid and of hazardous liquid pipeline facilities or technically qualified by training, experience, or knowledge in at least one field of engineering applicable to transporting hazardous liquid or operating a hazardous liquid pipeline facility, to evaluate hazardous liquid pipeline safety standards or risk management principles.

Regarding nominations of industry personnel, at least three of the individuals selected for each committee from the industry must be currently in the active operation of natural gas or hazardous liquid pipelines or pipeline facilities. At least one individual selected for each committee serving from the industry must have education, background, or experience in risk assessment and cost-benefit analysis. Nominees should represent a broad constituency whose views the candidate can represent. Additionally, the Secretary will consult with the national organizations representing the owners and operators of pipeline facilities before selecting individuals from the industry.

III. Terms of Service

- Each member serves a three-year term, unless the member becomes unable to serve, resigns, ceases to be qualified to serve, or is removed by the Secretary.
- Members may be reappointed.
- All members serve at their own expense and receive no salary from the Federal Government, although travel reimbursement and per diem may be provided.
- The GPAC and LPAC generally meet in-person in the Washington, DC, Metropolitan area.

IV. Nomination Procedures

Any interested person may nominate one or more qualified individuals for membership on the advisory committee. Self-nominations are also accepted.

- Nominations must include a current, complete résumé including current business address and/or home address, telephone number, email address, education, professional or business experience, present occupation, and membership on other advisory committees past or present) for each nominee.
- Each nominee must meet the training, education, or experience requirements listed under section II above.
- Nominations must also specify the advisory committee for which the nominee is recommended (the GPAC or LPAC).
- Nominations must also acknowledge that the nominee is aware of the nomination unless the individual is self-nominated.

Issued in Washington, DC, on June 15, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–12805 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0016]

Pipeline Safety: Safety of Underground Natural Gas Storage Facilities; Petition for Reconsideration

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice.

SUMMARY: On January 18, 2017, PHMSA received a petition for reconsideration of its interim final rule (IFR), ''Safety of Underground Natural Gas Storage Facilities.'' This Notice informs the petitioners and other interested persons that PHMSA intends to address the issues raised by the petitioners in a final rule, which it expects to issue by January of 2018. In the interim, and for one year after the publication of a final rule, PHMSA will not issue any enforcement citations to operators for failure to meet any provisions that are non-mandatory in an American Petroleum Institute (API) Recommended Practices (RPs) RP 1170 and RP 1171 but that were converted to mandatory provisions by the IFR. Despite this stay of enforcement, PHMSA still reserves the right to exercise its other authorities, if necessary, to address any emergencies that present an imminent hazard or specific conditions that are or would be hazardous to life, property, or the environment. This Notice also informs operators of the availability of further guidance on implementation to help operators develop assessment schedules and carry out compliance programs.

FOR FURTHER INFORMATION CONTACT: Byron Coy, Senior Technical Advisor, Pipeline Safety Policy and Programs, by telephone at 609–771–7810 or by email at *byron.coy@dot.gov.*

SUPPLEMENTARY INFORMATION: On December 19, 2016, (81 FR 91860) PHMSA published an IFR titled ''Safety of Underground Natural Gas Storage Facilities.'' PHMSA issued this IFR in response to a statutory mandate in section 12 of the ''Protecting our Infrastructure of Pipelines and Enhancing Safety Act of 2016'' (Pub. L. 114–183). The IFR incorporates by reference two API RPs: (1) API RP 1170, ''Design and Operation of Solution-mined Salt Caverns used for Natural Gas Storage,'' issued in July 2015, and (2) API RP 1171, ''Functional Integrity of Natural Gas Storage in Depleted Hydrocarbon Reservoirs and Aquifer Reservoirs,'' issued in September 2015.

