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Federal Register

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

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 107

RIN 3245-AG67

Small Business Investment Companies: Passive Business Expansion and Technical Clarifications

AGENCY: U.S. Small Business Administration.

ACTION: Final rule; delay of effective date and request for comment.

SUMMARY: On December 28, 2016, the Small Business Administration (SBA) published a final rule to expand permitted investments in passive businesses and provide further clarification with regard to investments in such businesses for the Small Business Investment Company (SBIC) Program, with an effective date of January 27, 2017. On January 26, 2017, SBA published a notification delaying the effective date until March 21, 2017 and re-opened the rule for additional public comment. On March 21, 2017, SBA published another notification to delay the effective date of this rule until May 20, 2017, to give the new administration time to further consider the rule. After reviewing the final rule, SBA is considering removing the provision that would allow SBICs to use a blocker corporation under its regulations if an investor of an SBIC has elected to be taxed as a regulated investment company (RIC) and a direct investment into the operating company would cause the investor to receive or be deemed to receive income that would jeopardize its RIC status. SBA is seeking additional comments regarding the removal of this provision. In order to give the public time to provide comments and for SBA to review those comments, the effective date of the final rule is delayed until August 18, 2017.

DATES: The effective date of the SBA final rule published December 28, 2016 (81 FR 95419), delayed until March 21, 2017 at 82 FR 8499 and then further

delayed until May 20, 2017 at 82 FR 14428, is further delayed until August 18, 2017. Comments on this document must be submitted no later than June 1, 2017.

ADDRESSES: You may submit comments, identified by RIN 3245-AG67, by any of the following methods:

Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.

Mail, Hand Delivery/Courier: Theresa Jamerson, Office of Investment and Innovation, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

SBA will post comments on <http://www.regulations.gov>. If you wish to submit confidential business information (CBI) as defined in the User Notice at <http://www.regulations.gov>, please submit the information to Theresa Jamerson, Office of Investment and Innovation, 409 Third Street SW., Washington, DC 20416. Highlight the information that you consider to be CBI, and explain why you believe this information should be held confidential. SBA will review the information and make the final determination of whether it will publish the information.

FOR FURTHER INFORMATION CONTACT: Theresa Jamerson, Office of Investment and Innovation, (202) 205-7563 or sbic@sba.gov.

SUPPLEMENTARY INFORMATION: The U.S. Small Business Administration (SBA) Final Rule entitled Small Business Investment Companies: Passive Business Expansion and Technical Clarifications, 81 FR 95419 (December 28, 2016), had an effective date of January 27, 2017. The Final Rule would expand permitted investments in passive businesses, provide further clarification with regard to investments in such businesses, and add certain requirements to improve SBA's ability to monitor such investments. The Final Rule would also make a conforming change to the regulations regarding the amount of leverage available to SBICs under common control to be consistent with the Consolidated Appropriations Act, 2016, which increased the maximum amount of such leverage from \$225 million to \$350 million.

The January effective date was delayed to March 21, 2017, and the comment period was reopened until February 19, 2017. 82 FR 8499 (January 26, 2017). The March effective date was

further delayed to May 20, 2017, for additional review. 82 FR 14428 (March 21, 2017).

After completing its review, SBA is considering removing the provision that would allow SBICs to use a blocker entity under 13 CFR 107.720(b)(3) if an investor in an SBIC, typically a business development company (BDC), has elected to be taxed as a regulated investment company (RIC) and a direct investment into the operating company would cause the investor to receive or be deemed to receive income that would jeopardize its RIC status. This provision was not included in the proposed rule published on October 5, 2016 (78 FR 77377), but was added to the final rule published on December 28, 2016 (81 FR 95419) based on comments SBA received. After further consideration, SBA is concerned that, in light of the increased complexities involved in monitoring and examining investments structured through blocker entities using this provision may increase risk to the SBIC program unless SBA were to increase examination resources to monitor these complex transactions. SBA notes that the final rule provides, among other things, two other exceptions to the passive business regulation—the blocker corporation exception for SBICs with tax exempt investors to avoid unrelated business taxable income (UBTI) and a similar exception for SBICs with foreign investors to avoid effectively connected income (ECI). SBA continues to believe the number of SBICs that would structure investments through passive entities utilizing these two exceptions is relatively low. Currently, SBA approves approximately five blocker corporation exceptions for UBTI each year and SBA expects that, after the rule is effective, only a few SBICs will use the ECI exception. On the other hand, there are currently 31 SBICs with BDC investors (BDC-SBICs) holding over 23% of SBA's outstanding guaranteed leverage. If the final rule were to become effective in the form published on December 28, 2016, SBA believes that many BDC-SBICs would structure a number of their investments through passive entities. Because BDC-SBICs represent such a large percentage of SBA's portfolio, significant numbers of investments structured through passive entities would pose a monitoring and examination challenge that could

expose the program to an unacceptable level of risk unless SBA increased significantly its examination and monitoring resources. Therefore, SBA is considering revising the final rule to remove this provision.

SBA is seeking comments from the public to obtain additional input before making a final decision. To provide SBA with sufficient time to seek additional comments and make this determination, this notice further delays the effective date by 90 additional days to August 18, 2017.

Dated: April 25, 2017.

A. Joseph Shepard,

Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2017-08810 Filed 5-1-17; 8:45 am]

BILLING CODE 8025-01-P

OVERSEAS PRIVATE INVESTMENT CORPORATION

22 CFR Part 706

[No. FOIA-2016]

RIN 3420-AA02

Freedom of Information

AGENCY: Overseas Private Investment Corporation.

ACTION: Final rule.

SUMMARY: This final rule implements revisions to the Overseas Private Investment Corporation's ("OPIC") Freedom of Information Act ("FOIA") regulations by making substantive and administrative changes. These revisions are intended to supersede OPIC's current FOIA regulations, located at this part. The final rule incorporates the FOIA revisions contained in the FOIA Improvement Act of 2016, makes administrative changes to reflect OPIC's costs, and conforms more closely to the language recommended by the Department of Justice, Office of Information Policy.

DATES: This rule is effective on May 1, 2017.

FOR FURTHER INFORMATION CONTACT: Nichole Skoyles, Administrative Counsel, (202) 336-8400, or foia@opic.gov.

SUPPLEMENTARY INFORMATION: The revision of part 706 incorporates changes to the language and structure of the regulations and adds new provisions to implement the FOIA Improvement Act of 2016. OPIC is already complying with these changes and this revision serves as OPIC's formal codification of the applicable law and its practice.

OPIC has also updated its regulations to incorporate much of the suggested language provided by the Department of Justice, Office of Information Policy. Adopting this language allows OPIC to adopt many of the recommended best practices in FOIA administration. This update also assists requesters as much of OPIC's regulations are now similar to those of other agencies.

OPIC published a proposed rule on December 22, 2016 at 81 FR 93864 and invited interested parties to submit comments. OPIC received three sets of comments and has made several changes to its rule based on these suggestions.

OPIC adopted all of the suggestions provided. First, OPIC updated its reference to General Records Schedule 14 to General Records Schedule 4.2 and changed the description of the services offered by the Office of Government Information Services from "mediation" to "dispute resolution." Second, OPIC removed references to the voluntary/involuntary tests applied under Exemption 4 as these tests are laid out in case law rather than the FOIA statute itself. Third, OPIC removed the word "professional" from its example for requesting expedited processing to make it clear that a requester need not be paid to disseminate information in order to qualify for expedited processing.

Regulatory Flexibility Act (5 U.S.C. 601 et seq.)

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, the head of OPIC has certified that this rule, as promulgated, will not have a significant economic impact on a substantial number of small entities. The rule implements the FOIA, a statute concerning the release of Federal records, and does not economically impact Federal Government relations with the private sector. Further, under the FOIA, agencies may recover only the direct costs of searching for, reviewing, and duplicating the records processes for requesters. Based on OPIC's experience, these fees are nominal.

Executive Order 12866

OPIC is exempted from the requirements of this Executive Order per the Office of Management and Budget's October 12, 1993 memorandum. Accordingly, OMB did not review this rule. However this rule was generally composed with the principles stated in section 1(b) of the Executive Order in mind.

Unfunded Mandates Reform Act of 1995 (2 U.S.C. 202-05)

This rule will not result in the expenditure by State, local, and tribal governments in the aggregate, or by the private sector, of \$100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996 (5 U.S.C. 801 *et seq.*).

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

List of Subjects in 22 CFR Part 706

Administrative practice and procedure, Freedom of information, Privacy.

■ For the reasons stated in the preamble the Overseas Private Investment Corporation revises 22 CFR part 706 to read as follows:

PART 706—INFORMATION DISCLOSURE UNDER THE FREEDOM OF INFORMATION ACT

Subpart A—General

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 - 706.2 Policy.
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Subpart B—Obtaining OPIC Records

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- 706.30 Responsibility for responding to requests.
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- 706.33 Confidential commercial information.

706.34 Administrative appeals.

Authority: 5 U.S.C. 552, Pub. L. 114–185.

Subpart A—General

§ 706.1 Description.

This part contains the rules that the Overseas Private Investment Corporation (“OPIC”) follows in processing requests for records under the Freedom of Information Act (“FOIA”), 5 U.S.C. 552 as amended. These rules should be read together with the FOIA and the Uniform Freedom of Information Fee Schedule and Guidelines published by the Office of Management and Budget. Requests made by individuals for records about themselves under the Privacy Act of 1974, 5 U.S.C. 552a, are processed in accordance with OPIC’s Privacy Act regulations at 22 CFR part 707 as well as under this subpart.

§ 706.2 Policy.

It is OPIC’s policy to make its records available to the public to the greatest extent possible, in keeping with the spirit of the FOIA. This policy includes providing reasonably segregable information from records that also contain information that may be withheld under the FOIA. However, implementation of this policy also reflects OPIC’s view that the soundness and viability of many of its programs depend in large measure upon full and reliable commercial, financial, technical and business information received from applicants for OPIC assistance and that the willingness of those applicants to provide such information depends on OPIC’s ability to hold it in confidence. Consequently, except as provided by law and in this part, information provided to OPIC in confidence will not be disclosed without the submitter’s consent.

§ 706.3 Scope.

This part applies to all agency records in OPIC’s possession and control. This part does not compel OPIC to create records or to ask outside parties to provide documents in order to satisfy a FOIA request. OPIC may, however, in its discretion and in consultation with a FOIA requester, create a new record as a partial or complete response to a FOIA request. In responding to requests for information, OPIC will ordinarily consider only those records within its possession and control as of the date of OPIC’s search. If any other date is used, OPIC will inform the requester of that date. A record that is excluded from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), is not considered responsive to a request.

§ 706.4 Preservation and transfer of records.

(a) *Preservation of records.* OPIC preserves all correspondence pertaining to the requests that it receives under this part, as well as copies of all requested records, until disposition or destruction is authorized pursuant to title 44 of the United States Code or the General Records Schedule 4.2 of the National Archives and Records Administration. Records that are identified as responsive to a request will not be disposed of or destroyed while they are the subject of a pending request, appeal, or lawsuit under the FOIA.

(b) *Transfer of records to the National Archives.* Under the Records Disposal Act, 44 U.S.C. Chapter 33, OPIC is required to transfer legal custody and control of records with permanent historical value to the National Archives. OPIC’s Finance Project and Insurance Contract Case files generally do not qualify as records with permanent historical value. OPIC will not transfer these files except when the National Archives determines that an individual project or case is especially significant or unique. If the National Archives receives a FOIA request for records that have been transferred it will respond to the request in accordance with its own FOIA regulations.

§ 706.5 Other rights and services.

Nothing in this subpart shall be construed to entitle any person, as of right, to any service or to the disclosure of any record to which such person is not entitled under the FOIA.

Subpart B—Obtaining OPIC Records

§ 706.10 Publicly available records.

Records that the FOIA requires agencies to make available for public inspection in an electronic format may be accessed through OPIC’s FOIA Web site at www.opic.gov/foia. Records identified as of interest to the public and appropriate for public disclosure are also available, along with an index. These include annual reports and financial statements, program handbooks, press releases, application forms, claims information, and annual FOIA reports. OPIC will review and update its Web site of posted records on an ongoing basis. Persons seeking information are encouraged to visit OPIC’s Web site to see what information is already available before submitting a request; OPIC’s FOIA Office and FOIA Public Liaison are available to assist individuals in locating records.

§ 706.11 Requesting non-public records.

(a) *General information—(1) How to submit.* To make a request for records a

requester must submit a written request to OPIC’s FOIA Office either by mail to Overseas Private Investment Corporation, 1100 New York Avenue NW., Washington, DC 20527 or electronic mail to FOIA@opic.gov. The envelope or subject line should read “Freedom of Information Request” to ensure proper routing. The request is considered received by OPIC upon actual receipt by OPIC’s FOIA Office.

(2) *Records about oneself.* A requester who is making a request for records about himself or herself must verify his or her identity by providing a notarized statement or a statement under 28 U.S.C. 1746, a law that permits statements to be made under penalty of perjury as a substitute for notarization, stating that the requester is the person he or she claims to be.

(3) *Records about a third party.* Where a request for records pertains to a third party, a requester may receive greater access by submitting a notarized authorization signed by that individual, a declaration by that individual made in compliance with the requirements set forth in 28 U.S.C. 1746 authorizing disclosure of the records to the requester, proof of guardianship, or proof that the individual is deceased (e.g., a copy of a death certificate or an obituary). OPIC may require a requester to supply additional information if necessary in order to verify that a particular individual has consented to disclosure.

(b) *Description of records sought.* Requesters must describe the records sought in sufficient detail to enable OPIC personnel to locate them with a reasonable amount of effort. To the extent possible, requesters should include specific information that may assist OPIC in identifying the requested records, such as the project name, contract number, date or date range, country, title, name, author, recipient, subject matter of the record, or reference number. In general, requesters should include as much detail as possible about the specific records or the types of records sought. Before submitting their requests, requesters may contact OPIC’s FOIA Office or FOIA Public Liaison to discuss the records they seek and to receive assistance in describing the records. If a requester fails to reasonably describe the records sought, OPIC will inform the requester what additional information is needed or why the request is otherwise insufficient. Requesters who are attempting to reformulate or modify such a request may discuss their request with the FOIA Office or FOIA Public Liaison. If a request does not reasonably describe the

records sought, OPIC's response to the request may be delayed.

(c) *Format.* Requests may state a preferred format for released records including electronic formats. The records will be provided in the preferred format if the record is readily reproducible in that format. If you do not state a preference, you will receive any released records in the format most convenient to OPIC.

(d) *Requester information.* Requests must include the requester's name and contact information, such as phone number, email address, or mailing address, to assist OPIC in communicating with them and providing the released records.

(e) *Fees.* You should state your willingness to pay fees under these regulations or, alternately, your willingness to pay up to a specified limit. If you believe that you qualify for a partial or total fee waiver under 706.24 you should request a waiver and provide justification as required by 706.24. If your request does not contain a statement of your willingness to pay fees or a request for a fee waiver, OPIC will consider your request an agreement to pay up to \$25.00 in fees.

Subpart C—Fees for Requests of Non-Public Records.

§ 706.20 In general.

OPIC will charge for processing requests under the FOIA in accordance with the provisions of this section and with the OMB Guidelines. For purposes of assessing fees, the FOIA establishes three categories of requests: Commercial use requests, non-commercial scientific or educational institutions or news media requests, and all other requests. OPIC will inform requesters as to which category their request has been placed into. Different fees are assessed depending on the category. Requesters may seek a fee waiver. OPIC will consider requests for fee waiver in accordance with the requirements in § 706.24. To resolve any fee issues that arise under this section, OPIC may contact a requester for additional information. OPIC will ensure that searches, review, and duplication are conducted in the most efficient and the least expensive manner. OPIC ordinarily will collect all applicable fees before sending copies of records to a requester. Requesters must pay fees by check or money order made payable to the Treasury of the United States.

§ 706.21 Types of fees.

(a) Direct costs are those expenses that OPIC expends in searching for and duplicating (and, in the case of

commercial-use requests, reviewing) records in order to respond to a FOIA request. For example, direct costs include the salary of the employee performing the work (*i.e.*, the basic rate of pay for the employee, plus 16 percent of that rate to cover benefits) and the cost of operating computers and other electronic equipment. Direct costs do not include overhead expenses such as the costs of space, and of heating or lighting a facility.

(b) Duplication is reproducing a copy of a record or of the information contained in it, necessary to respond to a FOIA request. Copies can take the form of paper, audiovisual materials, or electronic records, among others.

(c) Review is the examination of a record located in response to a request in order to determine whether any portion of it is exempt from disclosure. Review time includes processing any record for disclosure, such as doing all that is necessary to prepare the record for disclosure, including the process of redacting the record and marking the appropriate exemptions. Review costs are properly charged even if a record ultimately is not disclosed. Review time also includes time spent both obtaining and considering any formal objection to disclosure made by a confidential commercial information submitter under § 706.33(c) of this subpart, but it does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(d) Search is the process of looking for and retrieving records or information responsive to a request. Search time includes page-by-page or line-by-line identification of information within records; and the reasonable efforts expended to locate and retrieve information from electronic records.

§ 706.22 Request categories.

(a) A Commercial Use request is a request that asks for information for a use or a purpose that furthers a commercial, trade, or profit interest, which can include furthering those interests through litigation. OPIC's decision to place a requester in the commercial use category will be made on a case-by-case basis based on the requester's intended use of the information.

(b) An Educational Use request is one made on behalf of an educational institution, defined as any school that operates a program of scholarly research. A requester in this category must show that the request is made in connection with his or her role at the educational institution. OPIC may request verification from the requester

that the request is in furtherance of scholarly research.

(1) *Example 1.* A request from a professor of geology at a university for records relating to soil erosion, written on letterhead of the Department of Geology, would be presumed to be from an educational institution.

(2) *Example 2.* A request from the same professor of geology seeking drug information from the Food and Drug Administration in furtherance of a murder mystery he is writing would not be presumed to be an institutional request, regardless of whether it was written on institutional stationery.

(3) *Example 3.* A student who makes a request in furtherance of their coursework or other school-sponsored activities and provides a copy of a course syllabus or other reasonable documentation to indicate the research purpose for the request, would qualify as part of this fee category.

(c) A Noncommercial Scientific Institution Use request is a request made on behalf of a noncommercial scientific institution, defined as an institution that is not operated on a "commercial" basis, as defined in paragraph (a) of this section, and that is operated solely for the purpose of conducting scientific research, the results of which are not intended to promote any particular product or industry. A requester in this category must show that the request is authorized by and is made under the auspices of a qualifying institution and that the records are sought to further scientific research and not for a commercial use.

(d) A News Media Request is a request made by a representative of the news media in that capacity. A representative of the news media is defined as any person or entity that gathers information of potential interest to a segment of the public, uses its editorial skills to turn the raw materials into a distinct work, and distributes that work to an audience. The term "news" means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations that broadcast news to the public at large and publishers of periodicals that disseminate news and make their products available through a variety of means to the general public. A request for records that supports the news-dissemination function of the requester shall not be considered to be for a commercial use. "Freelance" journalists who demonstrate a solid basis for expecting publication through a news media entity shall be considered as a representative of the news media. A publishing contract would provide

the clearest evidence that publication is expected; however, OPIC shall also consider a requester's past publication record in making this determination.