On January 18, 2017, the American Gas Association, API, American Public Gas Association, and the Interstate Natural Gas Association of America (INGAA) submitted a petition seeking reconsideration of the IFR, insofar as it modified the non-mandatory nature of many of the recommendations in the RPs. The petitioners also contended that the implementation periods were impracticable and should reasonably be extended. On April 17, 2017, INGAA withdrew from the petition for reconsideration. For further review, interested parties can access this petition in the docket.

Under subpart D of 49 CFR part 190, PHMSA's general policy is to take action on a petition for reconsideration of a regulation, whenever practicable, within 90 days of the regulation's publication in the **Federal Register**. PHMSA determined that it would be impracticable to respond to the petition for reconsideration within that time period. Therefore, this document provides notice to the petitioners and the public of the time period in which action will be taken in accordance with 49 CFR 190.337(b). PHMSA plans to leave the petition for reconsideration open and evaluate the petition, along with the comments it has received. during the development of a final rule. PHMSA plans on using the final rule to address the comments and the petition for reconsideration and revise the requirements detailed in the IFR accordingly. PHMSA expects to issue a final rule by January 2018.

Regarding the manner in which non-mandatory sections of the RPs were made mandatory by the IFR, the petitioners expressed concern that, in certain instances, treating non-mandatory practices as mandatory could result in unnecessary burdens for operators. During the 60-day public comment period on the IFR, PHMSA received similar comments to those raised in the petition on this issue. PHMSA understands these concerns and is reviewing the treatment of non-mandatory provisions as mandatory and will respond to these points in a final rule.

In the meantime, PHMSA will not issue any enforcement citations to operators for non-compliance with any provisions that are non-mandatory in the RPs until at least one year following publication of a final rule. During the same time period, PHMSA will not issue enforcement citations to operators for non-compliance with the requirement to justify and document deviations from the non-mandatory provisions. PHMSA does intend, however, to retain and enforce the other compliance deadlines in the IFR, including the requirement that operators of existing underground gas storage facilities develop, by January 18, 2018, policies and procedures to implement those sections of the RPs that are identified as mandatory in the actual RPs.

Notwithstanding this stay of enforcement, nothing in this Notice is intended to prevent or discourage an operator from carrying out any recommended practice that is non-mandatory in the RPs if the operator determines that the recommended practice needs to be followed to ensure the safe operation of its facilities.

Finally, PHMSA reserves the right to exercise its authorities separate and apart from the IFR, if necessary, to address any pipeline facility, including any underground gas storage facility, found to be an imminent hazard under 49 U.S.C. 60117(o) or to order corrective actions where the operation of such facility is or would be hazardous to life, property, or the environment under 49 U.S.C. 60112. This exercise of PHMSA's enforcement discretion does not affect any other obligations that operators may have under the pipeline safety regulations or any other applicable law.

Regarding the implementation periods discussed above, PHMSA has recently published informal guidance in the form of Frequently Asked Questions (FAQs) which can be found at *https://primis.phmsa.dot.gov/ung/faqs.htm.* The FAQs explain PHMSA's expectations for the timing of implementing the RPs.

Issued in Washington, DC, on June 15, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–12806 Filed 6–19–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to the Foreign Narcotics Kingpin Designation Act or Executive Order 12978

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons whose property and interests in property have been unblocked pursuant to the Foreign Narcotics Kingpin Designation Act (Kingpin Act) or Executive Order 12978 of October 21, 1995, ''Blocking Assets and Prohibiting Transactions With Significant Narcotics Traffickers''. Additionally, OFAC is publishing an update to the identifying information of persons currently included in the list of Specially Designated Nationals and Blocked Persons (SDN List).

DATES: OFAC's actions described in this notice were effective on June 14, 2017.

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's Web site at *http://www.treasury.gov/ofac.*

Notice of OFAC Actions

On June 14, 2017, OFAC removed from the SDN List the persons listed below, whose property and interests in property were blocked pursuant to the Kingpin Act or Executive Order 12978.