(e) All other requests include any requests that do not qualify under one of the above categories.

§ 706.23 Fees charged.

(a) *Fees.* In responding to FOIA requests, OPIC will charge the following fees unless a waiver or reduction of fees has been granted under § 706.24 of this subpart. Because the fee amounts provided below already account for the direct costs associated with a given fee type, OPIC should not add any additional costs to charges calculated under this section.

(1) *Search.* (i) Requests made by educational institutions, noncommercial scientific institutions, or representatives of the news media are not subject to search fees. Search fees will be charged to all other requests, subject to the restrictions of paragraph (b) of this section. Fees for time spent searching is properly charged even if no responsive records are located or if all responsive records are determined to be entirely exempt from disclosure.

(ii) For each quarter hour spent by personnel searching for requested records, including electronic searches that do not require new programming, the fees will be as follows: Professional—\$13.75; and administrative—\$7.50.

(iii) Requesters will be charged the direct costs associated with conducting any search that requires the creation of a new program to locate the requested records. Before incurring such costs, OPIC will notify the requester and the requester must agree to pay.

(iv) For requests that require the retrieval of records stored at a Federal Records Center operated by the National Archives and Records Administration (NARA), additional costs shall be charged in accordance with the Transactional Billing Rate Schedule established by NARA.

(2) *Duplication.* Duplication fees will be charged to all requesters, subject to the restrictions of paragraph (b) of this section. OPIC will honor a requester's preference for receiving a record in a particular form or format where it is readily reproducible in the form or format requested. Where photocopies are supplied, OPIC will provide one copy per request at a cost of \$0.10 per page. For copies of records produced on tapes, disks, or other electronic media, OPIC will charge the direct costs of producing the copy, including operator time. Where paper documents must be scanned in order to comply with a

requester's preference to receive the records in an electronic format, the requester must also pay the direct costs associated with scanning those materials. For other forms of duplication, OPIC will charge the direct costs.

(3) *Review.* Review fees will be charged to requesters who make commercial use requests. Review fees will be assessed in connection with the initial review of the record, *i.e.*, the review conducted by OPIC to determine whether an exemption applies to a particular record or portion of a record. No charge will be made for review at the administrative appeal stage of exemptions applied at the initial review stage. However, if the appellate authority determines that a particular exemption no longer applies, any costs associated with the re-review of the records in order to consider the use of other exemptions may be assessed as review fees. Review fees will be charged at the same rates as those charged for a search under paragraph (a)(1)(ii) of this section.

(b) *Restrictions on charging fees.* (1) No search fees will be charged for educational use requests, noncommercial scientific use requests, or news media requests as defined in Section 706.22.

(2) Fees charged when OPIC exceeds time limits.

(i) When OPIC fails to comply with the time limits in which to respond to a request, it may not charge search fees, or, in the instances of requests from requesters described in paragraph (b)(1) of this section, may not charge duplication fees, except as described in (b)(2)(ii) through (iv) of this section.

(ii) If OPIC has determined that unusual circumstances as defined by the FOIA apply and OPIC provided timely written notice to the requester in accordance with the FOIA, a failure to comply with the time limit shall be excused for an additional ten days.

(iii) If OPIC has determined that unusual circumstances, as defined by the FOIA, apply and more than 5,000 pages are necessary to respond to the request, OPIC may charge all applicable fees incurred in processing the request if the following steps are taken:

(A) OPIC has provided timely written notice of unusual circumstances to the requester in accordance with the FOIA; and

(B) OPIC has discussed with the requester via written mail, email, or telephone (or made not less than three good-faith attempts to do so) how the requester could effectively limit the scope of the request in accordance with 5 U.S.C. 552(a)(6)(B)(ii).

(iv) If a court has determined that exceptional circumstances exist, as defined by the FOIA, a failure to comply with the time limits shall be excused for the length of time provided by the court order.

(3) No search or review fees will be charged for a quarter-hour period unless more than half of that period is required for search or review.

(4) Except for requesters seeking records for a commercial use, OPIC will provide without charge:

(i) The first 100 pages of duplication (or the cost equivalent for other media); and

(ii) The first two hours of search.

(5) If, after deducting free entitlements, the total fee calculated under this section is \$25.00 or less, no fee will be charged.

(c) *Notice of anticipated fees in excess of \$25.00.* (1) When OPIC determines or estimates that the fees to be assessed in accordance with this section will exceed \$25.00, OPIC will notify the requester of the actual or estimated amount of the fees, including a breakdown of fees for search, review, and duplication, unless the requester has indicated a willingness to pay fees as high as those anticipated. If only a portion of the fee can be estimated readily, OPIC will advise the requester accordingly. If the request is for noncommercial use, the notice will specify that the requester is entitled to the statutory entitlements of 100 pages of duplication at no charge, and if the requester is charged search fees, two hours of search time at no charge, and will advise the requester whether those entitlements have been provided.

(2) If OPIC notifies the requester that the actual or estimated fees are in excess of \$25.00, the request will not be considered received and further work will not be completed until the requester commits in writing to pay the actual or estimated total fee, or designates some amount of fees the requester is willing to pay, or in the case of a noncommercial use requester who has not yet been provided with the requester's statutory entitlements, designates that the requester seeks only that which can be provided by the statutory entitlements. The requester must provide the commitment or designation in writing, and must, when applicable, designate an exact dollar amount the requester is willing to pay. OPIC is not required to accept payments in installments.

(3) If the requester has indicated a willingness to pay some designated amount of fees, but OPIC estimates that the total fee will exceed that amount, the processing of the request will be

tolled when OPIC notifies the requester of the estimated fees in excess of the amount the requester has indicated a willingness to pay. OPIC will inquire whether the requester wishes to revise the amount of fees the requester is willing to pay or modify the request. Once the requester responds, OPIC's time to respond will resume from where it was at the date of the notification.

(4) OPIC's FOIA Office or FOIA Public Liaison is available to assist any requester in reformulating a request to meet the requester's needs at a lower cost.

(d) *Charges for other services.* Although not required to provide special services, if OPIC chooses to do so as a matter of administrative discretion, the direct costs of providing the service will be charged. Examples of such services include certifying that records are true copies, providing multiple copies of the same document, or sending records by means other than first class mail.

(e) *Charging interest.* OPIC may charge interest on any unpaid bill starting on the thirty-first day following the billing date. Interest charges will be assessed at the rate provided in 31 U.S.C. 3717 and will accrue from the billing date until payment is received by OPIC. OPIC will follow the provisions of the Debt Collection Act of 1982 (Pub. L. 97-365, 96 Stat. 1749), as amended, and its administrative procedures, including the use of consumer reporting agencies, collection agencies, and offset.

(f) *Aggregating requests.* If OPIC reasonably believes that a requester or a group of requesters acting in concert is attempting to divide a single request into a series of requests for the purpose of avoiding fees, OPIC may aggregate those requests and charge accordingly. OPIC may presume that multiple requests of this type made within a 30-day period have been made in order to avoid fees. For requests separated by a longer period, OPIC will aggregate them only where there is a reasonable basis for determining that aggregation is warranted in view of all the circumstances involved. Multiple requests involving unrelated matters will not be aggregated.

(g) *Advance payments.* (1) For requests other than those described in paragraphs (g)(2) and (3) of this section OPIC will not require the requester to make an advance payment before work is commenced or continued on a request. Payment owed for work already completed (*i.e.*, payment before copies are sent to a requester) is not an advance payment.

(2) When OPIC determines or estimates that a total fee to be charged

under this section will exceed \$250.00, it may require that the requester make an advance payment up to the amount of the entire anticipated fee before beginning to process the request. OPIC may elect to process the request prior to collecting fees when it receives a satisfactory assurance of full payment from a requester with a history of prompt payment.

(3) Where a requester has previously failed to pay a properly charged FOIA fee to any agency within thirty calendar days of the billing date, OPIC may require that the requester pay the full amount due, plus any applicable interest on that prior request. OPIC may also require that the requester make an advance payment of the full amount of any anticipated fee before OPIC begins to process a new request or continues to process a pending request or any pending appeal. Where OPIC has a reasonable basis to believe that a requester has misrepresented his or her identity in order to avoid paying outstanding fees, it may require that the requester provide proof of identity.

(4) In cases in which OPIC requires advance payment, OPIC's response time will be tolled and further work will not be completed until the required payment is received. If the requester does not pay the advance payment within thirty calendar days after the date of OPIC's fee letter, OPIC may administratively close the request.

(h) *Other statutes specifically providing for fees.* The fee schedule of this section does not apply to fees charged under any statute that specifically requires an agency to set and collect fees for particular types of records. In instances where records responsive to a request are subject to a statutorily-based fee schedule program, OPIC will inform the requester of the contact information for that program.

§ 706.24 Requirements for waiver or reduction of fees.

(a) Requesters may seek a waiver of fees by submitting a written application demonstrating how disclosure of the requested information is in the public interest because it is likely to contribute significantly to public understanding of the operations and activities of the government and is not primarily in the interest of the requester.

(b) OPIC will furnish records responsive to a request without charge or at a reduced rate when it determines, based on all available information, that the factors described in paragraphs (b)(1)–(3) of this section are satisfied.

(1) Disclosure of the requested information would shed light on the operations or activities of the

government. The subject of the request must concern identifiable operations or activities of the Federal government, with a connection that is direct and clear, not remote or attenuated.

(2) Disclosure of the requested information is likely to contribute significantly to public understanding of those operations or activities. This factor is satisfied when the following criteria are met:

(i) Disclosure of the requested records must be meaningfully informative about government operations or activities. The disclosure of information that already is in the public domain, in either the same or a substantially identical form, would not be meaningfully informative if nothing new would be added to the public's understanding.

(ii) The disclosure must contribute to the understanding of a reasonably broad audience of persons interested in the subject, as opposed to the individual understanding of the requester. A requester's expertise in the subject area as well as his or her ability and intention to effectively convey information to the public shall be considered. It shall ordinarily be presumed that a representative of the news media satisfies this consideration.

(3) The disclosure must not be primarily in the commercial interest of the requester. To determine whether disclosure of the requested information is primarily in the commercial interest of the requester, OPIC will consider the following factors:

(i) OPIC shall identify whether the requester has any commercial interest that would be furthered by the requested disclosure. A commercial interest includes any commercial, trade, or profit interest. Requesters shall be given an opportunity to provide explanatory information regarding this consideration.

(ii) If there is a commercial interest, OPIC will determine whether that is the primary interest furthered by the request. A waiver or reduction of fees is justified when the requirements of paragraphs (b)(1) and (2) of this section are satisfied and any commercial interest is not the primary interest furthered by the request. OPIC will ordinarily presume that when a news media requester has satisfied factors in paragraphs (b)(1) and (2) of this section, the request is not primarily in the commercial interest of the requester. Disclosure to data brokers or others who merely compile and market government information for direct economic return will not be presumed to primarily serve the public interest.

(c) Where only some of the records to be released satisfy the requirements for

a waiver of fees, a waiver shall be granted for those records.

(d) Requests for a waiver or reduction of fees should be made when the request is first submitted to OPIC and should address the criteria referenced above. A requester may submit a fee waiver request at a later time so long as the underlying record request is pending or on administrative appeal. When a requester who has committed to pay fees subsequently asks for a waiver of those fees and that waiver is denied, the requester will be required to pay any costs incurred up to the date the fee waiver request was received.

Subpart D—Processing of Requests for Non-Public Records

§ 706.30 Responsibility for responding to requests.

(a) *Authority to grant or deny requests.* The OPIC President and CEO or designee is authorized to grant or to deny any requests for records.

(b) *Consultation, referral, and coordination.* When reviewing records responsive to a request, OPIC will determine whether another agency of the Federal Government is better able to determine whether the record is exempt from disclosure under the FOIA. As to any such record, OPIC will proceed in one of the following ways:

(1) *Consultation.* When records originated with OPIC, but contain within them information of interest to another agency or other Federal Government office, OPIC will typically consult with that other entity prior to making a release determination.

(2) *Referral.* (i) When OPIC believes that a different agency is best able to determine whether to disclose the record, OPIC will typically refer the responsibility for responding to the request regarding that record to that agency. Ordinarily, the agency that originated the record is presumed to be the best agency to make the disclosure determination. However, if OPIC and the originating agency jointly agree that OPIC is in the best position to respond regarding the record, then the record may be handled as a consultation.

(ii) Whenever OPIC refers any part of the responsibility for responding to a request to another agency, it will document the referral, maintain a copy of the record that it refers, and notify the requester of the referral, informing the requester of the name(s) of the agency to which the record was referred, including that agency's FOIA contact information.

(3) *Coordination.* The standard referral procedure is not appropriate where disclosure of the identity of the

agency to which the referral would be made could harm an interest protected by an applicable exemption, such as the exemptions that protect personal privacy or national security interests. For example, if in responding to a request for records on a living third party, OPIC locates within its files records originating with a law enforcement agency, and if the existence of that law enforcement interest in the third party was not publicly known, then to disclose that law enforcement interest could cause an unwarranted invasion of the personal privacy of the third party. Similarly, if OPIC locates within its files material originating with an Intelligence Community agency, and the involvement of that agency in the matter is classified and not publicly acknowledged, then to disclose or give attribution to the involvement of that Intelligence Community agency could cause national security harms. In such instances, in order to avoid harm to an interest protected by an applicable exemption, OPIC should coordinate with the originating agency to seek its views on the disclosability of the record. The release determination for the record that is the subject of the coordination should then be conveyed to the requester by OPIC.

(c) *Classified information.* On receipt of any request involving a record containing information that has been classified or may be appropriate for classification by another agency under any applicable executive order concerning the classification of records, OPIC must refer the responsibility for responding to the request to the agency that classified the information, or that should consider the information for classification. Whenever OPIC's record contains information that has been derivatively classified (for example, when it contains information classified by another agency), OPIC must refer the responsibility for responding to that portion of the request to the agency that classified the underlying information.

(d) *Timing of responses to consultations and referrals.* All consultations and referrals will be handled according to the date that the first agency received the perfected FOIA request.

(e) *Agreements regarding consultations and referrals.* OPIC may establish agreements with other agencies to eliminate the need for consultations or referrals with respect to particular types of records.

§ 706.31 Timing of responses to requests.

(a) *In general.* OPIC ordinarily will process requests according to their order of receipt within their appropriate track

under paragraph (b) of this section. The response time will commence on the date that the request is received by the FOIA Office, but in any event not later than ten working days after the request is first received by OPIC. Any time tolled under subparagraph (c) of this section does not count against OPIC's response time.

(b) *Multitrack processing.* OPIC has a track for requests that are granted expedited processing, in accordance with the standards set forth in paragraph (f) of this section. Non-expedited requests will be placed into a "simple" or "complex" track based on the estimated amount of work or time needed to process the request. OPIC will consider the number of records requested, the number of pages involved in processing the request, and the need for consultations or referrals. OPIC will advise the requester into which track the request falls and, when appropriate, will offer requesters the opportunity to narrow or modify the request so that it can be placed in a different track.

(c) *Tolling of response time.* OPIC may toll its response time once to seek clarification of a request in accordance with § 706.11(b) or as needed to resolve fee issues in accordance with §§ 706.22(c) and 706.23(d) of this part. The response time will resume upon OPIC's receipt of the requester's clarification or upon resolution of the fee issue.

(d) *Unusual circumstances.* Whenever the statutory time limits for processing cannot be met because of "unusual circumstances" as defined in the FOIA, and OPIC extends the time limits on that basis, OPIC will notify the requester in writing of the unusual circumstances involved and of the date by which OPIC estimates processing of the request will be completed. Where the extension exceeds ten working days, the requester will be provided an opportunity to modify the request or agree to an alternative time period for processing the original or modified request. OPIC will make its FOIA Office and its FOIA Public Liaison available for this purpose and will notify the requester of the availability of the Office of Government Services (OGIS) dispute resolution services.

(e) *Aggregating requests.* For the purposes of satisfying unusual circumstances under the FOIA, OPIC may aggregate requests in cases where it reasonably appears that multiple requests, submitted either by a requester or by a group of requesters acting in concert, constitute a single request that would otherwise involve unusual circumstances. OPIC will not aggregate

multiple requests that involve unrelated matters.

(f) *Expedited processing.* (1) Requests and appeals will be processed on an expedited basis whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited processing could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged Federal government activity, if made by a person who is primarily engaged in disseminating information;

(2) A request for expedited processing may be made at any time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct, explaining in detail the basis for making the request for expedited processing. For example, under paragraph (f)(1)(ii) of this section, a requester who is not a full-time member of the news media must establish that the requester is a person whose primary activity or occupation is information dissemination, though it need not be the requester's sole occupation. Such a requester also must establish a particular urgency to inform the public about the government activity involved in the request—one that extends beyond the public's right to know about government activity generally. The existence of numerous articles published on a given subject can be helpful in establishing the requirement that there be an "urgency to inform" the public on the topic. OPIC may waive the formal certification requirement in its administrative discretion.

(4) OPIC shall notify the requester within ten calendar days of the receipt of a request for expedited processing of its decision whether to grant or deny expedited processing. If expedited processing is granted, the request shall be given priority, placed in the processing track for expedited requests, and shall be processed as soon as practicable. If OPIC denies expedited processing, any appeal of that decision which complies with the procedures set forth in § 706.34 of this subpart shall be acted on expeditiously.

§ 706.32 Responses to requests.

(a) *In general.* To the extent practicable, OPIC will communicate electronically with requesters who have access to the internet.

(b) *Acknowledgments of requests.* If a request will take longer than ten days to process, OPIC will send the requester an acknowledgment letter that assigns the request an individualized tracking

number. The letter will include a brief description of the records sought to allow requesters to more easily keep track of requests.

(c) *Grants of requests.* OPIC will notify the requester in writing if it makes a determination to grant a request in full or in part. The notice will inform the requester of any fees charged under § 706.22 of this part and of the availability of the FOIA Public Liaison to offer assistance. OPIC will disclose the requested records to the requester promptly upon payment of any applicable fees.

(d) *Adverse determinations of requests.* OPIC will notify the requester in writing if it makes an adverse determination denying a request in any respect. Adverse determinations, or denials of requests, include decisions that: The requested record is exempt, in whole or in part; the request does not reasonably describe the records sought; the information requested is not a record subject to the FOIA; the requested record does not exist, cannot be located, or has been destroyed; or the requested record is not readily reproducible in the form or format sought by the requester. Adverse determinations also include denials involving fees or fee waiver matters or denials of requests for expedited processing.

(e) *Content of denial letter.* The denial letter will be signed by the person responsible for the denial, and will include:

(1) The name and title or position of the person responsible for the denial;

(2) A brief statement of the reasons for the denial, including any FOIA exemptions applied;

(3) An estimate of the volume of any records or information withheld, for example, by providing the number of pages or some other reasonable form of estimation. This estimation is not required if the volume is otherwise indicated by deletions marked on records that are disclosed in part, or if providing an estimate would harm an interest protected by an applicable exemption;

(4) A brief description of the types of information withheld and the reasons for doing so. A description and explanation are not required if providing it would harm an interest protected by an applicable exemption;

(5) A statement that the denial may be appealed under Section 706.34(a) of this subpart, and a description of the appeal requirements;

(6) A statement notifying the requester of the assistance available from OPIC's FOIA Public Liaison and dispute resolution services offered by OGIS; and

(7) Notice of any fees charged under § 706.23 of this part.

(f) *Markings on released documents.* Records disclosed in part must be marked clearly to show the amount of information deleted and the exemption under which the deletion was made unless doing so would harm an interest protected by an applicable exemption. If technically feasible, the location of the information deleted will be indicated on the record.

(g) *Notice of record exclusions.* (1) In the event that OPIC identifies records that may be subject to exclusion from the requirements of the FOIA pursuant to 5 U.S.C. 552(c), the agency will confer with the Department of Justice, Office of Information Policy, to obtain approval to apply the exclusion.

(2) OPIC will maintain an administrative record of the process of invocation and approval of the exclusion by OIP.

§ 706.33 Confidential commercial information.

(a) *Definitions*—(1) *Confidential commercial information* means commercial or financial information obtained by the agency from a submitter that may be protected from disclosure under Exemption 4 of the FOIA. Exemption 4 protects certain:

(i) Trade secrets as defined under FOIA law; or

(ii) Commercial or financial information that is privileged or confidential as defined under FOIA law.

(2) *Submitter* means any person or entity, including a corporation, State, or foreign government, but not including another Federal Government entity, that provides confidential commercial information to the Federal government, directly or indirectly.

(b) *Designation of confidential commercial information.* All submitters may designate, by appropriate markings, any portions of their submissions that they consider to be protected from disclosure under the FOIA. These markings will be considered by OPIC in responding to a FOIA request but such markings (or the absence of such markings) will not be dispositive as to whether the marked information is ultimately released. Unless otherwise requested and approved these markings will be considered no longer applicable ten years after submission or five years after the close of the associated project, whichever is later.

(c) *When notice to submitters is required.* (1) Except as provided in paragraph (d) of this section, OPIC's FOIA Office will use reasonable efforts to notify a submitter in writing whenever:

(i) The requested information has been designated in good faith by the submitter as confidential commercial information protected from disclosure under Exemption 4; or

(ii) OPIC has reason to believe that the requested information may be protected from disclosure under Exemption 4, but has not yet determined whether the information is protected from disclosure.

(2) This notification will describe the nature and scope of the request, advise the submitter of its right to submit written objections in response to the request, and provide a reasonable time for response. The notice will either describe the commercial information requested or include copies of the requested records or portions of records containing the information. In cases involving a voluminous number of submitters, notice may be made by posting or publishing the notice in a place or manner reasonably likely to inform the submitters of the proposed disclosure, instead of sending individual notifications.

(d) *Exceptions to submitter notice requirements.* The notice requirements of this section shall not apply if:

(1) OPIC determines that the information is exempt under the FOIA, and therefore will not be disclosed;

(2) The information has been lawfully published or has been officially made available to the public;

(3) Disclosure of the information is required by a statute other than the FOIA or by a regulation issued in accordance with the requirements of Executive Order 12600 of June 23, 1987; or

(4) The designation made by the submitter under paragraph (b) of this section appears obviously frivolous. In such case, OPIC will give the submitter written notice of any final decision to disclose the information within a reasonable number of days prior to a specified disclosure date.

(e) *Opportunity to object to disclosure.*

(1) OPIC will specify a reasonable time period within which the submitter must respond to the notice referenced above.

(2) If a submitter has any objections to disclosure, it should provide OPIC with a detailed written statement that specifies all grounds for withholding the particular information under any exemption of the FOIA. In setting forth such grounds, the submitter should explain the basis of its belief that the nondisclosure of any item of information requested is mandated or permitted by law. In order to rely on Exemption 4 as a basis for nondisclosure, the submitter shall

explain why the information is considered a trade secret or commercial or financial information that is privileged or confidential as defined under FOIA law.

(3) A submitter who fails to respond within the time period specified in the notice shall be considered to have no objection to disclosure of the information. OPIC is not required to consider any information received after the date of any disclosure decision. Any information provided by a submitter under this subpart may itself be subject to disclosure under the FOIA.

(4) The period for providing OPIC with objections to disclosure of information may be extended by OPIC upon receipt of a written request for an extension from the submitter. Such written request shall set forth the date upon which any objections are expected to be completed and shall provide reasonable justification for the extension. In its discretion, OPIC may permit more than one extension.

(f) *Analysis of objections.* OPIC will consider a submitter's objections and specific grounds for nondisclosure in deciding whether to disclose the requested information.

(g) *Notice of intent to disclose.* If OPIC decides to disclose information over the objection of a submitter, OPIC will notify the submitter of its determination at least five working days prior to release of the information. The notification will include:

(1) A statement of the reasons why each of the submitter's disclosure objections was not sustained;

(2) A description of the information to be disclosed, or a copy thereof; and

(3) A specified disclosure date, which shall be a reasonable time subsequent to the notice.

(h) *Notice of FOIA lawsuit.* Whenever a requester files a FOIA lawsuit seeking to compel the disclosure of confidential commercial information, OPIC will promptly notify the submitter.

(i) *Requester notification.* OPIC will notify a requester whenever it provides the submitter with notice and an opportunity to object to disclosure; whenever it notifies the submitter of its intent to disclose the requested information; and whenever a submitter files a lawsuit to prevent the disclosure of the information.

§ 706.34 Administrative appeals.

(a) *Requirements for making an appeal.* A requester may appeal any adverse determinations to OPIC's Vice President and General Counsel at FOIA@opic.gov or 1100 New York Avenue NW., Washington, DC 20527. Examples of adverse determinations are

provided in Section 706.06(c) of this subpart. The requester must make the appeal in writing and it must be postmarked, or in the case of electronic submissions, transmitted, within ninety calendar days after the date of the response. The appeal should clearly identify OPIC's determination that is being appealed and the assigned request number. The requester should mark both the appeal letter and envelope, or subject line of the electronic transmission, "Freedom of Information Act Appeal."

(b) *Adjudication of appeals.* OPIC's Vice President and General Counsel or his/her designee will render a written decision within twenty working days after the date of OPIC's receipt of the appeal, unless an extension of up to ten working days is deemed necessary due to unusual circumstances. The requester will be notified in writing of any extension.

(c) *Decisions on appeals.* A decision that upholds the initial determination will contain a written statement that identifies the reasons for the affirmance, including any FOIA exemptions applied, and will provide the requester with notification of the statutory right to file a lawsuit and the ability to request dispute resolution from the Office of Government Information Services. If an initial determination is remanded or modified on appeal the requester will be notified in writing. OPIC's FOIA Office will then process the request in accordance with that appeal determination and respond directly to the requester. If an appeal is granted in whole or in part, the information will be made available promptly, provided the requirements of Section 706.23 regarding payment of fees are satisfied.

(d) *Engaging in dispute resolution services provided by OGIS.* Dispute resolution is a voluntary process. If OPIC agrees to participate in the dispute resolution services provided by OGIS, it will actively engage as a partner to the process in an attempt to resolve the dispute.

(e) *When appeal is required.* Before seeking court review, a requester generally must first submit a timely administrative appeal.

April 25, 2017.

Nichole Skoyles,

Administrative Counsel, Department of Legal Affairs.

[FR Doc. 2017-08598 Filed 5-1-17; 8:45 am]

BILLING CODE 3195-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0057]

Drawbridge Operation Regulation; New Jersey Intracoastal Waterway (NJICW), Atlantic City, NJ

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 US40–322 (Albany Avenue) Bridge across the NJICW (Inside Thorofare), mile 70.0, at Atlantic City, NJ. The deviation is necessary to accommodate the free movement of pedestrians and vehicles during the 2017 Atlantic City IRONMAN Triathlon. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: The deviation is effective from 6 a.m. to 4 p.m. on September 17, 2017.

ADDRESSES: The docket for this deviation, [USCG–2017–0057] is available at <http://www.regulations.gov>. Type the docket number in the “SEARCH” box and click “SEARCH”. Click on Open Docket Folder on the line associated with this deviation.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Mr. Martin Bridges, Bridge Administration Branch Fifth District, Coast Guard, telephone 757–398–6422, email Martin.A.Bridges@uscg.mil.

SUPPLEMENTARY INFORMATION: The event director, DelMoSports, LLC, with approval from the New Jersey Department of Transportation, who owns and operates the US40–322 (Albany Avenue) Bridge across the NJICW (Inside Thorofare), mile 70.0, at Atlantic City, NJ, has requested a temporary deviation from the current operating regulations. This temporary deviation is necessary to accommodate the free movement of pedestrians and vehicles during the 2017 Atlantic City IRONMAN Triathlon. The bridge is a double bascule bridge and has a vertical clearance in the closed position of 10 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.733(f). Under this temporary deviation, the bridge will be maintained in the closed-to-navigation position from 6 a.m. to 4 p.m. on September 17, 2017. The NJICW (Inside Thorofare) is used by recreational

vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

Vessels able to pass through the bridge in the closed position may do so at anytime. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels unable to pass through the bridge in the closed position. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notice to Mariners of the change in operating schedule for the bridge so that vessels can arrange their transits to minimize any impacts 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 temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: April 26, 2017.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2017–08827 Filed 5–1–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2017–0152]

RIN 1625–AA87

Security Zone; Schuylkill River, Philadelphia, PA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary security zone on the waters of the Schuylkill River, Philadelphia, PA. This temporary security zone is intended to restrict vessels from portions of the Schuylkill River during the 2017 National Football League (NFL) Draft from April 27 through April 29, 2017. During the enforcement period, no unauthorized vessels or people will be permitted to enter or move within the security zone without permission from the Captain of the Port or designated representative. This security zone is necessary to provide security on navigable waters near the event.

DATES: This rule is effective without actual notice from April 27, 2017 through 6:00 p.m. on April 29, 2017. For

purposes of enforcement, actual notice will be used from 10:00 a.m. on April 27 through April 27, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov>, type USCG–2017–0152 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 MST1 Thomas Simkins, U.S. Coast Guard, Sector Delaware Bay, Waterways Management Division, Coast Guard; telephone (215) 271–4889, email Tom.J.Simkins@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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

II. Background Information and Regulatory History

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are impracticable, unnecessary, or contrary to the public interest. Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for the security zone were not known until April 10, 2017, preventing the Coast Guard from issuing a notice of proposed rulemaking with opportunity for public comment. Delaying this action to allow an opportunity for public comment would be contrary to the rule’s objectives of ensuring safety of life on the navigable waters and protection near the event.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this temporary rule effective less than 30 days after publication in the **Federal Register** because doing so would be impracticable and contrary to the public interest. Delaying the effective date would be contrary to the rule’s objectives of ensuring safety of life on the navigable waters and protection near the event.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Captain of the Port Delaware Bay has determined that this temporary security zone is necessary to provide security during the NFL Draft, and protect against sabotage or terrorist attacks to human life, vessels, mariners, and waterfront facilities at or near this event.

IV. Discussion of the Rule

From April 27, 2017 through April 29, 2017, the NFL Draft will take place at the Philadelphia Museum of Art in Philadelphia, PA. The Coast Guard is establishing a temporary security zone in a portion of the Schuylkill River, Philadelphia, PA. The security zone includes all the waters of the Schuylkill River from the Market Street Bridge north to the Fairmount dam.

Access to this security zone will be restricted during the specified date and time period. Only vessels or persons specifically authorized by the Captain of the Port Delaware Bay or designated representative may enter or remain in the regulated area. This security zone will be effective and enforced from April 27, 2017 through April 29, 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, duration, and time-of-year of the security zone. Vessel traffic will be able to safely transit around this security zone which will impact a small designated area of the Schuylkill River, Philadelphia, PA, for less than 12 hours. Moreover, the Coast Guard will issue Broadcast Notice to Mariners via VHF-FM marine channel 16 regarding the security zone,

under the regulation vessel operators may request permission to enter the zone.

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 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 security zone may be small entities, for the reasons stated in section V. A above, this rule will not have a significant economic impact on any vessel owner or operator.

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

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

C. Collection of Information

This rule calls for no 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 above.

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 M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that it is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule adjusts rates in accordance with applicable statutory and regulatory mandates. It is categorically excluded under section 2.B.2, figure 2–1, paragraph 34(g) of the Instruction, which pertains to minor regulatory changes that are editorial or procedural in nature. A Record of Environmental Consideration (REC) supporting this determination is available in the docket where indicated in the **ADDRESSES** section of this preamble.

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 recordkeeping requirements, Security measures, Waterways.

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1231; 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.T05–0152 to read as follows:

§ 165.T05–0152 Security Zone; Schuylkill River; Philadelphia, PA.

(a) *Definitions.* As used in this section, *designated representative* means a Coast Guard Patrol Commander, including a Coast Guard petty officer, warrant or commissioned officer operating a Coast Guard vessel and a Federal, State, and local law enforcement officer designated by or assisting the Captain of the Port, Delaware Bay in the enforcement of the security zone.

(b) *Location.* The following area is a security zone: All the waters of the Schuylkill River from the Market Street Bridge north to the Fairmount dam.

(c) *Regulations.* (1) Under the general security zone regulations in subpart D of this part, persons may not enter the security zone described in paragraph (b) of this section unless authorized by the COTP or the COTP's designated representative.

(2) To request permission to enter the security zone, contact the COTP or the COTP's representative on VHF-FM channel 16. All persons and vessels in the security zone must comply with all lawful orders or directions given to them by the COTP or the COTP's designated representative.

(d) *Enforcement period.* This section will be enforced from April 27, 2017 through April 29, 2017 from 10:00 a.m. to 6:00 p.m. each day.

Dated: April 24, 2017.

Benjamin A. Cooper,

Captain, U.S. Coast Guard Captain of the Port, Delaware Bay.

[FR Doc. 2017-08819 Filed 4-27-17; 4:40 pm]

BILLING CODE 9110-04-P

LEGAL SERVICES CORPORATION

45 CFR Part 1609

Fee-Generating Cases

AGENCY: Legal Services Corporation.

ACTION: Final rule.

SUMMARY: This final rule revises the Legal Services Corporation (LSC or Corporation) regulation regarding fee-generating cases. This rule clarifies the definition of “fee-generating case,” clarifies that brief advice is permitted by the regulation, and revises how a recipient accounts for attorneys’ fees awards.

DATES: This final rule is effective on June 1, 2017.

FOR FURTHER INFORMATION CONTACT: Stefanie K. Davis, Assistant General Counsel, Legal Services Corporation, 3333 K Street NW., Washington, DC 20007; (202) 295–1563 (phone), (202) 337–6519 (fax), or *sdavis@lsc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

Section 1007(b)(1) of the Legal Services Corporation Act of 1974 prohibits recipients from using LSC funds “to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case[.]” 42 U.S.C. 2996f(b)(1). LSC implemented this provision through 45 CFR part 1609. In the preamble to the original part 1609, LSC explained that the private bar is generally “eager to accept contingent fee cases and cases in which there may be an award of attorneys’ fees to be paid by the opposing party pursuant to [statute].” 41 FR 38505, Sept. 10, 1976. LSC therefore drafted part 1609 to “insure that recipients do not use scarce legal services resources when private attorneys are available to provide effective representation and . . . assist eligible clients to obtain appropriate and effective legal assistance.” 45 CFR 1609.1(a), (b). Nevertheless, LSC recognized that “there may be instances when no private attorney is willing to represent an individual, because the recovery of a fee is unlikely, the potential fee is too small, or some other reason.” 41 FR 38505.

To balance these considerations, LSC (1) defined “fee-generating case” to prohibit recipients from accepting cases that a private attorney would take, and (2) provided exceptions to the prohibition when adequate representation by the private bar is unavailable and contains safeguards to prevent recipients from taking cases the private bar would accept. *Id.* The definition of “fee-generating case” includes “every situation in which an attorney reasonably may expect to receive a fee for services from any source except the client.” *Id.* Specifically, LSC defined “fee-generating case” as “any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds, or from the opposing party.” *Id.* In § 1609.3, LSC established circumstances in which a recipient may use LSC funds to provide legal assistance in a fee-generating case, such as after the case has been rejected by the local lawyer referral service or by two private attorneys. 45 CFR 1609.3(a)(1).

In 1996, LSC proposed two changes to clarify the meaning of “fee-generating case.” First, LSC proposed “[a] technical numerical change” to the definition of “fee-generating case” which was intended “to clarify that the definition includes fees from three sources: an award (1) to a client, (2) from public funds, or (3) from the opposing party.” 61 FR 45765, Aug. 29, 1996. This proposed change resulted in comments about whether LSC intended to make substantive changes to the definition. 62 FR 19398, Apr. 21, 1997. Because LSC did not intend to change the definition and sought to avoid confusion about its intent, the Board of Directors (“Board”) rejected the numerical changes proposed in the Notice of Proposed Rulemaking (“NPRM”). *Id.*

Nevertheless, the Board implemented a second proposed change by adopting language that explained what is not a “fee-generating case.” *Id.* The revision excluded court appointments from the definition because such cases, even where fees are paid, are considered a professional obligation. *Id.* Additionally, the revision excluded situations where recipients undertake representation under a contract with a government agency or other entity and the agency or entity pays the recipient “because a contract payment does not constitute fees that come from an award to a client or attorneys’ fees that come from the losing party in a case, or from public funds.” *Id.*; see 45 CFR 1609.2(b). LSC has not made substantive changes

to the definition of “fee-generating case” since this revision.

When a recipient may take a fee-generating case, part 1609 also prescribes how recipients account for attorneys’ fees received in the case. Part 1609 requires the fees to be remitted to the recipient. 41 FR 38505, Sept. 10, 1976. In 1984, LSC adopted a new section, § 1609.6, that requires attorneys’ fees received by the recipient to be returned to the fund from which the resources to litigate the case came. 49 FR 19657, May 9, 1984. In other words, if the recipient funds a case half with LSC funds and half with private funds, § 1609.6 requires the recipient to allocate any attorneys’ fees received to each fund in equal proportion. Section 1609.6 also requires that fees be recorded during the accounting period in which the program receives the award. *Id.*

In 1996, LSC’s appropriation legislation provided that no LSC funds could be used to provide financial assistance to a recipient that receives attorneys’ fees pursuant to any federal or state law. Sec. 504(a)(13), Pub. L. 104–134, 110 Stat. 1321, 1321–55; 75 FR 21507, Apr. 26, 2010. To implement this legislation, LSC created a separate rule, 45 CFR part 1642. 62 FR 25862, May 12, 1997 (final rule); 61 FR 45762, Aug. 29, 1996 (interim final rule). LSC moved § 1609.6 to part 1642 and revised the provision to require recipients to allocate fees from cases or matters supported in whole or in part with LSC funds to the LSC fund in the same proportion that the case or matter was funded with LSC funds. *Id.* In a departure from then-existing § 1609.6, LSC did not propose to dictate how recipients allocated remaining fees to their non-LSC accounts. *Id.*

In 2010, Congress repealed the prohibition on accepting and retaining attorneys’ fees. Sec. 533, Pub. L. 111–117, 123 Stat. 3034, 3157. LSC subsequently repealed part 1642 but retained two provisions relevant to accounting for attorneys’ fee awards and accepting reimbursement of costs from a client. 75 FR 6816, Feb. 11, 2010 (interim final rule); 75 FR 21506, Apr. 26, 2010 (final rule). LSC placed these two provisions in part 1609 at §§ 1609.4 and 1609.6, respectively. 75 FR 21508. LSC has made no changes to either section since then.