Individuals

1. SABOGAL ZULUAGA, Orlando (a.k.a. CONTRERAS VIVAS, Juan Pablo; a.k.a. GUILLEN JIMENEZ, Carlos Alberto; a.k.a. SABOGAL, Alberto; a.k.a. SALAZAR QUINTERO, Carlos Alberto; a.k.a. ''CAREQUESO''; a.k.a. ''EL MONO SABOGAL''), c/o ORLANDO SABOGAL ZULUAGA E HIJOS & CIA S EN C, Colombia; Calle 18 No. 5N–21, Apt. 302, Cartago, Colombia; Paseo 5 de Julio, Barrio Libertad, Municipio Bolivar, Tachira, Venezuela; Caracas, Venezuela; Paseo 5 de Julio, Barrio Libertad, San Antonio, Tachira, Venezuela; Calle 30 No. 3B–45, La Campina, Pereira, Risaralda, Colombia; Calle 14 No. 30–153, Medellin, Antioquia, Colombia; DOB 22 Feb 1966; alt. DOB 16 Sep 1965; POB Toro, Valle, Colombia; Cedula No. 18505378 (Colombia); alt. Cedula No. 21171060 (Venezuela); alt. Cedula No. 12773520 (Venezuela); alt. Cedula No. 94318435 (Colombia); Passport AE533626 (Colombia); alt. Passport AG496255 (Colombia); alt. Passport 18505378 (Colombia); alt. Passport AC635727 (Colombia) (individual) [SDNT].

2. CALLE QUIROS, Luis Santiago, Madrid, Spain; Lima, Peru; DOB 22 Jul 1965; POB Madrid, Spain; citizen Spain; alt. citizen Peru; D.N.I. 01927713–Z (Spain); alt. D.N.I. 10831176–8 (Peru) (individual) [SDNTK] (Linked To: TEXTIMAX SPAIN S.L.; Linked To: CASTIZAL MADRILENA S.L.; Linked To: INMOBILIARIA CASTIZAL S.A.C.; Linked To: UCALSA PERU S.A.).

3. JIMENEZ URREGO, Luz Marina, c/o C.I. STONES AND BYPRODUCTS TRADING S.A., Bogota, Colombia; c/o C.I. AGROINDUSTRIAL DE MATERIAS PRIMAS ORGANICAS LTDA, Bogota, Colombia; c/o MERCADO DE VALORES INTEGRADOS LTDA, Bogota, Colombia; c/o JUAN SEBASTIAN Y CAMILA ANDREA JIMENEZ RAMIREZ Y CIA S.C.S., Bogota, Colombia; c/o COMUNICACIONES ELYON, Bogota, Colombia; DOB 05 Feb 1962; citizen Colombia; Cedula No. 39526273 (Colombia); Passport AJ582409 (Colombia) (individual) [SDNTK].

4. FAJARDO HERNANDEZ, Gloria Elena, c/o AGROPECUARIA EL NILO S.A., La Union, Valle, Colombia; c/o INDUSTRIAS DEL ESPIRITU SANTO S.A., Malambo, Atlantico, Colombia; c/o DOXA S.A., La Union, Valle, Colombia; c/o FUNDACION CENTRO DE INVESTIGACION HORTIFRUTICOLA DE COLOMBIA, La Union, Valle, Colombia; Cedula No. 29926353 (Colombia) (individual) [SDNT].

5. GALLEGO ORREGO, Margarita Zulay; DOB 18 Oct 1953; POB Yolombo, Antioquia, Colombia; citizen Colombia; Cedula No. 32334460 (Colombia) (individual) [SDNTK] (Linked To: ENVIGADO FUTBOL CLUB S.A.; Linked To: CAFETERIA ENVICENTRO; Linked To: TIENDAS MARGOS).

Entities

1. C.I. AGROINDUSTRIAL DE MATERIAS PRIMAS ORGANICAS LTDA (a.k.a. C.I. PRORGANICAS

LTDA), Calle 24D Bis No. 73C–03, Bogota, Colombia; NIT # 830025144–1 (Colombia) [SDNTK].