LSC added rulemaking on part 1609 to its annual rulemaking agenda in June 2015. On July 17, 2016, the Operations and Regulations Committee (“Committee”) of the Board voted to recommend that the Board authorize rulemaking on part 1609. The Board voted to authorize rulemaking on July

18, 2016. On January 26, 2017, the Committee voted to recommend that the Board approve publication of an NPRM in the **Federal Register** for notice and comment. On January 28, 2017, the Board accepted the Committee’s recommendation and voted to approve publication of the NPRM. LSC published the notice of proposed rulemaking in the **Federal Register** on February 13, 2017. 82 FR 10446, Feb. 13, 2017. The comment period remained open for thirty days and closed on March 15, 2017.

Materials regarding this rulemaking are available in the open rulemaking section of LSC’s Web site at <http://www.lsc.gov/about-lsc/laws-regulations-guidance/rulemaking>. After the effective date of the rule, those materials will appear in the closed rulemaking section at <http://www.lsc.gov/about-lsc/laws-regulations-guidance/rulemaking/closed-rulemaking>.

II. Section-by-Section Discussion of Comments and Regulatory Provisions

LSC received two comments during the public comment period. One comment was submitted by Northwest Justice Project (NJP), an LSC-funded recipient. The other comment was submitted by the National Legal Aid and Defender Association (NLADA) by its Civil Council, the elected representative body that establishes policy for the NLADA Civil Division, and its Regulations Committee. Both commenters were generally supportive of LSC’s proposed changes to part 1609.

III. Proposed Changes

Section 1609.1 Purpose.

LSC proposed no changes to this section. LSC received no comments on this section.

Section 1609.2 Definition.

Recipients have repeatedly requested guidance regarding what constitutes a *fee-generating case* as defined in § 1609.2(a). Questions have included whether paid court appointments are *fee-generating cases* and whether “advice and counsel” or “brief services” are prohibited if the case may, during subsequent extended representation, develop into a *fee-generating case*. Recipients have also sought guidance regarding permissible sources of fees.

Section 1609.2 currently provides, “*Fee-generating case* means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client, from public funds or from the opposing party.” 45 CFR 1609.2(a). A reader

could interpret “award” as modifying only “to a client” and not to include an “award . . . from public funds or [an award] from the opposing party.” Thus, under the current definition, a recipient might accept a case that may result in an award from public funds, a result not intended by LSC. Therefore, LSC proposed removing “from public funds or from the opposing party” from the definition.

Additionally, LSC proposed revising part 1609 to clarify that a recipient may provide brief services to an eligible client despite the possibility that the case ultimately may result in fees otherwise restricted by part 1609. In AO–2015–002, LSC considered whether a recipient may provide “advice and counsel” or “limited services” (as defined in 45 CFR 1611.2(a) and (e)) to an eligible client where the matter might constitute a fee-generating case if extended services were provided. Based on the language of § 1609.3, which prohibits recipients from using LSC funds to provide assistance in “every situation in which an attorney reasonably may expect to receive a fee[.]” LSC concluded an “attorney’s reasonable expectation of such fees would not typically arise until *after* . . . initial advice or brief services was under way or had been completed.” AO–2015–002, June 17, 2015. LSC proposed incorporating this clarification into part 1609 by adding a separate paragraph to § 1609.2(b). The proposed paragraph explained that “advice and counsel” or “limited services” in matters that may later constitute fee-generating cases are not prohibited by part 1609.

Finally, in response to questions regarding court appointments, current § 1609.2(b) states that a court appointment pursuant to a statute or court rule or practice that is equally applicable to all attorneys in the jurisdiction is not a fee-generating case. 45 CFR 1609.2. LSC did not propose to change this language in the NPRM.

Comments: NJP “assume[d] that deletion of the source of the award to a client in proposed § 1609.2(a) intended to denote the availability of an attorneys’ fee from funds that are paid to a lawyer from a monetary award to compensate the client for the injury or claim that is the subject of the litigation.” NJP continued, “As LSC notes, recipients may request, collect and retain an award of attorney fees as provided by law, so long as such a request is in the name of the recipient or the award is remitted to the recipient and accounted for pursuant to § 1609.4.” NJP provided no comment on proposed § 1609.2 besides its assumption.

NLADA “fully supports” clarifying that advice and counsel or limited services do not fall within the meaning of *fee-generating case*. In NLADA’s view, “[t]he provision is beneficial to LSC eligible clients by affording them the opportunity to receive brief advice or services regarding a fee generating case. The program can provide legal advice or take limited action that can be critical to preserving the client’s rights[.]”

Response: LSC is unsure what NJP’s assumption means. If NJP is assuming the proposed language means that a case in which a court awards fees directly to the attorney rather than awarding fees to the client is no longer a “fee-generating case” for purposes of part 1609, the assumption is incorrect.

LSC intends part 1609 to require recipients and their attorneys to consider whether cases that may result in fee awards are ones that can be handled by the private bar before accepting such cases. LSC does not intend to permit a recipient to accept a fee-generating case without first attempting to refer the case to the private bar simply because the court may award the attorneys’ fee portion of an award directly to the recipient or its attorney instead of the client. Nevertheless, this restriction does not prohibit a recipient from accepting cases where permitted by § 1609.2(b) or § 1609.3.

LSC believes the language in the proposed rule provides sufficient clarity regarding the intent of the rule and therefore adopts the proposed version in this final rule.

Section 1609.3 General requirements.

LSC proposed a technical change to the heading of § 1609.3 to more accurately reflect the topic it addresses. Section 1609.3 briefly sets forth the general prohibition on a recipient using LSC funds to provide legal assistance in a fee-generating case. The bulk of § 1609.3, however, prescribes the circumstances and procedures under which recipients may accept fee-generating cases. To more aptly reflect the substance of § 1609.3, LSC proposed to rename § 1609.3 *Authorized representation in a fee-generating case*. LSC received no comments on this change and therefore adopts the proposed version in this final rule.

Section 1609.4 Accounting for and use of attorneys’ fees.

LSC proposed to revise part 1609’s requirement to account for receipt of attorneys’ fees. Currently, § 1609.4 requires that attorneys’ fees received in a case that the recipient used some

amount of LSC funds to handle be allocated to the LSC grant account in proportion to which the LSC funds were used. 45 CFR 1609.4(a). This language requires the accounting only for attorneys’ fees received by the *recipient*, which could be interpreted to mean that attorneys’ fees awarded to a staff attorney in his or her own name need not be remitted to the recipient or be subject to the accounting requirement.

To clarify that attorneys’ fee awards received by either the recipient or a recipient’s staff attorney are subject to the accounting requirement, LSC proposed the following revisions to § 1609.4. First, LSC proposed to require recipients to file any petitions for attorneys’ fees in the name of the recipient and not in the name of any staff attorney. To the extent a jurisdiction may allow an attorneys’ fee petition in the recipient’s name rather than a staff attorney’s name, this change would help ensure that the court would award attorneys’ fees to the organization and not to an individual staff attorney. LSC proposed placing this addition as § 1609.4(a), and redesignating paragraphs (a) and (b) of existing § 1609.4 as paragraphs (b) and (c), respectively.

Second, LSC proposed to state explicitly in § 1609.4(b) that, in the event a jurisdiction requires attorneys’ fee petitions to be made in a staff attorney’s name, the staff attorney must remit the award to the recipient, which must then allocate an award of attorneys’ fees to its LSC grant account in proportion to the amount of LSC funds used to obtain the award. LSC believed that these two changes accommodate variations in state and local rules governing the award of attorneys’ fees and help ensure that any attorneys’ fee awards supported by LSC funds are adequately credited to LSC funds.

Finally, to more aptly describe the substance of § 1609.4, LSC proposed changing the heading to *Requesting and receiving attorneys’ fees*.

Comment: NJP had no concerns about requiring fee petitions to be made in the recipient’s name to the extent permitted by law. NLADA generally supported the proposed revision clarifying that attorneys’ fees are to be awarded to the recipient. NLADA, however, relayed a recipient’s concern that state court rules may require licensed, individual attorneys to be designated on a petition for attorneys’ fees instead of an organization. This contrasts with the proposed rule, which requires petitions for attorneys’ fees to be filed in the name of the recipient “to the extent permitted by law.” Recognizing there

may be differences among statutes, court rules, and other rules, NLADA recommended that the rule be revised to state “to the extent required by law or rules in the jurisdiction.”

Response: LSC will adopt the recommendation with one change. As NLADA noted, LSC does not intend for an attorney to violate any applicable law or any applicable rule in his or her petition for attorney fees. To clarify that the regulation requires compliance with both the law and rules, LSC will add the language recommended by NLADA, except that LSC will use the conjunction “and” between the phrases “to the extent permitted by law” and “rules in the jurisdiction.”

Section 1609.5 Acceptance of reimbursement from a client.

To create consistency in the verbs used in the headings for §§ 1609.4 and 1609.5 and more aptly describe the substance of the latter section, LSC proposed to change the heading to *Receiving reimbursement from a client*. LSC proposed no substantive changes to this section. LSC received no comments on this section. Consequently, LSC adopts the language proposed in the NPRM in this final rule.

Section 1609.6 Recipient policies, procedures and recordkeeping.

LSC proposed no changes to this section. LSC received no comments on this section.

List of Subjects in 45 CFR Part 1609

Administrative practice and procedure, Grant programs—law, Legal services.

For the reasons set forth in the preamble, the Legal Services Corporation amends 45 CFR part 1609 as follows:

PART 1609—FEE-GENERATING CASES

■ 1. The authority citation for part 1609 is revised to read as follows:

Authority: 42 U.S.C. 2996g(e).

■ 2. In § 1609.2:

- a. Revise the section heading and paragraph (a);
- b. Remove “, or” at the end of paragraph (b)(1) and add a semicolon in its place;
- c. Remove the period at the end of paragraph (b)(2) and add “; or” in its place; and
- d. Add paragraph (b)(3).

The revision and addition read as follows:

§ 1609.2 Definitions.

(a) *Fee-generating case* means any case or matter which, if undertaken on

behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in a fee for legal services from an award to a client.

(b) * * *

(3) A recipient provides only advice and counsel or limited services, as those terms are defined in 45 CFR 1611.1(a) and (e), to an eligible client.

■ 3. Revise the heading of § 1609.3 to read as follows:

§ 1609.3 Authorized representation in a fee-generating case.

* * * * *

■ 4. Revise § 1609.4 to read as follows:

§ 1609.4 Requesting and receiving attorneys' fees.

(a) Any petition seeking attorneys' fees for representation supported in whole or in part with funds provided by LSC, shall, to the extent permitted by law and rules in the jurisdiction, be filed in the name of the recipient.

(b) Attorneys' fees received by a recipient or an employee of a recipient for representation supported in whole or in part with funds provided by LSC shall be allocated to the fund in which the recipient's LSC grant is recorded in the same proportion that the amount of LSC funds expended bears to the total amount expended by the recipient to support the representation.

(c) Attorneys' fees received shall be recorded during the accounting period in which the money from the fee award is actually received by the recipient and may be expended for any purpose permitted by the LSC Act, regulations, and other law applicable at the time the money is received.

■ 5. Revise the heading of § 1609.5 to read as follows:

§ 1609.5 Receiving reimbursement from a client.

* * * * *

Dated: April 26, 2017.

Stefanie K. Davis,

Assistant General Counsel.

[FR Doc. 2017-08835 Filed 5-1-17; 8:45 am]

BILLING CODE 7050-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 160620545-6999-02]

RIN 0648-XF211

Atlantic Highly Migratory Species; Commercial Blacktip Sharks, Aggregated Large Coastal Sharks, and Hammerhead Sharks in the Western Gulf of Mexico Sub-Region; Closure

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is closing the commercial fishery for blacktip sharks, aggregated large coastal sharks (LCS) and hammerhead shark management groups in the western Gulf of Mexico sub-region. This action is necessary because the commercial landings of aggregated LCS in the western Gulf of Mexico sub-region for the 2017 fishing season exceeded 80 percent of the available commercial quota as of April 26, 2017, and the aggregated LCS and hammerhead shark management groups are quota-linked under the regulations. The blacktip shark fishery in the western Gulf of Mexico sub-region will be closed to minimize regulatory discards of aggregate LCS in the western Gulf of Mexico sub-region, which are often caught in conjunction with blacktip sharks in the commercial shark fisheries. This closure will affect anyone commercially fishing for sharks in the western Gulf of Mexico sub-region.

DATES: The commercial fishery for blacktip sharks, aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region are closed effective 11:30 p.m. local time May 2, 2017 until the end of the 2017 fishing season on December 31, 2017, or until and if NMFS announces via a notice in the **Federal Register** that additional quota is available and the season is reopened.

FOR FURTHER INFORMATION CONTACT: Lauren Latchford or Karyl Brewster-Geisz 301-427-8503; fax 301-713-1917.

SUPPLEMENTARY INFORMATION: The Atlantic shark fisheries are managed under the 2006 Consolidated Highly Migratory Species (HMS) Fishery Management Plan (FMP), its amendments, and implementing regulations (50 CFR part 635) issued under authority of the Magnuson-Stevens Fishery Conservation and

Management Act (16 U.S.C. 1801 *et seq.*).

Under § 635.5(b)(1), dealers must electronically submit reports on sharks that are first received from a vessel on a weekly basis through a NMFS-approved electronic reporting system. Reports must be received by no later than midnight, local time, of the first Tuesday following the end of the reporting week unless the dealer is otherwise notified by NMFS. Under § 635.28(b)(4), the quotas of certain species and/or management groups are linked. If quotas are linked, when the specified quota threshold for one management group or species is reached and that management group or species is closed, the linked management group or species closes at the same time (§ 635.28(b)(3)). The quotas for aggregated LCS and the hammerhead shark management groups in the western Gulf of Mexico sub-region are linked (§ 635.28(b)(4)(iii)). The blacktip shark quota in the western Gulf of Mexico sub-region is not linked to the aggregated LCS or hammerhead shark quotas. Regulations at § 635.28(b)(2) and § 635.28(b)(5) authorize the closure of the blacktip shark fishery in the Gulf of Mexico at a regional or sub-regional level when landings have reached or are expected to reach 80 percent of the quota or, after considering certain criteria and relevant factors, before those situations occur.

Under § 635.28(b)(2) and § 635.28(b)(3), when NMFS calculates that the landings for any species and/or management group of either a non-linked or a linked group have reached or are projected to reach a threshold of 80 percent of the available quota, NMFS will file for publication with the Office of the Federal Register a notice of closure for all of the species and/or management groups of either a non-linked or linked group that will be effective no fewer than 5 days from date of filing. From the effective date and time of the closure until and if NMFS announces, via a notice in the **Federal Register**, that additional quota is available and the season is reopened, the fisheries for all linked species and/or management groups and specified non-linked species and/or management groups are closed, even across fishing years.

On November 23, 2016 (81 FR 84491), NMFS announced that for 2017, the commercial western Gulf of Mexico blacktip shark sub-regional quota was 331.6 metric tons (mt) dressed weight (dw) (730,425 lb dw), the western Gulf of Mexico aggregated LCS sub-regional quota was 72.0 mt dw (158,724 lb dw), and the western Gulf of Mexico

hammerhead shark sub-regional quota was 11.9 mt dw (26,301 lb dw). Dealer reports received through April 26, 2017, indicate that 62.7 mt dw or 87 percent of the available western Gulf of Mexico aggregated LCS sub-regional quota has been landed, that 2.5 mt dw or 21 percent of the available western Gulf of Mexico hammerhead shark sub-regional quota has been landed, and that 203.9 mt dw or 61 percent of the available western Gulf of Mexico blacktip shark sub-regional quota has been landed. Based on these dealer reports, limits specified for a closure notice in the regulations for the aggregated LCS and hammerhead shark management groups in the western Gulf of Mexico sub-region have been reached. Accordingly, NMFS is closing the commercial aggregated LCS and hammerhead management groups in the western Gulf of Mexico sub-region as of 11:30 p.m. local time May 2, 2017.

Regarding blacktip sharks in the western Gulf of Mexico sub-region, regulations at § 635.28(b)(5)(i)–(v) authorize the closure of the blacktip shark fishery before landings reach, or are expected to reach, 80 percent of the quota after considering the following criteria and other relevant factors: season length based on available sub-regional quota and average sub-regional catch rates; variability in regional and/or sub-regional seasonal distribution, abundance, and migratory patterns; effects on accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments; amount of remaining shark quotas in the relevant sub-region; and regional and/or sub-regional catch rates of the relevant shark species or management groups. NMFS considered all of these criteria with respect to blacktip sharks in the western Gulf of Mexico sub-region, and in particular, considered sub-regional distribution and abundance (§ 635.28(b)(5)(ii)) and sub-regional catch rates (§ 635.28(b)(5)(v)). The directed shark fisheries in the western Gulf of Mexico sub-region exhibit a mixed species composition, with a high abundance and distribution of aggregated LCS caught in conjunction with blacktip sharks. As a result, NMFS believes that closing the aggregated LCS and hammerhead shark management groups while leaving only the blacktip shark fishery open in the western Gulf of Mexico sub-region could cause large numbers of regulatory discards of aggregated LCS species. Such discards could hinder the management goals and interfere with accomplishing the objectives of the 2006 Consolidated HMS FMP and its amendments

(§ 635.28(b)(5)(iii)), which include preventing overfishing while achieving on a continuing basis optimum yield and rebuilding overfished shark stocks. Such discards would also be contrary to National Standard 9, which requires that management measures minimize bycatch and bycatch mortality, particularly if the discards are dead and are of overfished species. A single closure for the blacktip, aggregated LCS, and hammerhead management groups in the western Gulf of Mexico sub-region would minimize regulatory discards, and help prevent overfishing, of aggregated LCS in the western Gulf of Mexico sub-region, consistent with the Magnuson-Stevens Fishery Conservation and Management Act and the criteria at § 635.28(b)(5). Accordingly, NMFS is closing the commercial blacktip shark fishery in the western Gulf of Mexico sub-region as of 11:30 p.m. local time May 2, 2017.

All other shark species or management groups in the western Gulf of Mexico sub-region that are currently open will remain open, including the commercial Gulf of Mexico non-blacknose small coastal sharks (SCS), blue sharks, smoothhound sharks, and pelagic sharks other than porbeagle or blue.

At § 635.27(b)(1), the boundary between the Gulf of Mexico region and the Atlantic region is defined as a line beginning on the East Coast of Florida at the mainland at 25°20.4' N. lat, proceeding due east. Any water and land to the south and west of that boundary is considered for the purposes of monitoring and setting quotas, to be within the Gulf of Mexico region. The boundary between the western and eastern Gulf of Mexico sub-regions is drawn along 88° 00' W. long. (§ 635.27(b)(1)(ii)).

During the closure, retention of blacktip sharks, aggregated LCS, and/or hammerhead sharks management groups in the western Gulf of Mexico sub-region is prohibited for persons fishing aboard vessels issued a commercial shark limited access permit under § 635.4. However, persons aboard a commercially permitted vessel that is also properly permitted to operate as a charter vessel or headboat for HMS and is engaged in a for-hire trip could fish under the recreational retention limits for sharks and “no sale” provisions (§ 635.22 (c)). Similarly, persons aboard a commercially permitted vessel that possesses a valid shark research permit under § 635.32 and has a NMFS-approved observer onboard may continue to harvest and sell blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf

of Mexico sub-region pursuant to the terms and conditions of the shark research permit.

During this closure, a shark dealer issued a permit pursuant to § 635.4 may not purchase or receive blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region from a vessel issued an Atlantic shark limited access permit (LAP), except that a permitted shark dealer or processor may possess blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region that were harvested, off-loaded, and sold, traded, or bartered prior to the effective date of the closure and were held in storage consistent with § 635.28(b)(6). Additionally, a permitted shark dealer or processor may possess blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region that were harvested by a vessel issued a valid shark research fishery permit per § 635.32 with a NMFS-approved observer onboard during the trip the sharks were taken on as long as the LCS research fishery quota remains open. Similarly, a shark dealer issued a permit pursuant to § 635.4 may, in accordance with relevant state regulations, purchase or receive blacktip sharks, aggregated LCS, and/or hammerhead sharks in the western Gulf of Mexico sub-region if the sharks were harvested, off-loaded, and sold, traded, or bartered from a vessel that fishes only in state waters and that has not been issued an Atlantic Shark LAP, HMS Angling permit, or HMS Charter/Headboat permit pursuant to § 635.4.

Classification

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator for Fisheries, NOAA (AA), finds that providing prior notice and public comment for this action is impracticable and contrary to the public interest because the fishery is currently underway and any delay in this action would result in overharvest of the quotas for these species and management groups and be inconsistent with management requirements and objectives. The regulations implementing the 2006 Consolidated HMS FMP and amendments provide for inseason retention limit adjustments and fishery closures to respond to the unpredictable nature of availability on the fishing grounds, the migratory nature of the species, and the regional variations. NMFS is not able to give notice sooner nor would sooner notice be practicable given the structure of the regulations, which require closure of the fishery at a certain quota percentage

threshold, and that that threshold needs to be determined based on near real-time data to balance fishing opportunities against the management goal of preventing quota overharvests. Similarly, affording prior notice and opportunity for public comment on this action is contrary to the public interest because if a quota is exceeded, the stock may be negatively affected and

fishermen ultimately could experience reductions in the available quota and a lack of fishing opportunities in future seasons. For these reasons, the AA also finds good cause to waive the 30-day delay in effective date pursuant to 5 U.S.C. 553(d)(3). This action is required under § 635.28(b)(3) and § 635.28(b)(5) and is exempt from review under Executive Order 12866.

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

Dated: April 26, 2017.

Karen H. Abrams,

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

[FR Doc. 2017-08833 Filed 4-27-17; 4:15 pm]

BILLING CODE 3510-22-P

Proposed Rules

Federal Register

Vol. 82, No. 83

Tuesday, May 2, 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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0332; Directorate Identifier 2016-NM-164-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 certain The Boeing Company Model 737-200, -200C, -300, -400, and -500 series airplanes. This proposed AD was prompted by reports of skin doublers that disbonded from their skin panels. This proposed AD would require repetitive inspections of fuselage skin panels, 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 June 16, 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 Westminister

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-2017-0332.

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-2017-0332; 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: Wade Sullivan, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6430; fax: 425-917-6590; email: wade.sullivan@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-2017-0332; Directorate Identifier 2016-NM-164-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

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. It is associated with general degradation of large areas of structure with similar structural details and stress levels. As an airplane ages, widespread fatigue damage (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.

We have received reports of skin doublers that disbonded from their skin panels on certain Model 737 series airplanes. Bonded skin doublers are part of the back-up structure for the skin panels and are installed from body station (BS) 259.50 through BS 1016 on both sides of the airplane. The airplane manufacturer has attributed the root cause of disbonded skin doublers to improper processing during the phosphoric acid anodization phase of skin panel manufacturing. Disbonding of the skin panel reduces the skin panel's capability to resist cracks in the countersunk holes of fastened joints and can lead to fuselage skin cracking and multi-site damage, predominantly in the lap splices and butt joints. Fuselage skin cracking resulting from disbonded skin panels, if not detected and corrected, could result in rapid decompression and loss of structural integrity of the airplane.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737-53A1349, dated August 23, 2016. The service information describes procedures for repetitive inspections of

fuselage skin panels for cracking, corrosion, and existing disbond repairs; 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 that 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 737-53A1349, dated August 23, 2016, described previously, except for differences between this proposed AD and the service information that are identified in the regulatory text of this proposed AD.

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-2017-0332.

Related Rulemaking

AD 2003-14-06, Amendment 39-13225 (68 FR 40759, July 9, 2003; corrected July 21, 2003 (68 FR 42956)) ("AD 2003-14-06"), applies to certain Model 737-200, -200C, -300, -400, and -500 series airplanes. AD 2003-14-06

requires repetitive inspections for cracking of certain lap splices, and corrective action if necessary. Accomplishment of initial inspections specified in this proposed AD would terminate all requirements of AD 2003-14-06.

Explanation of Certain Compliance Times

The compliance time to replace skin panels, which is one of the actions identified as "RC" for certain conditions to address WFD in this NPRM, was established to ensure that discrepant structure is replaced before WFD develops in airplanes. Standard inspection techniques cannot be relied on to detect WFD before it becomes a hazard to flight. We will not grant any extensions of the compliance time to complete any AD-mandated service bulletin related to WFD without extensive new data that would substantiate and clearly warrant such an extension.

Table 9 of paragraph 1.E., "Compliance," of Boeing Alert Service Bulletin 737-53A1349, dated August 23, 2016, does not provide a grace period for airplanes that have exceeded a certain compliance time. Paragraph (h)(3) of this proposed AD adds a grace period of 4,500 flight cycles. We have coordinated this grace period with Boeing.

Costs of Compliance

We estimate that this proposed AD affects 169 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 |
|--|---|------------|---------------------------------|-----------------------------------|
| External general visual and detailed inspections. | 180 work-hours × \$85 per hour = \$15,300 per inspection cycle. | \$0 | \$15,300 per inspection cycle | \$2,585,700 per inspection cycle. |
| External high frequency bond test inspection. | 450 work hours × \$85 per hour = \$38,250 per inspection cycle. | 0 | \$38,250 inspection cycle | \$6,464,250 per inspection cycle. |
| Ultrasonic disbond inspection and internal detailed skin inspection. | 630 work-hours × \$85 per hour = \$53,550 per inspection cycle. | 0 | \$53,550 per inspection cycle | \$9,049,950 per inspection cycle. |

We estimate the following costs to do any necessary on-condition actions that would be required based on the results

of the proposed inspections. We have no way of determining the number of

aircraft that might need these on-condition actions:

ON-CONDITION COSTS PER SKIN PANEL

| Action | Labor cost | Parts cost | Cost per product |
|--------------------------------|--|-------------------|------------------|
| On-condition inspections | Up to 25 work-hours × \$85 per hour = \$2,125 .. | \$0 | Up to \$2,125. |
| Repairs | Up to 68 work-hours × \$85 per hour = \$5,780 .. | Up to \$100 | Up to \$5,880. |

ON-CONDITION COSTS PER SKIN PANEL—Continued

| Action | Labor cost | Parts cost | Cost per product |
|------------------------------|---|----------------|------------------|
| Skin panel replacement | 304 work-hours × \$85 per hour = \$25,840 | \$95,000 | \$120,840. |

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.

(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–2017–0332; Directorate Identifier 2016–NM–164–AD.

(a) Comments Due Date

We must receive comments by June 16, 2017.

(b) Affected ADs

This AD affects AD 2003–14–06, Amendment 39–13225 (68 FR 40759, July 9, 2003; corrected July 21, 2003 (68 FR 42956)) (“AD 2003–14–06”).

(c) Applicability

This AD applies to The Boeing Company Model 737–200, –200C, –300, –400, and –500 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of skin doublers that disbonded from their skin panels. We are issuing this AD to detect and correct disbonded skin panels, which could result in fuselage skin cracking, rapid decompression, and loss of structural integrity 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: Do all applicable actions identified as required for compliance (“RC”) in, and in accordance with, the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016. Do the actions at the applicable times specified in paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016.

(h) Exceptions to Service Information Specifications

(1) Where Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016, uses the phrase “after the original issue of this service bulletin,” for purposes of determining compliance with the requirements of this AD, the phrase “after the effective date of this AD” must be used.

(2) Where Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016, specifies contacting Boeing for instructions, and specifies that action as “RC” (Required for Compliance): This AD requires using a method approved in accordance with the procedures specified in paragraph (k) of this AD.

(3) For replaced skin panels identified in table 9 of paragraph 1.E., “Compliance,” of Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016, on which the one-time internal inspection specified in Service Bulletin 737–53–1179, Revision 2, dated October 25, 2001, has not been done: The compliance time for accomplishment of the actions specified in Part 8 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016, is at the latest of the times specified in paragraphs (h)(3)(i), (h)(3)(ii), and (h)(3)(iii) of this AD.

(i) Within 50,000 flight cycles after the skin panel replacement.

(ii) Within 20,000 flight cycles after July 14, 2003 (the effective date of AD 2003–14–16).

(iii) Within 4,500 flight cycles after the effective date of this AD.

(i) Terminating Action for This AD

Accomplishment of any skin panel replacement, as specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1349, dated August 23, 2016, except as required by paragraph (h)(2) of this AD, terminates the repetitive inspections required by paragraph (g) of this AD at the replaced skin panel only.

(j) Terminating Action for AD 2003–14–06

Accomplishment of the initial inspections required by paragraph (g) of this AD terminates all requirements of AD 2003–14–06.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office, 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)(1) 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, 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) Except as required by paragraph (h)(2) of this AD: For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (k)(4)(i) and (k)(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.

(I) Related Information

(1) For more information about this AD, contact Wade Sullivan, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057-3356; phone: 425-917-6430; fax: 425-917-6590; email: wade.sullivan@faa.gov.

(2) For information about AMOCs, contact Jennifer Tsakoumakis, 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.

(3) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminister 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 April 24, 2017.

Paul Bernardo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-08831 Filed 5-1-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0331; Directorate Identifier 2016-NM-213-AD]

RIN 2120-AA64

Airworthiness Directives; Bombardier, 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 Bombardier, Inc. Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 airplanes. This proposed AD was prompted by reports of undamped main landing gear (MLG) extension in-service. This proposed AD would require replacement of the MLG retraction actuator rod-ends on both MLG assemblies. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by June 16, 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 Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416-375-4000; fax 416-375-4539; email thd.qseries@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.

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-2017-0331; 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:

Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE-171, FAA, New York Aircraft Certification Office (ACO), 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516-228-7303; fax 516-794-5531.

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-2017-0331; Directorate Identifier 2016-NM-213-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

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF-2016-36, dated December 6, 2016, (referred to after this as the Mandatory Continuing Airworthiness Information, or "the MCAI"), to correct an unsafe condition for certain Bombardier, Inc. Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 airplanes. The MCAI states:

Two cases of undamped main landing gear (MLG) extension were reported in-service. Investigation determined that the MLG retraction actuator rod-ends failed as a result of non-conforming threads. This condition, if not corrected, could lead to additional MLG undamped extensions, which may result in MLG structural failure, resulting in an unsafe asymmetric landing gear configuration.

This [Canadian] AD mandates the replacement of the MLG retraction actuator rod-end subassemblies manufactured with non-conforming threads with units that fully conform to the design requirements.

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-2017-0331.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc. issued Service Bulletin 8-32-179, Revision A, dated March 9, 2017. This service information describes procedures for replacing the MLG retraction actuator rod-ends on both MLG assemblies with units that fully conform to the design requirements. 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.

Costs of Compliance

We estimate that this proposed AD affects 91 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 |
|-------------------|--|------------|------------------|------------------------|
| Replacement | 3 work-hours × \$85 per hour = \$255 | \$2,078 | \$2,333 | \$212,303 |

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):

Bombardier, Inc.: Docket No. FAA-2017-0331; Directorate Identifier 2016-NM-213-AD.

(a) Comments Due Date

We must receive comments by June 16, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model DHC-8-102, -103, -106, -201, -202, -301, -311, and -315 airplanes, certificated in any category, serial numbers 003 through 672 inclusive, equipped with main landing gear (MLG) retraction actuator assembly part number 10500-101, -103, -501, -551, or -553.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing Gear.

(e) Reason

This AD was prompted by reports of an undamped MLG extension in-service. We are issuing this AD to prevent MLG undamped extensions, which could result in MLG structural failure, resulting in an unsafe asymmetric landing gear configuration.

(f) Compliance

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

(g) Replacement of MLG Retraction Actuator Rod-Ends

At the applicable time specified in paragraph (g)(1) or (g)(2) of this AD: Replace the MLG retraction actuator rod-ends on both MLG assemblies, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 8-32-179, Revision A, dated March 9, 2017.

(1) For MLG retraction actuator assemblies with 37,000 total flight cycles or more as of the effective date of this AD: Within 18 months or 2,700 flight cycles, whichever occurs first after the effective date of this AD.

(2) For MLG retraction actuator assemblies with fewer than 37,000 total flight cycles as of the effective date of this AD: Within 24 months or 3,600 flight cycles, whichever occurs first after the effective date of this AD.

(h) Alternative Installation of Part Number (P/N) 10500-105, -503, or -555

Installation of MLG retraction actuator assembly P/N 10500-105, -503, or -555 on both MLGs is acceptable for compliance with the replacement required by paragraph (g) of this AD.

(i) 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 Bombardier Service Bulletin 8-32-179, dated July 10, 2015.

(j) 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 manager of the ACO, send it to the attention of the person identified in paragraph (k)(2) of this AD. 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, 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.

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF-2016-36, dated December 6, 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-2017-0331.

(2) For more information about this AD, contact the 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.

(3) For service information identified in this AD, contact Bombardier, Inc., Q-Series Technical Help Desk, 123 Garratt Boulevard, Toronto, Ontario M3K 1Y5, Canada; telephone 416-375-4000; fax 416-375-4539; email thd.qseries@aero.bombardier.com; Internet <http://www.bombardier.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 April 24, 2017.

Paul Bernado,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017-08830 Filed 5-1-17; 8:45 am]

BILLING CODE 4910-13-P

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

April 26, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) Whether the 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 burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by June 1, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@OMB.EOP.GOV or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs

potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

National Institute of Food and Agriculture

Title: Research Education Extension Project Online Reporting Tool (REEPORT).

OMB Control Number: 0524–0048.

Summary of Collection: The United States Department of Agriculture (USDA), National Institute of Food and Agriculture (NIFA) administer several competitive, peer-reviewed research, education, and extension programs, under which awards of high-priority are made. These programs are authorized pursuant to the authorities contained in the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3101), the Smith-Lever Act of 1914, as amended (Pub. L. 107–293, 2002) and other legislative authorities. NIFA also administers several formula funded research programs. The programs are authorized pursuant to the authorities contained in the McIntire-Stennis Cooperative Forestry Research Act of October 10, 1962 (16 U.S.C. 582a–582a–7) (McIntire-Stennis Act); the Hatch Act of 1887, as amended (7 U.S.C. 361a–i) (Hatch Act); Section 1445 of Public Law 95–113, the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3222) (Pub. L. 95–113); Section 1433 of Subtitle E (Sections 1429–1439); Title XIV of Public Law 95–113, as amended (7 U.S.C. 3191–3201) (Pub. L. 95–113); the Smith-Lever Act; and the Renewable Resources Extension Act. Each formula funded program is also subject to requirements, which were revised in March 2000, and set forth in the Administrative Manual for the McIntire-Stennis Cooperative Forestry Research Program, the Administrative Manual for the Hatch Research Program, the Administrative Manual for the Evans-Allen Cooperative Agricultural Research Program, and the Administrative Manual for the Continuing Animal Health and Disease Research Program. NIFA is developing administrative regulations for the formula funded programs it administers. NIFA plans to deploy REEport as NIFA's singular non-formula (including competitive grants)

and formula grant project reporting system, building on and replacing the existing Current Research Information System (CRIS) Web forms system.

Need and Use of the Information: This new revision is a combination of two previously Information Collections published in the **Federal Register**, the first on Friday, June 12, 2015, Vol 80, No. 113, FR DOC. 205114416 and the second **Federal Register** Notice published Monday, February 29, 2017, Vol. 81, No. 39, FR Doc. 2016–04188. This Information Collection pertained to collecting demographic information on Progress/Final Report about the audiences reached by the research, education, and extension activities funded by the agency as well as additional categories or participants on funded projects. This notice also describes the agencies intent to collect identifying information on Patents and Plant Variety Protections as well as quantitative outcome measures in seven challenge areas.

The collection of information is necessary in order to provide descriptive information regarding individual research, education, and integrated activities, to document expenditures and staff support for the activities, and to monitor the progress and impact of such activities. The information is collected primarily via the Internet through a Web site that may be accessed via the NIFS Reporting Portal. The information provided helps users to keep abreast of the latest developments in utilization in specific target areas, plan for future activities; plan for resource allocation to research and education programs; avoid costly duplication of effort; aid in coordination of research and education efforts addressing similar problems in different location; and aid researchers and project directors in establishing valuable contacts with the agricultural community.

Description of Respondents: Not-for-profit institutions; Business or other for-profit; Individuals or household; Federal Government; State, Local or Tribal Government.

Number of Respondents: 23,900.

Frequency of Responses: Reporting: Once per request.

Total Burden Hours: 72,900.

Ruth Brown,

Departmental Information Collection
Clearance Officer.

[FR Doc. 2017-08788 Filed 5-1-17; 8:45 am]

BILLING CODE 3410-09-P

DEPARTMENT OF AGRICULTURE

Notice of Request for Extension or Renewal of a Currently Approved Information Collection; Correction

AGENCY: Department of Agriculture.

ACTION: Notice; correction.

SUMMARY: The Department of Agriculture published a document in the **Federal Register** of April 24, 2017, to request a renewal to a currently approved information collection for race, ethnicity, and gender along with comments. The document contained the wrong OMB number.

FOR FURTHER INFORMATION CONTACT: Anna G. Stroman (202) 205-5953.