2. C.I. OTILIA FLOWERS S.A., Vereda Las Manas, Finca La Estancia, Cajica, Cundinamarca, Colombia; Carrera 11 No. 94–02 Ofc. 405, Bogota, Colombia; NIT # 800207350–5 (Colombia) [SDNT].

3. CAFETERIA ENVICENTRO, Carrera 48 No. 49 Sur 45, Envigado, Antioquia, Colombia; Matricula Mercantil No 138589 (Aburra Sur) [SDNTK].

4. CASTIZAL MADRILENA S.L., Calle Julian Camarillo 47, B 103, Madrid 28037, Spain; C.I.F. B97800221 (Spain) [SDNTK].

5. COMUNICACIONES ELYON, Carrera 9 No. 22–59 Loc. 14, Bogota, Colombia; Matricula Mercantil No 1579615 (Colombia) [SDNTK].

6. CONSTRUCTORA IRAKA S.A., Carrera 7 No. 132–82, Bogota, Colombia; NIT # 830111113–1 (Colombia) [SDNT].

7. INMOBILIARIA CASTIZAL S.A.C., Avenida 28 de Julio, No. 562 Int. A, Miraflores, Lima, Peru; RUC # 20492694631 (Peru) [SDNTK].

8. JUAN SEBASTIAN Y CAMILA ANDREA JIMENEZ RAMIREZ Y CIA S.C.S., Calle 24D Bis No. 73C–03, Bogota, Colombia; NIT # 830092190–6 (Colombia) [SDNTK].

9. MERCADO DE VALORES INTEGRADOS LTDA (a.k.a. VALINTEGRADOS LTDA), Calle 24D Bis No. 73C–03, Bogota, Colombia; NIT # 830034151–1 (Colombia) [SDNTK].

10. ORLANDO SABOGAL ZULUAGA E HIJOS & CIA S EN C (a.k.a. ORLANDO SABOGAL ZULUAGA E HIJOS AND CIA S EN C), Hacienda Portugal, Ansermanuevo, Valle, Colombia; NIT # 800181393–7 (Colombia) [SDNT].

11. PARQUE INDUSTRIAL PROGRESO S.A., Autopista Cali Yumbo, Km. 4 No. 26–400, Yumbo, Colombia; NIT # 805002419–1 (Colombia) [SDNT].

12. TEXTIMAX SPAIN S.L., Calle Julian Camarillo 47, Madrid 28037, Spain; C.I.F. B84639962 (Spain) [SDNTK].

13. TIENDAS MARGOS (a.k.a. ''MARGO'S''), Calle 38A Sur No. 43A 41, Envigado, Antioquia, Colombia; Matricula Mercantil No 5352 (Aburra Sur) [SDNTK].

14. UCALSA PERU S.A., Lima, Peru; RUC # 20451702760 (Peru) [SDNTK].

Additionally, on June 14, 2017, OFAC updated the SDN List for the persons listed below, whose property and interests in property continue to be blocked pursuant to the Kingpin Act.

Individual

1. JIMENEZ URREGO, Blanca Virginia, c/o JUAN SEBASTIAN Y CAMILA ANDREA JIMENEZ RAMIREZ Y CIA S.C.S., Bogota, Colombia; DOB 29 May 1960; citizen Colombia; Cedula No. 21030774 (Colombia) (individual) [SDNTK].

-to-

JIMENEZ URREGO, Blanca Virginia, Bogota, Colombia; DOB 29 May 1960; citizen Colombia; Cedula No. 21030774 (Colombia) (individual) [SDNTK].

Entity

1. SOHO PANAMA, S.A. (a.k.a. SOHO MALL PANAMA), Calle 50 (entre Calle 54 y 56), Panama, Panama; RUC # 2422734–1–808115 (Panama) [SDNTK].

-to-

SOHO PANAMA, S.A.; RUC # 2422734–1–808115 (Panama) [SDNTK].