Correction

In the **Federal Register** of April 24, 2017, in FR Doc 2017-08151, on page 18889, under the **SUPPLEMENTARY INFORMATION**, correct the OMB No. to read:

SUPPLEMENTARY INFORMATION: OMB No. 0503-0019.

Dated: April 26, 2017.

Winona Lake Scott,

Acting Deputy Assistant Secretary for Civil Rights.

[FR Doc. 2017-08847 Filed 5-1-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Guarantee Fee Rates for Guaranteed Loans for Fiscal Year 2017; Maximum Portion of Guarantee Authority Available for Fiscal Year 2017; Annual Renewal Fee for Fiscal Year 2017

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice.

SUMMARY: This notice helps to improve applicants' awareness of the Guarantee Fee rates for Guaranteed Loans for Fiscal Year (FY) 2017, Maximum Portion of Guarantee Authority Available for FY 2017, Annual Renewal Fee for FY 2017 when applying for guaranteed loans under the Business and Industry (B&I) Guaranteed Loan Program.

The Agency has the authority to charge a guarantee fee and an annual renewal fee for loans made under the B&I Guaranteed Loan Program. Pursuant to that authority, and subject to the current Continuing Resolution, the Agency is establishing an initial guarantee fee rate of 3 percent and an annual renewal fee rate of one-half of 1 percent for the B&I Guaranteed Loan Program.

The initial guarantee fee is paid at the time the Loan Note Guarantee is issued. The annual renewal fee is paid by the lender to the Agency once a year. Payment of the annual renewal fee is required in order to maintain the enforceability of the guarantee.

DATES: Effective May 2, 2017.

FOR FURTHER INFORMATION CONTACT:

Nichelle Daniels, USDA, Rural Development, Business Programs, Business and Industry Division, STOP 3224, 1400 Independence Avenue SW., Washington, DC 20250-3224, telephone (202) 720-0786, email nichelle.daniels@wdc.usda.gov.

SUPPLEMENTARY INFORMATION: As set forth in 7 CFR 4279.120, the Agency has the authority to charge an initial guarantee fee and an annual renewal fee for loans made under the B&I Guaranteed Loan Program. Pursuant to that authority, and subject to the current continuing resolution, the Agency is establishing an initial guarantee fee rate of 3 percent and an annual renewal fee rate of one-half of 1 percent for the B&I Guaranteed Loan Program. Unless precluded by a subsequent FY 2017 appropriation, these rates will apply to all loans obligated in FY 2017 that are made under the B&I Guaranteed Loan Program. As established in 7 CFR 4279.120(b)(1), the amount of the fee on each guaranteed loan will be determined by multiplying the fee rate by the outstanding principal loan balance as of December 31, multiplied by the percentage of guarantee.

As set forth in 7 CFR 4279.120(a) and 4279.119(b), each fiscal year, the Agency shall establish a limit on the maximum portion of B&I guarantee authority available for that fiscal year that may be used to guarantee loans with a reduced guarantee fee or guaranteed loans with an increased percentage of guarantee. The Agency has established that not more than 12 percent of the Agency's apportioned B&I guarantee authority will be reserved for loan guarantee requests with a reduced fee, and not more than 15 percent of the Agency's apportioned B&I guarantee authority will be reserved for guaranteed loan requests with an increased percentage of guarantee. Once

the respective limits are reached, all additional loans will be at the standard fee and guarantee limits.

Allowing a reduced guarantee fee or increased percentage of guarantee on certain B&I guaranteed loans that meet the conditions set forth in 7 CFR 4279.120 and 4279.119 will increase the Agency's ability to focus guarantee assistance on projects that the Agency has found particularly meritorious. Subject to annual limits set by the Agency in this notice, the Agency may charge a reduced guarantee fee if requested by the lender for loans of \$5 million or less when the borrower's business supports value-added agriculture and results in farmers benefitting financially, promotes access to healthy foods, or is a high impact business development investment located in a rural community that is experiencing long-term population decline; has remained in poverty for the last 30 years; is experiencing trauma as a result of natural disaster; is located in a city or county with an unemployment rate 125 percent of the statewide rate or greater; or is located within the boundaries of a federally recognized Indian tribe's reservation or within tribal trust lands or within land owned by an Alaska Native Regional or Village Corporation as defined by the Alaska Native Claims Settlement Act. Subject to annual limits set by the Agency in this notice, the Agency may allow increased percentages of guarantee for high-priority projects or loans where the lender needs the increased percentage of guarantee due to its legal or regulatory lending limit.

This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866, as amended by Executive Order 13258.

Dated: April 18, 2017.

Chadwick O. Parker,

Acting Administrator, Rural Business-Cooperative Service.

[FR Doc. 2017-08790 Filed 5-1-17; 8:45 am]

BILLING CODE 3410-XY-P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Colorado Advisory Committee to the

Commission will convene in-person and via teleconference at 2:00 p.m. (MDT) on Monday, May 15, 2017, at the Mt. Evans Conference Room, 2nd Floor, Byron Rogers Federal Building, 1961 Stout Street, Denver, CO 80294. The purpose of the meeting is to plan for briefing meeting to discuss the Colorado Blaine Amendment and its effect on minority children and children with disabilities, as well as parents and children's religious beliefs.

DATES: Monday, May 15, 2017, at 2:00 p.m. (MDT).

ADDRESSES: Mt. Evans Conference Room, 2nd Floor, Byron Rogers Federal Building, 1961 Stout Street, Denver, CO 80294; and/or

Conference Call Toll-Free Number: 1-888-500-6974, Conference ID: 1223667.
TDD: Dial Federal Relay Service 1-800-977-8339 and give the operator the above conference call number and conference ID.

FOR FURTHER INFORMATION CONTACT: Malee V. Craft, DFO, mcraft@usccr.gov, 303-866-1040.

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion by dialing the following Conference Call Toll-Free Number: 1-888-500-6974; Conference ID: 1223667. Please be advised that before being placed into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and an email address (if available) prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free phone number. Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1-800-977-8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1-888-500-6974, Conference ID: 1223667.

Members of the public are invited to submit written comments; the comments must be received in the regional office by Thursday, June 15, 2017. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13-201, Denver, CO 80294, faxed to (303) 866-1050, or emailed to Evelyn Bohor at ebohor@usccr.gov. Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866-1040.

Records and documents discussed during the meeting will be available for

public viewing as they become available at <http://www.facadatabase.gov/committee/meetings.aspx?cid=238> and clicking on the "Meeting Details" and "Documents" links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, www.usccr.gov, or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

- Welcome and Roll-call
Malee V. Craft, Regional Director,
Rocky Mountain Regional Office
(RMRO)
- Planning for Briefing Meeting
Alvina L. Earnhart, Chair, Colorado
State Advisory Committee
- Next Steps
- Adjourn

Dated: April 26, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017-08802 Filed 5-1-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-939]

Tow-Behind Lawn Groomers and Parts Thereof From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2015-2016

AGENCY: Enforcement and Compliance, Department of Commerce.

SUMMARY: The Department of Commerce ("the Department") is rescinding the administrative review of the antidumping duty order on tow-behind lawn groomers and parts thereof from the People's Republic of China ("PRC") for the period August 1, 2015, through July 31, 2016.

DATES: Effective May 2, 2017.

FOR FURTHER INFORMATION, CONTACT: Thomas Martin, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482-3936.

SUPPLEMENTARY INFORMATION:

Background

On October 14, 2016, based on a timely request for review by Jiashan

Superpower Tools Co., Ltd ("Superpower"), the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on tow-behind lawn groomers and parts thereof from the PRC with respect to Superpower, covering the period August 1, 2015, through July 31, 2016.¹ On October 19, 2016, Superpower timely withdrew its request for an administrative review.²

Rescission of Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if the party that requested the review withdraws its request within 90 days of the publication of the notice of initiation of the requested review. In this case, Superpower timely withdrew its review request by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order.³ As a result, we are rescinding the administrative review of tow-behind lawn groomers and parts thereof from the PRC for the period August 1, 2015, through July 31, 2016.

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 pertained 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.

Notifications

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

¹ See *Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 81 FR 71061 (October 14, 2016) ("Initiation Notice").

² See *Tow-Behind Lawn Groomers from the People's Republic of China, A-570-939; Withdrawal of Request for Administrative Review*, dated October 19, 2016.

³ The 90-day deadline to withdraw a request for review was January 12, 2017.

result in the Department's presumption that reimbursement of the antidumping duties occurred and the subsequent assessment of doubled antidumping duties.

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, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/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.

This notice is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: April 25, 2017.

Gary Taverman,

Associated Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017-08824 Filed 5-1-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[Application No. 94-5A007]

Export Trade Certificate of Review

ACTION: Notice of Application to Amend the Export Trade Certificate of Review Issued to Florida Citrus Exports, L.C. ("FCE"), Application No. 94-5A007.

SUMMARY: The Office of Trade and Economic Analysis ("OTEA") of the International Trade Administration, Department of Commerce, has received an application to amend an Export Trade Certificate of Review ("Certificate"). This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT:

Joseph Flynn, Director, Office of Trade and Economic Analysis, International Trade Administration, (202) 482-5131 (this is not a toll-free number) or email at etca@trade.gov.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. Sections 4001-21) ("the Act") authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. An Export Trade

Certificate of Review protects the holder and the members identified in the Certificate from State and Federal government antitrust actions and from private treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Export Trading Company Act of 1982 and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its application.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a non-confidential version of the comments (identified as such) should be included. Any comments not marked as privileged or confidential business information will be deemed to be non-confidential.

An original and five (5) copies, plus two (2) copies of the non-confidential version, should be submitted no later than 20 days after the date of this notice to: Export Trading Company Affairs, International Trade Administration, U.S. Department of Commerce, Room 21028, Washington, DC 20230.

Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, non-confidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the amended Certificate. Comments should refer to this application as "Export Trade Certificate of Review, application number 94-5A007."

Summary of the Application

Applicant: FCE, P.O. Box 1531, Tampa, FL 33601.

Contact: William Stainton, Telephone: (813) 273-4200.

Application No.: 94-5A007.

Date Deemed Submitted: April 17, 2017.

Proposed Amendment: FCE seeks to amend its Certificate as follows:

- Add the following new Member of the Certificate within the meaning of section 325.2(1) of the Regulations (15 CFR 325.2(1)): Premier Citrus Marketing, LLC.

FCE's proposed amendment of its Certificate would result in the following Members list:

Golden River Fruit Co., Vero Beach, Florida

Hogan and Sons, Inc., Vero Beach, Florida

Indian River Exchange Packers, Inc., Vero Beach, Florida

Leroy E. Smith's Sons, Inc., Vero Beach, Florida

The Packers of Indian River, Ltd., Ft. Pierce, Florida

Premier Citrus Marketing, LLC, Vero Beach, Florida

River One International Marketing, Inc., Vero Beach, Florida

Riverfront Packing Co. LLC, Vero Beach, Florida

Seald Sweet LLC, Vero Beach, Florida

Dated: April 27, 2017.

Joseph Flynn,

Director, Office of Trade and Economic Analysis, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 2017-08832 Filed 5-1-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF373

Council Coordination Committee Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The New England Fishery Management Council (NEFMC) will host a meeting of the Council Coordination Committee (CCC) consisting of eight Regional Fishery Management Council (RFMC) chairs, vice chairs, and executive directors—and its subcommittees—in May 2017. The intent of this meeting is to discuss issues of relevance to the Councils, including: Budget issues, MSA reauthorization, National Standard 1, recreational fishery issues, enforcement activities, a review of recent legal actions, conflict of interest policy guidance, other topics of concern to the RFMCs, and decisions and follow-up activities.

DATES: The meeting will be held May 15-18, 2017. Registration for the meeting will begin at 1 p.m. on Monday, May 15, 2017. The meeting will begin at 8:30 a.m. on Tuesday, May 16, 2017, and recess at 5:15 p.m. or when business is complete. The meeting will reconvene at 8:30 a.m. on Wednesday, May 17, 2017, until 5 p.m. or when business is complete. The meeting will reconvene on the final day at 8:30 a.m.

on Thursday, May 18, 2017 and adjourn whenever business is complete.

ADDRESSES: The meeting will be held at the Beauport Hotel Gloucester, 55 Commercial Street, Gloucester MA 01930; telephone: (978) 282-0008.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950; telephone: (978) 465-0492; www.nefmc.org.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465-0492, ext. 113.; email: tnies@nefmc.org.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation (MSA) and Management Reauthorization Act (MSRA) established the CCC by amending section 302 (16 U.S.C. 1852) of the MSA. The committee consists of the chairs, vice chairs, and executive directors of each of the eight Regional Fishery Management Councils authorized by the MSA or other Council members or staff. NEFMC will host this meeting and provide reports to the CCC for its information and discussion. All sessions are open to the public. NMFS or other Council items of discussion for each individual management committee agenda are as follows:

Agenda

Tuesday, May 16, 2017; 8:30 a.m.–5:15 p.m.

- Welcome and Introductions;
- NMFS update and 2017 priorities;
- Council round robin of current issues;
- Electronic monitoring/electronic reporting cost monitoring;
- Legislative update and MSA Reauthorization; and
- National Monuments and Marine Sanctuaries.

—Adjourn for the day

Wednesday, May 17, 2017; 8:30 a.m.–5 p.m.

- Overview of recent legal actions;
- NOAA Conflict of Interest Policy Guidance;
- Update on science policy issues: Best Scientific Information Available and the Stock Assessment Improvement Program;
- Recreational fisheries update;
- Recreational catch monitoring alternatives and issues; and
- Enforcement activities of the U.S. Coast Guard and NOAA Office of Law Enforcement.

—Adjourn for the day

Thursday, May 18, 2017; 8:30 a.m.–4:30 p.m.

- National Standard 1 Questions and Clarifications;
- FY 2017 Management and Budget Update;
- Fishery Independent Data Funding Outlook;
- International negotiations and appointments;
- Regulatory review issues;
- CCC Work Group reports and planning; and
- Other business and wrap-up; future meeting plans.

The timing and order in which agenda items are addressed may change as required to effectively address the issues. The CCC will meet as late as necessary to complete scheduled business.

In addition to the main CCC meeting, there will be a concurrent meeting of the deputy director or a senior staff member from each Council. This group will share information on Council administrative practices and will report to the CCC on Thursday, May 18.

The public also should be aware that the meeting will be recorded and a transcript prepared. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies (see **ADDRESSES**) at least 5 days prior to the meeting date.

Dated: April 27, 2017.

Emily H. Menashes,

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

[FR Doc. 2017-08825 Filed 5-1-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF336

Fisheries of the South Atlantic; South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Habitat Protection

and Ecosystem-Based Management (Habitat) Advisory Panel (AP) in Charleston, SC. The meeting is open to the public.

DATES: The meeting will be held on Tuesday, May 16, 2017, from 9 a.m. until 4 p.m. and Wednesday, May 17, 2017, from 9 a.m. until 4 p.m.

ADDRESSES:

Meeting address: The meeting will be held at the Town and Country Inn, 2008 Savannah Highway, Charleston, SC 29407; phone: (800) 334-6660 or (843) 571-1000

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; phone (843) 571-4366 or toll free (866) SAFMC-10; fax: (843) 769-4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: Items to be addressed or sessions to be conducted during this meeting include: The Council's Fishery Ecosystem Plan (FEP) II and Essential Fish Habitat (EFH); Draft EFH Policy Statement for Artificial Reefs; Habitat and Ecosystem Tools supporting FEP II; National Marine Fisheries Service (NMFS) Permit/Policy Activities; a presentation by the Sargasso Sea Commission; the South Atlantic Landscape Conservation Cooperative (SALCC) Conservation Blueprint- refining indicators and linkages to FEP II; and proposed South Atlantic deepwater coral mapping.

Members of the AP will discuss items and provide recommendations as appropriate.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 5 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

Dated: April 27, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017-08820 Filed 5-1-17; 8:45 am]

BILLING CODE 3510-22-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 (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: West Coast Region Vessel Monitoring System and Pre-Trip Reporting System Requirements.

OMB Control Number: 0648-0498.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 36.

Average Hours per Response: Vessel monitoring system (VMS) installation, 4 hours; VMS activation reports, on/off notifications and pre-trip reports, 5 minutes each; maintenance and repair, 60 minutes.

Burden Hours: 88.

Needs and Uses: This request is for revision and extension of a current information collection. The title will change from *West Coast Region Longline Monitoring System and Pre-Trip Reporting Requirements* to *West Coast Region Vessel Monitoring System and Pre-trip Reporting Requirements*. In addition, this collection will merge OMB Control Number 0648-0690 (*Vessel Monitoring System Requirements in the Eastern Pacific Highly Migratory Species Fisheries*) into this information collection.

This collection applies to owners and operators of U.S. commercial fishing vessels that fish in the West Coast exclusive economic zone and the eastern Pacific Ocean waters of the Inter-American Tropical Tuna Commission (IATTC) Convention Area for highly migratory species (HMS) as defined by the Fishery Management Plan (FMP) for United States (U.S.) West Coast Fisheries for Highly Migratory Species, as well as a broader group of tuna and tuna-like species covered by the IATTC. These vessel owners and operators are required to submit information about their intended and actual fishing activities. These submissions would allow the National Marine Fisheries Service (NMFS) and the Pacific Fisheries Management Council to monitor the fisheries. Submissions include pre-trip reporting

requirements and vessel monitoring systems (VMS). Pre-trip reporting requirements are essential for effectively and efficiently assigning available observer coverage to selected HMS vessels. Data collected by observers are critical to evaluate that the objectives of the HMS FMP are being achieved and for evaluating the impacts of potential changes in fishery management. VMS units facilitate enforcement of management measures associated with HMS fisheries, provide timely information on associated fleet activities and enable confirmation of reported vessel fishing activity locations, which help validate logbook record accuracy.

Affected Public: Business or other for-profit organizations.

Frequency: One time, annually and on occasion.

Respondent's Obligation: Mandatory.

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: April 27, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017-08837 Filed 5-1-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF EDUCATION

Applications for New Awards; Technical Assistance and Dissemination To Improve Services and Results for Children With Disabilities—National Technical Assistance Center for Inclusive Practices and Policies

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Notice.

SUMMARY: The Department of Education is issuing a notice inviting applications for new awards for fiscal year (FY) 2017 for Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities—National Technical Assistance Center for Inclusive Practices and Policies, Catalog of Federal Domestic Assistance (CFDA) Number 84.326Y.

DATES: *Applications Available:* May 2, 2017.

Deadline for Transmittal of Applications: June 16, 2017.

Deadline for Intergovernmental Review: August 15, 2017.

FOR FURTHER INFORMATION CONTACT: Tina Diamond, U.S. Department of Education, 400 Maryland Avenue SW., Room 5136, Potomac Center Plaza, Washington, DC 20202-5108. Telephone: (202) 245-6674.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:**Full Text of Announcement****I. Funding Opportunity Description**

Purpose of Program: The purpose of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program is to promote academic achievement and to improve results for children with disabilities by providing technical assistance (TA), supporting model demonstration projects, disseminating useful information, and implementing activities that are supported by scientifically based research.