Dated: June 14, 2017.

Mark Samara,

Acting Associate Director, Office of Global Targeting, Office of Foreign Assets Control.

[FR Doc. 2017–12899 Filed 6–19–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Action Pursuant to an Executive Order Issued on September 23, 2001, Titled ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism''

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the name of one individual and one entity that have been placed on OFAC's Specially Designated Nationals and Blocked Persons (SDN) List whose property and interests in property are blocked pursuant to an executive order issued on September 23, 2001, titled ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism.''

DATES: OFAC's actions described in this notice were effective on June 15, 2017.

FOR FURTHER INFORMATION CONTACT: Associate Director for Global Targeting, tel.: 202/622–2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622–2490, Assistant Director for Licensing, tel.: 202/622–2480, Office of Foreign Assets Control, or Chief Counsel (Foreign Assets Control), tel.: 202/622–2410, Office of the General Counsel, Department of the Treasury (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The SDN List and additional information concerning OFAC sanctions programs are available from OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On June 15, 2017, OFAC blocked the property and interests in property of the following one individual and one entity pursuant to E.O. 13224 of September 23, 2001, ''Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism'' (E.O. 13224):

Individual

1. AL–KUBAYSI, 'Umar (a.k.a. AL–KUBAYSI ARHAYM, Umar Mahmud; a.k.a. AL–KUBAYSI, Umar Mahmud Rahim; a.k.a. AL–QUBAYSI, Umar Mahmud Rahim; a.k.a. ARHAYM, 'Umar Mahmud; a.k.a. RAHIM, 'Umar Mahmud), al-Qaim, al-Anbar Province, Iraq; DOB 01 Jan 1967; nationality Iraq; Gender Male (individual) [SDGT] (Linked To: ISLAMIC STATE OF IRAQ AND THE LEVANT). Designated pursuant to section 1(c) of E.O. 13224 for acting for or on behalf of the Islamic State of Iraq and Levant (ISIL), an entity designated pursuant to E.O. 13224.

Entity

1. AL–KAWTHAR MONEY EXCHANGE (a.k.a. AL–KAWTHAR HAWALA), Al-Qa'im, Al Anbar Province, Iraq [SDGT] (Linked To: AL–KUBAYSI, 'Umar). Designated pursuant to 1(c) of E.O. 13224 for being owned or controlled by 'Umar al-Kubaysi, an individual designated pursuant to E.O. 13224.

Dated: June 15, 2017.

Andrea Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–12807 Filed 6–19–17; 8:45 am]

BILLING CODE 4810–AL–P

FEDERAL REGISTER

Vol. 82 Tuesday,
No. 117 June 20, 2017

Part II

The President

Executive Order 13801—Expanding Apprenticeships in America

Federal Register
Vol. 82, No. 117
Tuesday, June 20, 2017

Presidential Documents

Title 3—

The President

Executive Order 13801 of June 15, 2017

Expanding Apprenticeships in America

By the authority vested in me as President by the Constitution and the laws of the United States of America, and to promote affordable education and rewarding jobs for American workers, it is hereby ordered as follows:

Section 1. *Purpose.* America's education systems and workforce development programs are in need of reform. In today's rapidly changing economy, it is more important than ever to prepare workers to fill both existing and newly created jobs and to prepare workers for the jobs of the future. Higher education, however, is becoming increasingly unaffordable. Furthermore, many colleges and universities fail to help students graduate with the skills necessary to secure high-paying jobs in today's workforce. Far too many individuals today find themselves with crushing student debt and no direct connection to jobs.

Against this background, federally funded education and workforce development programs are not effectively serving American workers. Despite the billions of taxpayer dollars invested in these programs each year, many Americans are struggling to find full-time work. These Federal programs must do a better job matching unemployed American workers with open jobs, including the 350,000 manufacturing jobs currently available.