Priority: In accordance with 34 CFR 75.105(b)(2)(v), this priority is from allowable activities specified in the statute (see sections 663 and 681 of the Individuals with Disabilities Education Act (IDEA); 20 U.S.C. 1463 and 20 U.S.C. 1481).

Absolute Priority: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is an absolute priority. Under 34 CFR 75.105(c)(3), we consider only applications that meet this priority.

This priority is:

National Technical Assistance Center for Inclusive Practices and Policies

Background

All children with disabilities benefit when educators have high expectations of them and take steps to ensure their appropriate participation in the general education curriculum to the maximum extent possible. Furthermore, IDEA requires placement of children with disabilities in the least restrictive environment so they are educated with nondisabled children to the maximum extent appropriate. This general philosophy of inclusion is a cornerstone of IDEA and applies to all children with disabilities, including students with the most significant cognitive disabilities, who often need the most support. These most significant cognitive disabilities include, but are not limited to,

intellectual disabilities, autism, multiple disabilities, and traumatic brain injury.

Students with the most significant cognitive disabilities, however, continue to be educated in separate placements and settings (e.g., classrooms, schools, and out-of-district placements) where exposure to the general education classroom, peers, and core curriculum is limited. The wide variation in educational placements across the country suggests, at a minimum, that the placements of students with the most significant cognitive disabilities may not always be decided on the basis of their individual educational needs. Further, despite advances in identifying effective and practical inclusion tools and strategies for serving children with disabilities, implementation remains a challenge for school personnel who work with children with the most intensive needs.

This competition will help address these circumstances and challenges.

Priority: The purpose of this priority is to fund a cooperative agreement to establish and operate a TA Center for Inclusive Practices and Policies (TA Center) to assist State educational agencies (SEAs) and local educational agencies (LEAs) to successfully implement and sustain inclusive practices and policies, supported by evidence (as defined in this notice) and based on individualized determinations, for students with the most significant cognitive disabilities in elementary and middle school (K–8) programs. The TA Center will select sites in collaboration with the Office of Special Education Programs (OSEP). The TA Center must achieve, at a minimum, the following expected outcomes:

(a) Increase the quantity of time that students with the most significant cognitive disabilities are served in more inclusive environments, where appropriate, based on their individual needs;

(b) Increase the amount of educational engagement for students with the most significant cognitive disabilities across multiple settings and activities (e.g., classroom, academic instruction, extracurricular activities) throughout the school day;

(c) Improve the quality of instruction, including the use of interventions and accommodations supported by evidence, for students with the most significant cognitive disabilities in more inclusive environments based on their individual needs; and

(d) Increase the capacity of SEA, LEA, and school personnel to support and implement inclusive practices and policies in grade-level academic and

extracurricular settings for students with the most significant cognitive disabilities.

In addition to these programmatic requirements, to be considered for funding under this priority, applicants must meet the application and administrative requirements in this priority, which are:

(a) Demonstrate, in the narrative section of the application under “Significance of the Project,” how the proposed project will—

(1) Improve SEAs’ and LEAs’ implementation and sustainability of inclusive practices and policies that are supported by evidence and designed to improve access to more inclusive environments and increase the amount of educational engagement for students with the most significant cognitive disabilities. To meet this requirement the applicant must—

(i) Present applicable State, regional, or local data demonstrating SEAs’ and LEAs’ needs related to high-quality implementation of inclusive practices and policies supported by evidence as well as students’ access to more inclusive environments, particularly for students with the most significant cognitive disabilities;

(ii) Demonstrate knowledge of current educational issues and policy initiatives relating to inclusive practices and policies for students with the most significant cognitive disabilities; and

(iii) Present information about the current level of implementation of inclusive practices and policies, as well as students’ access to more inclusive environments and engagement in learning;

(2) Address the likely magnitude or importance of improving the quantity of time students with the most significant cognitive disabilities spend in general educational environments and increasing the amount of educational engagement.

(b) Demonstrate, in the narrative section of the application under “Quality of the Project Services,” how the proposed project will—

(1) Ensure equal access and treatment for members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. To meet this requirement, the applicant must describe how it will—

(i) Identify the needs of the intended recipients for TA and information; and

(ii) Ensure that services and products meet the needs of the intended recipients of the grant;

(2) Achieve its goals, objectives, and intended outcomes. To meet this

requirement, the applicant must provide—

(i) Measurable intended project outcomes; and

(ii) The logic model by which the proposed project will achieve its intended outcomes. A logic model used in connection with this priority communicates how a project will achieve its intended outcomes and provides a framework for both the formative and summative evaluations of the project;

(3) Use a conceptual framework to develop project plans and activities, describing any underlying concepts, assumptions, expectations, beliefs, or theories, as well as the presumed relationships or linkages among these variables, and any empirical support for this framework;

Note: Rather than use the definition of “logic model” in 34 CFR 77.1(c), OSEP uses the definition in paragraph (b)(2)(ii) of these application requirements. This definition, unlike the definition in 34 CFR 77.1(c), differentiates between logic models and conceptual frameworks. The following Web sites provide more information on logic models: www.osepideasthatwork.org/logicModel and www.osepideasthatwork.org/resources-grantees/program-areas/ta-ta/tad-project-logic-model-and-conceptual-framework.

(4) Be based on current research and make use of practices supported by evidence. To meet this requirement, the applicant must describe—

(i) The current research on the assessment of inclusive practices and policies, including those specific to students with the most significant cognitive disabilities;

(ii) The current research about adult learning principles and implementation science that will inform the proposed TA; and

(iii) How the proposed project will incorporate current research and practices supported by evidence in the development and delivery of its products and services;

(5) Develop products and provide services that are of high quality and sufficient intensity and duration to achieve the intended outcomes of the proposed project. To address this requirement, the applicant must describe—

(i) How it proposes to identify or develop the knowledge base related to inclusive practices and policies supported by evidence;

(ii) Its proposed approach to universal, general TA, which must identify the intended recipients of the products and services under this approach;

(iii) Its proposed approach to targeted, specialized TA, which must identify—

(A) The intended recipients of the products and services under this approach; and

(B) Its proposed approach to measure the readiness of potential TA recipients to work with the project, assessing, at a minimum, their current infrastructure, available resources, and ability to build capacity at the local level; and

(iv) Its proposed approach to intensive, sustained TA, which must identify—

(A) The intended recipients of the products and services under this approach;

(B) Its proposed approach to measure the readiness of SEAs and LEAs to work with the project, including their commitment to the initiative, alignment of the initiative to their needs, current infrastructure, available resources, and ability to build capacity at the State and local district level;

(C) Its proposed plan for assisting SEAs and LEAs to build training systems that include professional development based on adult learning principles and coaching; and

(D) Its proposed plan for working with appropriate levels of the education system (e.g., SEAs, regional TA providers, districts, schools, and families) to ensure that there is communication across each level and that there are systems in place to support the use of inclusive practices and policies for students with the most significant cognitive disabilities;

(6) Develop products and implement services that maximize efficiency. To address this requirement, the applicant must describe—

(i) How the proposed project will use technology to achieve the intended project outcomes;

(ii) With whom the proposed project will collaborate and the intended outcomes of this collaboration; and

(iii) How the proposed project will use non-project resources to achieve the intended project outcomes.

(c) In the narrative section of the application under “Quality of the Evaluation Plan,” include an evaluation plan for the project as described in the following paragraphs. The evaluation plan must describe: Measures of progress in implementation, including the criteria for determining the extent to which the project’s products and services have reached the project’s target population; measures of intended outcomes or results of the project’s activities in order to evaluate those activities; and how well the goals or objectives of the proposed project, as described in its logic model, have been met.

The applicant must provide an assurance that, in designing the evaluation plan, it will—

(1) Designate, with the approval of the OSEP project officer, a project liaison staff person with sufficient dedicated time, experience in evaluation, and knowledge of the project to work in collaboration with the TA Center to Improve Program and Project Performance (CIP3),¹ the project director, and the OSEP project officer on the following tasks:

(i) Revise, as needed, the logic model submitted in the grant application to provide for a more comprehensive measurement of implementation and outcomes and to reflect any changes or clarifications to the model discussed at the kick-off meeting;

(ii) Refine the evaluation design and instrumentation proposed in the grant application consistent with the logic model (e.g., prepare evaluation questions about significant program processes and outcomes; develop quantitative or qualitative data collections that permit both the collection of progress data, including fidelity of implementation, as appropriate, and the assessment of project outcomes; and identify analytic strategies); and

(iii) Revise, as needed, the evaluation plan submitted in the grant application such that it clearly—

(A) Specifies the measures and associated instruments or sources for data appropriate to the evaluation questions, suggests analytic strategies for those data, provides a timeline for conducting the evaluation, and includes staff assignments for completion of the plan;

(B) Delineates the data expected to be available by the end of the second project year for use during the project’s evaluation (3+2 review) for continued funding described under the heading *Fourth and Fifth Years of the Project*; and

(C) Can be used to assist the project director and the OSEP project officer, with the assistance of CIP3, as needed, to specify the performance measures to be addressed in the project’s Annual Performance Report;

¹ The major tasks of CIP3 are to guide, coordinate, and oversee the design of formative evaluations for every large discretionary investment (i.e., those awarded \$500,000 or more per year and required to participate in the 3+2 process) in OSEP’s Technical Assistance and Dissemination; Personnel Development; Parent Training and Information Centers; and Educational Technology, Media, and Materials programs. The efforts of CIP3 are expected to enhance individual project evaluation plans by providing expert and unbiased TA in designing the evaluations with due consideration of the project’s budget. CIP3 does not function as a third-party evaluator.

(2) Cooperate with CIP3 staff in order to accomplish the tasks described in paragraph (1) of this section; and

(3) Dedicate sufficient funds in each budget year to cover the costs of carrying out the tasks described in paragraphs (1) and (2) of this section and implementing the evaluation plan.

(d) Demonstrate, in the narrative section of the application under “Adequacy of Project Resources,” how—

(1) The proposed project will encourage applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability, as appropriate;

(2) The proposed key project personnel, consultants, and subcontractors have the qualifications and experience to carry out the proposed activities and achieve the project’s intended outcomes;

(3) The applicant and any key partners have adequate resources to carry out the proposed activities; and

(4) The proposed costs are reasonable in relation to the anticipated results and benefits.

(e) Demonstrate, in the narrative section of the application under “Quality of the Management Plan,” how—

(1) The proposed management plan will ensure that the project’s intended outcomes will be achieved on time and within budget. To address this requirement, the applicant must describe—

(i) Clearly defined responsibilities for key project personnel, consultants, and subcontractors, as applicable; and

(ii) Timelines and milestones for accomplishing the project tasks;

(2) Key project personnel and any consultants and subcontractors will be allocated and how these allocations are appropriate and adequate to achieve the project’s intended outcomes;

(3) The proposed management plan will ensure that the products and services provided are of high quality, relevant, and useful to recipients; and

(4) The proposed project will benefit from a diversity of perspectives, including those of families, educators, TA providers, researchers, and policy makers, among others, in its development and operation.

(f) Address the following application requirements. The applicant must—

(1) Include, in Appendix A, a logic model that depicts, at a minimum, the goals, activities, outputs, and intended outcomes of the proposed project;

(2) Include, in Appendix A, a conceptual framework for the project;

(3) Include, in Appendix A, personnel-loading charts and timelines, as applicable, to illustrate the management plan described in the narrative;

(4) Include, in the budget, attendance at the following:

(i) A one and one-half day kick-off meeting in Washington, DC, after receipt of the award, and an annual planning meeting in Washington, DC, with the OSEP project officer and other relevant staff during each subsequent year of the project period.

Note: Within 30 days of receipt of the award, a post-award teleconference must be held between the OSEP project officer and the grantee's project director or other authorized representative.

(ii) A two and one-half day project directors' conference in Washington, DC, during each year of the project period;

(iii) Two annual two-day trips to attend Department briefings, Department-sponsored conferences, and other meetings, as requested by OSEP; and

(iv) A one-day intensive 3+2 review meeting in Washington, DC, during the last half of the second year of the project period;

(5) Include, in the budget, a line item for an annual set-aside of five percent of the grant amount to support emerging needs that are consistent with the proposed project's intended outcomes, as those needs are identified in consultation with, and approved by the OSEP project officer. With approval from the OSEP project officer, the project must reallocate any remaining funds from this annual set-aside no later than the end of the third quarter of each budget period;

(6) Maintain a Web site that meets government or industry-recognized standards for accessibility; and

(7) Include, in Appendix A, an assurance to assist OSEP with the transfer of pertinent resources and products and to maintain the continuity of services to States during the transition to this new award period, as appropriate.

Fourth and Fifth Years of the Project

In deciding whether to continue funding the project for the fourth and fifth years, the Secretary will consider the requirements of 34 CFR 75.253(a), as well as—

(a) The recommendation of a 3+2 review team consisting of experts selected by the Secretary. This review will be conducted during a one-day intensive meeting that will be held during the last half of the second year of the project period;

(b) The success and timeliness with which the requirements of the negotiated cooperative agreement have been or are being met by the project; and

(c) The quality, relevance, and usefulness of the project's products and services and the extent to which the project's products and services are aligned with the project's objectives and likely to result in the project achieving its intended outcomes.

Definitions

For the purposes of this priority:

Inclusive policies refers to State and local education policies that support the implementation of inclusive practices.

Inclusive practices means, to the maximum extent appropriate, children with disabilities, including children in public or private institutions or other care facilities, are educated with children who are not disabled, and special classes, separate schooling, or other removal of children with disabilities from the regular educational environment occurs only when the nature or severity of the disability of a child is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily.

Intensive, sustained TA means TA services often provided on-site and requiring a stable, ongoing relationship between the TA Center staff and the TA recipient usually entailing a negotiated series of activities designed to reach a valued outcome. This category of TA should result in changes to policies, programs, practices, or operations that support increased recipient capacity or improved outcomes at one or more systems levels.

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model.

Supported by evidence means supported by at least strong theory.

TA services means expertise provided in response to a client's defined problem or need in order to increase the client's capacity. OSEP has specified three categories of TA services: (1) Universal, general TA; (2) targeted, specialized TA; and (3) intensive, sustained TA.

Targeted, specialized TA means TA services based on needs common to multiple recipients and not extensively individualized. A relationship is established between the TA recipient and one or more TA Center staff. This category of TA includes one-time, labor-intensive events, such as facilitating strategic planning or hosting regional or national conferences. It can also include episodic, less labor-intensive events that extend over a period of time, such as

facilitating a series of conference calls on single or multiple topics that are designed around the needs of the recipients. Facilitating communities of practice can also be considered targeted, specialized TA.

Universal, general TA means TA and information provided to independent users through their own initiative, resulting in minimal interaction with TA Center staff and including one-time, invited or offered conference presentations by TA Center staff. This category of TA also includes information or products, such as newsletters, guidebooks, or research syntheses, downloaded from the TA Center's Web site by independent users. Brief communications by TA Center staff with recipients, either by telephone or email, are also considered universal, general TA.

Waiver of Proposed Rulemaking: Under the Administrative Procedure Act (APA) (5 U.S.C. 553) the Department generally offers interested parties the opportunity to comment on proposed priorities. Section 681(d) of IDEA, however, makes the public comment requirements of the APA inapplicable to the priority in this notice.

Program Authority: 20 U.S.C. 1463 and 1481.

Applicable Regulations: (a) The Education Department General Administrative Regulations in 34 CFR parts 75, 77, 79, 81, 82, 84, 86, 97, 98, and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474.

Note: The regulations in 34 CFR part 79 apply to all applicants except federally recognized Indian Tribes.

Note: The regulations in 34 CFR part 86 apply to institutions of higher education (IHEs) only.

II. Award Information

Type of Award: Cooperative agreement.

Estimated Available Funds: The Administration has requested \$54,345,000 for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program for FY 2017, of which we intend to use an estimated \$2,000,000 for this competition. The actual level of

funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2018 from the list of unfunded applications from this competition.

Maximum Award: We will reject any application that proposes a budget exceeding \$2,000,000 for a single budget period of 12 months.

Estimated Number of Awards: 1.

Note: The Department is not bound by any estimates in this notice.

Project Period: Up to 60 months.

III. Eligibility Information

1. **Eligible Applicants:** SEAs; LEAs, including public charter schools that operate as LEAs under State law; IHEs; other public agencies; private nonprofit organizations; freely associated States and outlying areas; Indian Tribes or Tribal organizations; and for-profit organizations.

2. **Cost Sharing or Matching:** This program does not require cost sharing or matching.

3. **Eligible Subgrantees:** (a) Under 34 CFR 75.708(b) and (c) a grantee may award subgrants—to directly carry out project activities described in its application—to the following types of entities: IHEs and private nonprofit organizations suitable to carry out the activities proposed in the application.

(b) The grantee may award subgrants to entities it has identified in an approved application.

4. **Other General Requirements:** (a) Recipients of funding under this competition must make positive efforts to employ and advance in employment qualified individuals with disabilities (see section 606 of IDEA).

(b) Each applicant for, and recipient of, funding must, with respect to the aspects of their proposed project relating to the absolute priority, involve individuals with disabilities, or parents of individuals with disabilities ages birth through 26, in planning, implementing, and evaluating the project (see section 682(a)(1)(A) of IDEA).

IV. Application and Submission Information

1. **Address to Request Application Package:** You can obtain an application package via the internet or from the Education Publications Center (ED Pubs). To obtain a copy via the internet, use the following address: www.ed.gov/fund/grant/apply/grantapps/index.html.

To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1-877-433-7827. FAX: (703) 605-6794. If you use a TDD or a TTY, call, toll free: 1-877-576-7734.

You can contact ED Pubs at its Web site, also: www.EDPubs.gov or at its email address: edpubs@inet.ed.gov.

If you request an application package from ED Pubs, be sure to identify this competition as follows: CFDA number 84.326Y.

Individuals with disabilities can obtain a copy of the application package in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the person or team listed under *Accessible Format* in section VII of this notice.

2. **Content and Form of Application Submission:** Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this competition. Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. You must limit Part III to no more than 70 pages, using the following standards:

- A “page” is 8.5” x 11”, on one side only, with 1” margins at the top, bottom, and both sides.

- Double-space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, reference citations, and captions, as well as all text in charts, tables, figures, graphs, and screen shots.

- Use a font that is 12 point or larger.

- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman or Arial Narrow) will not be accepted.

The page limit and double-spacing requirements do not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the abstract (follow the guidance provided in the application package for completing the abstract), the table of contents, the list of priority requirements, the resumes, the reference list, the letters of support, or the appendices. However, the page limit and double-spacing requirements do apply to all of Part III, the application narrative, including all text in charts, tables, figures, graphs, and screen shots.

We will reject your application if you exceed the page limit in the application narrative section, or if you apply standards other than those specified in this notice and the application package.

3. **Submission Dates and Times:**

Applications Available: May 2, 2017.

Deadline for Transmittal of Applications: June 16, 2017.