Expanding apprenticeships and reforming ineffective education and workforce development programs will help address these issues, enabling more Americans to obtain relevant skills and high-paying jobs. Apprenticeships provide paid, relevant workplace experiences and opportunities to develop skills that employers value. Additionally, they provide affordable paths to good jobs and, ultimately, careers.

Finally, federally funded education and workforce development programs that do not work must be improved or eliminated so that taxpayer dollars can be channeled to more effective uses.

Sec. 2. *Policy.* It shall be the policy of the Federal Government to provide more affordable pathways to secure, high-paying jobs by promoting apprenticeships and effective workforce development programs, while easing the regulatory burden on such programs and reducing or eliminating taxpayer support for ineffective workforce development programs.

Sec. 3. *Definitions.* For purposes of this order:

(a) the term ''apprenticeship'' means an arrangement that includes a paid-work component and an educational or instructional component, wherein an individual obtains workplace-relevant knowledge and skills; and

(b) the term ''job training programs'' means Federal programs designed to promote skills development or workplace readiness and increase the earnings or employability of workers, but does not include Federal student aid or student loan programs.

Sec. 4. *Establishing Industry-Recognized Apprenticeships.* (a) The Secretary of Labor (Secretary), in consultation with the Secretaries of Education and Commerce, shall consider proposing regulations, consistent with applicable law, including 29 U.S.C. 50, that promote the development of apprenticeship programs by third parties. These third parties may include trade and industry groups, companies, non-profit organizations, unions, and joint labor-management organizations. To the extent permitted by law and supported by sound

policy, any such proposed regulations shall reflect an assessment of whether to:

(i) determine how qualified third parties may provide recognition to high-quality apprenticeship programs (industry-recognized apprenticeship programs);

(ii) establish guidelines or requirements that qualified third parties should or must follow to ensure that apprenticeship programs they recognize meet quality standards;

(iii) provide that any industry-recognized apprenticeship program may be considered for expedited and streamlined registration under the registered apprenticeship program the Department of Labor administers;

(iv) retain the existing processes for registering apprenticeship programs for employers who continue using this system; and

(v) establish review processes, consistent with applicable law, for considering whether to:

(A) deny the expedited and streamlined registration under the Department of Labor's registered apprenticeship program, referred to in subsection (a)(iii) of this section, in any sector in which Department of Labor registered apprenticeship programs are already effective and substantially widespread; and

(B) terminate the registration of an industry-recognized apprenticeship program recognized by a qualified third party, as appropriate.

(b) The Secretary shall consider and evaluate public comments on any regulations proposed under subsection (a) of this section before issuing any final regulations.

Sec. 5. *Funding to Promote Apprenticeships.* Subject to available appropriations and consistent with applicable law, including 29 U.S.C. 3224a, the Secretary shall use available funding to promote apprenticeships, focusing in particular on expanding access to and participation in apprenticeships among students at accredited secondary and post-secondary educational institutions, including community colleges; expanding the number of apprenticeships in sectors that do not currently have sufficient apprenticeship opportunities; and expanding youth participation in apprenticeships.

Sec. 6. *Expanding Access to Apprenticeships.* The Secretaries of Defense, Labor, and Education, and the Attorney General, shall, in consultation with each other and consistent with applicable law, promote apprenticeships and pre-apprenticeships for America's high school students and Job Corps participants, for persons currently or formerly incarcerated, for persons not currently attending high school or an accredited post-secondary educational institution, and for members of America's armed services and veterans. The Secretaries of Commerce and Labor shall promote apprenticeships to business leaders across critical industry sectors, including manufacturing, infrastructure, cybersecurity, and health care.

Sec. 7. *Promoting Apprenticeship Programs at Colleges and Universities.* The Secretary of Education shall, consistent with applicable law, support the efforts of community colleges and 2-year and 4-year institutions of higher education to incorporate apprenticeship programs into their courses of study.

Sec. 8. *Establishment of the Task Force on Apprenticeship Expansion.* (a) The Secretary shall establish in the Department of Labor a Task Force on Apprenticeship Expansion.

(b) The mission of the Task Force shall be to identify strategies and proposals to promote apprenticeships, especially in sectors where apprenticeship programs are insufficient. The Task Force shall submit to the President a report on these strategies and proposals, including:

(i) Federal initiatives to promote apprenticeships;

(ii) administrative and legislative reforms that would facilitate the formation and success of apprenticeship programs;

(iii) the most effective strategies for creating industry-recognized apprenticeships; and

(iv) the most effective strategies for amplifying and encouraging private-sector initiatives to promote apprenticeships.

(c) The Department of Labor shall provide administrative support and funding for the Task Force, to the extent permitted by law and subject to availability of appropriations.

(d) The Secretary shall serve as Chair of the Task Force. The Secretaries of Education and Commerce shall serve as Vice-Chairs of the Task Force. The Secretary shall appoint the other members of the Task Force, which shall consist of no more than twenty individuals who work for or represent the perspectives of American companies, trade or industry groups, educational institutions, and labor unions, and such other persons as the Secretary may from time to time designate.

(e) Insofar as the Federal Advisory Committee Act, as amended (5 U.S.C. App.), may apply to the Task Force, any functions of the President under that Act, except for those of reporting to the Congress, shall be performed by the Chair, in accordance with guidelines issued by the Administrator of General Services.

(f) Members of the Task Force shall serve without additional compensation for their work on the Task Force, but shall be allowed travel expenses, including per diem in lieu of subsistence, to the extent permitted by law for persons serving intermittently in the Government service (5 U.S.C. 5701–5707), consistent with the availability of funds.

(g) A member of the Task Force may designate a senior member of his or her organization to attend any Task Force meeting.

(h) The Task Force shall terminate 30 days after it submits its report to the President.

Sec. 9. *Excellence in Apprenticeships.* Not later than 2 years after the date of this order, the Secretary shall, consistent with applicable law, and in consultation with the Secretaries of Education and Commerce, establish an Excellence in Apprenticeship Program to solicit voluntary information for purposes of recognizing, by means of a commendation, efforts by employers, trade or industry associations, unions, or joint labor-management organizations to implement apprenticeship programs.

Sec. 10. *Improving the Effectiveness of Workforce Development Programs.* (a) Concurrent with its budget submission to the Director of the Office of Management and Budget (OMB), the head of each agency shall submit a list of programs, if any, administered by their agency that are designed to promote skills development and workplace readiness. For such programs, agencies shall provide information on:

(i) evaluations of any relevant data pertaining to their effectiveness (including their employment outcomes);

(ii) recommendations for administrative and legislative reforms that would improve their outcomes and effectiveness for American workers and employers; and

(iii) recommendations to eliminate those programs that are ineffective, redundant, or unnecessary.

(b) The Director of OMB shall consider the information provided by agencies in subsection (a) of this section in developing the President's Fiscal Year 2019 Budget.

(c) The head of each agency administering one or more job training programs shall order, subject to available appropriations and consistent with applicable law, an empirically rigorous evaluation of the effectiveness of such programs, unless such an analysis has been recently conducted. When feasible, these evaluations shall be conducted by third-party evaluators using the most rigorous methods appropriate and feasible for the program, with preference given to multi-site randomized controlled trials.

(d) The Director of OMB shall provide guidance to agencies on how to fulfill their obligations under this section.

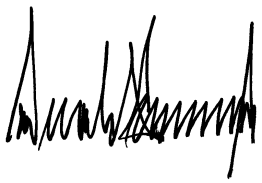
Sec. 11. *General Provisions.* (a) Nothing in this order shall be construed to impair or otherwise affect:

(i) the authority granted by law to an executive department or agency, or the head thereof; or

(ii) the functions of the Director of OMB relating to budgetary, administrative, or legislative proposals.

(b) This order shall be implemented consistent with applicable law and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.



THE WHITE HOUSE,
June 15, 2017.

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