Applications for grants under this competition must be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*). For information (including dates and times) about how to submit your application electronically, or in paper format by mail or hand delivery if you qualify for an exception to the electronic submission requirement, please refer to *Other Submission Requirements* in section IV of this notice.

We do not consider an application that does not comply with the deadline requirements.

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT**. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual’s application remains subject to all other requirements and limitations in this notice. Deadline for Intergovernmental Review: August 15, 2017.

4. **Intergovernmental Review:** This competition is subject to Executive Order 12372 and the regulations in 34 CFR part 79. Information about Intergovernmental Review of Federal Programs under Executive Order 12372 is in the application package for this competition.

5. **Funding Restrictions:** We reference regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

6. **Data Universal Numbering System Number, Taxpayer Identification Number, and System for Award Management:** To do business with the Department of Education, you must—

a. Have a Data Universal Numbering System (DUNS) number and a Taxpayer Identification Number (TIN);

b. Register both your DUNS number and TIN with the System for Award Management (SAM), the Government’s primary registrant database;

c. Provide your DUNS number and TIN on your application; and

d. Maintain an active SAM registration with current information while your application is under review by the Department and, if you are

awarded a grant, during the project period.

You can obtain a DUNS number from Dun and Bradstreet at the following Web site: <http://fedgov.dnb.com/webform>. A DUNS number can be created within one to two business days.

If you are a corporate entity, agency, institution, or organization, you can obtain a TIN from the Internal Revenue Service. If you are an individual, you can obtain a TIN from the Internal Revenue Service or the Social Security Administration. If you need a new TIN, please allow two to five weeks for your TIN to become active.

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Thus, if you think you might want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

Note: Once your SAM registration is active, it may be 24 to 48 hours before you can access the information in, and submit an application through, *Grants.gov*.

If you are currently registered with SAM, you may not need to make any changes. However, please make certain that the TIN associated with your DUNS number is correct. Also note that you will need to update your registration annually. This may take three or more business days.

Information about SAM is available at www.SAM.gov. To further assist you with obtaining and registering your DUNS number and TIN in SAM or updating your existing SAM account, we have prepared a SAM.gov Tip Sheet, which you can find at: www2.ed.gov/fund/grant/apply/sam-faqs.html.

In addition, if you are submitting your application via *Grants.gov*, you must (1) be designated by your organization as an Authorized Organization Representative (AOR); and (2) register yourself with *Grants.gov* as an AOR. Details on these steps are outlined at the following *Grants.gov* Web page: www.grants.gov/web/grants/register.html.

7. Other Submission Requirements: Applications for grants under this competition must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. Electronic Submission of Applications.

Applications for grants under the Technical Assistance and Dissemination

to Improve Services and Results for Children with Disabilities competition, CFDA number 84.326Y, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at www.Grants.gov. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

We will reject your application if you submit it in paper format unless, as described elsewhere in this section, you qualify for one of the exceptions to the electronic submission requirement and submit, no later than two weeks before the application deadline date, a written statement to the Department that you qualify for one of these exceptions. Further information regarding calculation of the date that is two weeks before the application deadline date is provided later in this section under *Exception to Electronic Submission Requirement*.

You may access the electronic grant application for the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities competition at www.Grants.gov. You must search for the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (e.g., search for 84.326, not 84.326Y).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary

depending on a variety of factors, including the size of the application and the speed of your internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.

- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this competition to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at www.G5.gov. In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: www.grants.gov/web/grants/applicants/apply-for-grants.html.

- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.

- You must submit all documents electronically, including all information you typically provide on the following forms: The Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.

- You must upload any narrative sections and all other attachments to your application as files in a read-only Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only PDF (e.g., Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF. Additional, detailed information on how to attach files is in the application instructions.

- Your electronic application must comply with any page-limit requirements described in this notice.

- After you electronically submit your application, you will receive from

Grants.gov an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

Once your application is successfully validated by *Grants.gov*, the Department will retrieve your application from *Grants.gov* and send you an email with a unique PR/Award number for your application.

These emails do not mean that your application is without any disqualifying errors. While your application may have been successfully validated by *Grants.gov*, it must also meet the Department's application requirements as specified in this notice and in the application instructions. Disqualifying errors could include, for instance, failure to upload attachments in a read-only PDF; failure to submit a required part of the application; or failure to meet applicant eligibility requirements. It is your responsibility to ensure that your submitted application has met all of the Department's requirements.

- We may request that you provide us original signatures on forms at a later date.

Application Deadline Date Extension in Case of Technical Issues with the *Grants.gov* System: If you are experiencing problems submitting your application through *Grants.gov*, please contact the *Grants.gov* Support Desk, toll free, at 1-800-518-4726. You must obtain a *Grants.gov* Support Desk Case Number and must keep a record of it.

If you are prevented from electronically submitting your application on the application deadline date because of technical problems with the *Grants.gov* system, we will grant you an extension until 4:30:00 p.m., Washington, DC time, the following business day to enable you to transmit your application electronically or by hand delivery. You also may mail your application by following the mailing instructions described elsewhere in this notice.

If you submit an application after 4:30:00 p.m., Washington, DC time, on the application deadline date, please

contact the person listed under **FOR FURTHER INFORMATION CONTACT** and provide an explanation of the technical problem you experienced with *Grants.gov*, along with the *Grants.gov* Support Desk Case Number. We will accept your application if we can confirm that a technical problem occurred with the *Grants.gov* system and that the problem affected your ability to submit your application by 4:30:00 p.m., Washington, DC time, on the application deadline date. We will contact you after we determine whether your application will be accepted.

Note: The extensions to which we refer in this section apply only to the unavailability of, or technical problems with, the *Grants.gov* system. We will not grant you an extension if you failed to fully register to submit your application to *Grants.gov* before the application deadline date and time or if the technical problem you experienced is unrelated to the *Grants.gov* system.

Exception to Electronic Submission Requirement: You qualify for an exception to the electronic submission requirement, and may submit your application in paper format, if you are unable to submit an application through the *Grants.gov* system because—

- You do not have access to the internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system;

and

- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the internet to submit your application.

If you mail your written statement to the Department, it must be postmarked no later than two weeks before the application deadline date. If you fax your written statement to the Department, we must receive the faxed statement no later than two weeks before the application deadline date.

Address and mail or fax your statement to: Tina Diamond, U.S. Department of Education, 400 Maryland Avenue SW., Room 5136, Potomac Center Plaza, Washington, DC 20202-5108. FAX: (202) 245-7590.

Your paper application must be submitted in accordance with the mail or hand-delivery instructions described in this notice.

b. **Submission of Paper Applications by Mail.**

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326Y), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202-4260.

You must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

If you mail your application through the U.S. Postal Service, we do not accept either of the following as proof of mailing:

- (1) A private metered postmark.
- (2) A mail receipt that is not dated by the U.S. Postal Service.

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office.

We will not consider applications postmarked after the application deadline date.

c. **Submission of Paper Applications by Hand Delivery.**

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.326Y), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202-4260.

The Application Control Center accepts hand deliveries daily between 8:00 a.m. and 4:30:00 p.m., Washington, DC time, except Saturdays, Sundays, and Federal holidays.

Note for Mail or Hand Delivery of Paper Applications: If you mail or hand deliver your application to the Department—

- (1) You must indicate on the envelope and—if not provided by the Department—in Item 11 of the SF 424 the CFDA number, including suffix letter, if any, of the competition under which you are submitting your application; and

(2) The Application Control Center will mail to you a notification of receipt of your grant application. If you do not receive this notification within 15 business days from the application deadline date, you should call the U.S. Department of Education Application Control Center at (202) 245-6288.

V. Application Review Information

1. Selection Criteria:

a. Significance (5 points).

The Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The extent to which the proposed project will address specific gaps or weaknesses in services, infrastructure, or opportunities that have been identified.

(2) The importance or magnitude of the results or outcomes likely to be attained by the proposed project.

b. Quality of the project services (40 points).

The Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which there is a conceptual framework underlying the proposed activities and the quality of that framework.

(3) The extent to which the services to be provided by the proposed project reflect up-to-date knowledge from research and effective practice.

(4) The extent to which the proposed products and services are of sufficient quality, intensity, and duration to lead to the outcomes to be achieved by the proposed project.

(5) The extent to which the products and services to be developed and provided by the proposed project involve the use of efficient strategies, including the use of technology, collaboration with appropriate partners, and the leveraging of non-project resources.

c. Quality of the project evaluation (20 points).

The Secretary considers the quality of the evaluation to be conducted of the

proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation will provide data and performance feedback for examining the effectiveness of project implementation strategies and the progress toward achieving intended outcomes.

(3) The extent to which the methods of evaluation will produce quantitative and qualitative data that demonstrate the project has met intended outcomes.

d. Adequacy of project resources (15 points).

The Secretary considers the adequacy of resources, including the personnel who will carry out the proposed project. In determining the adequacy of resources, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of key project personnel (*i.e.*, project director, project staff, and project consultants or subcontractors).

(2) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization and key partners.

(3) The extent to which the costs are reasonable in relation to the anticipated results and benefits.

e. Quality of management plan (20 points).

The Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timelines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director, project staff, and project consultants or subcontractors are appropriate and adequate to meet the objectives of the proposed project.

(3) The adequacy of mechanisms for ensuring high-quality products and services from the proposed project.

(4) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

2. *Review and Selection Process:* We remind potential applicants that in reviewing applications in any discretionary grant competition, the Secretary may consider, under 34 CFR 75.217(d)(3), the past performance of the applicant in carrying out a previous award, such as the applicant's use of funds, achievement of project objectives, and compliance with grant conditions. The Secretary may also consider whether the applicant failed to submit a timely performance report or submitted a report of unacceptable quality.

In addition, in making a competitive grant award, the Secretary requires various assurances, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department of Education (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

3. *Additional Review and Selection Process Factors:* In the past, the Department has had difficulty finding peer reviewers for certain competitions because so many individuals who are eligible to serve as peer reviewers have conflicts of interest. The standing panel requirements under section 682(b) of IDEA also have placed additional constraints on the availability of reviewers. Therefore, the Department has determined that for some discretionary grant competitions, applications may be separated into two or more groups and ranked and selected for funding within specific groups. This procedure will make it easier for the Department to find peer reviewers by ensuring that greater numbers of individuals who are eligible to serve as reviewers for any particular group of applicants will not have conflicts of interest. It also will increase the quality, independence, and fairness of the review process, while permitting panel members to review applications under discretionary grant competitions for which they also have submitted applications.

4. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate

circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

5. *Integrity and Performance System:* If you are selected under this competition to receive an award that over the course of the project period may exceed the simplified acquisition threshold (currently \$150,000), under 2 CFR 200.205(a)(2), we must make a judgment about your integrity, business ethics, and record of performance under Federal awards—that is, the risk posed by you as an applicant—before we make an award. In doing so, we must consider any information about you that is in the integrity and performance system (currently referred to as the Federal Awardee Performance and Integrity Information System (FAPIIS)), accessible through SAM. You may review and comment on any information about yourself that a Federal agency previously entered and that is currently in FAPIIS.

Please note that, if the total value of your currently active grants, cooperative agreements, and procurement contracts from the Federal Government exceeds \$10,000,000, the reporting requirements in 2 CFR part 200, Appendix XII, require you to report certain integrity information to FAPIIS semiannually. Please review the requirements in 2 CFR part 200, Appendix XII, if this grant plus all the other Federal funds you receive exceed \$10,000,000.

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN); or we may send you an email containing a link to access an electronic version of your GAN. We may notify you informally, also.

If your application is not evaluated or not selected for funding, we notify you.

2. *Administrative and National Policy Requirements:* We identify administrative and national policy requirements in the application package and reference these and other requirements in the *Applicable Regulations* section of this notice.

We reference the regulations outlining the terms and conditions of an award in the *Applicable Regulations* section of this notice and include these and other specific conditions in the GAN. The GAN also incorporates your approved

application as part of your binding commitments under the grant.

3. *Reporting:* (a) If you apply for a grant under this competition, you must ensure that you have in place the necessary processes and systems to comply with the reporting requirements in 2 CFR part 170 should you receive funding under the competition. This does not apply if you have an exception under 2 CFR 170.110(b).

(b) At the end of your project period, you must submit a final performance report, including financial information, as directed by the Secretary. If you receive a multiyear award, you must submit an annual performance report that provides the most current performance and financial expenditure information as directed by the Secretary under 34 CFR 75.118. The Secretary may also require more frequent performance reports under 34 CFR 75.720(c). For specific requirements on reporting, please go to www.ed.gov/fund/grant/apply/appforms/appforms.html.

4. *Performance Measures:* Under the Government Performance and Results Act of 1993, the Department has established a set of performance measures, including long-term measures, that are designed to yield information on various aspects of the effectiveness and quality of the Technical Assistance and Dissemination to Improve Services and Results for Children with Disabilities program. These measures are included in the application package and focus on the extent to which projects provide high-quality products and services, the relevance of project products and services to educational and early intervention policy and practice, and the use of products and services to improve educational and early intervention policy and practice.

Projects funded under this competition are required to submit data on these measures as directed by OSEP.

Grantees will be required to report information on their project's performance in annual and final performance reports to the Department (34 CFR 75.590).

5. *Continuation Awards:* In making a continuation award under 34 CFR 75.253, the Secretary considers, among other things: Whether a grantee has made substantial progress in achieving the goals and objectives of the project; whether the grantee has expended funds in a manner that is consistent with its approved application and budget; and, if the Secretary has established performance measurement requirements, the performance targets in the grantee's approved application.

In making a continuation award, the Secretary also considers whether the grantee is operating in compliance with the assurances in its approved application, including those applicable to Federal civil rights laws that prohibit discrimination in programs or activities receiving Federal financial assistance from the Department (34 CFR 100.4, 104.5, 106.4, 108.8, and 110.23).

VII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (e.g., Braille, large print, audiotape, or compact disc) by contacting the Management Support Services Team, U.S. Department of Education, 400 Maryland Avenue SW., Room 5113, Potomac Center Plaza, Washington, DC 20202-2500. Telephone: (202) 245-7363. If you use a TDD or a TTY, call the FRS, toll free, at 1-800-877-8339.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or PDF. To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: April 26, 2017.

Ruth E. Ryder,

Deputy Director, Office of Special Education Programs, Delegated the Duties of the Assistant Secretary for Special Education and Rehabilitative Services.

[FR Doc. 2017-08780 Filed 5-1-17; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY**Federal Energy Regulatory Commission**

[Docket No. CP17–80–000]

Columbia Gas Transmission, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Eastern Panhandle Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Eastern Panhandle Expansion Project involving construction and operation of facilities by Columbia Gas Transmission, LLC (Columbia) in Fulton County, Pennsylvania; Washington County, Maryland; and Morgan County, West Virginia. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before May 25, 2017.

If you sent comments on this project to the Commission before the opening of this docket on March 29, 2017, you will need to file those comments in Docket No. CP17–80–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval

conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

Columbia provided landowners with a fact sheet prepared by the FERC entitled "An Interstate Natural Gas Facility On My Land? What Do I Need To Know?" This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (www.ferc.gov).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's Web site (www.ferc.gov) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's Web site (www.ferc.gov) under the link to *Documents and Filings*. With *eFiling*, you can provide comments in a variety of formats by attaching them as a file with your submission. New *eFiling* users must first create an account by clicking on "*eRegister*." If you are filing a comment on a particular project, please select "Comment on a Filing" as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP17–80–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Summary of the Proposed Project

Columbia proposes to construct, operation, and maintain the Eastern Panhandle Expansion Project (Project) in three counties and states (Fulton County, Pennsylvania; Washington County, Maryland; and Morgan County, West Virginia). The Project would provide an additional 47.5 dekatherms

per day (Dth/d) of capacity for firm transportation service to markets in West Virginia through Mountaineer Gas Company's (Mountaineer) gathering system.

The Project will involve the construction and operation of the following facilities:

- Approximate 3.4 miles of new greenfield 8-inch-diameter pipeline;
- three main line valves (MLV); and
- two new tie-in assemblies.

The general location of the project facilities is shown in appendix 1.¹

Land Requirements for Construction

Construction of the proposed facilities would disturb about 61 acres of land for the aboveground facilities and the pipeline. Following construction, Columbia would maintain about 26 acres for permanent operation of the facilities; the remaining acreage would be restored and revert to former uses.

Related Facilities

We have already received comments regarding the Mountaineer Gas Pipeline. On November 17, 2016, Columbia's customer, Mountaineer Gas, received an order from the West Virginia Public Service Commission (PSC) authorizing construction of Phase 1 of its project which is a 24-mile-long 10-inch-diameter gas pipeline that begins north of Berkley, Virginia and terminates in Martinsburg, West Virginia. It traverses Morgan and Berkley Counties in West Virginia. Mountaineer Gas intends to file an application with the PSC for authorization to construct Phases 2 and 3 of its project in 2019 which are still undergoing development. These related intrastate facilities are subject to state jurisdiction and would be non-jurisdictional to the FERC. Consequently, the Mountaineer Gas Pipeline will not be a part of the proposed action considered in the EA. However, we intend to disclose available resource impact information for the related project in the EA to inform stakeholders and decision makers.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a

¹ The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at www.ferc.gov using the link called "eLibrary" or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

Certificate of Public Convenience and Necessity. NEPA also requires us² to discover and address concerns the public may have about proposals. This process is referred to as “scoping.” The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- land use;
- water resources, fisheries, and wetlands;
- cultural resources;
- vegetation and wildlife;
- air quality and noise;
- endangered and threatened species;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.³ Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

² “We,” “us,” and “our” refer to the environmental staff of the Commission’s Office of Energy Projects.

³ The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation’s implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Offices (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project’s potential effects on historic properties.⁴ We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPOs as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Currently Identified Environmental Issues

We have already received comments and identified issues that we think deserve attention based on a preliminary review of the proposed facilities and the environmental information provided by Columbia. This preliminary list of issues includes: Potential impacts on the Potomac River and the C&O Canal, and potential impacts associated with Karst features and groundwater in the area. The list may be changed based on your comments and our analysis.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission’s regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as

⁴ The Advisory Council on Historic Preservation’s regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an “intervenor” which is an official party to the Commission’s proceeding. Intervenor play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission’s final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the “Document-less Intervention Guide” under the “e-filing” link on the Commission’s Web site. Motions to intervene are more fully described at <http://www.ferc.gov/resources/guides/how-to/intervene.asp>.

Additional Information

Additional information about the project is available from the Commission’s Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at www.ferc.gov using the “eLibrary” link. Click on the eLibrary link, click on “General Search” and enter the docket number, excluding the last three digits in the Docket Number field (*i.e.*, CP17–80. Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Finally, public sessions or site visits will be posted on the Commission’s

calendar located at www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.

Dated: April 25, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08797 Filed 5-1-17; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17-663-000.

Applicants: Midcontinent Express Pipeline LLC.

Description: Midcontinent Express Pipeline LLC submits tariff filing per 154.204: Fuel Tracker Filing 04/19/17 to be effective 6/1/2017.

Filed Date: 04/19/2017.

Accession Number: 20170419-5008.

Comment Date: 5:00 p.m. Eastern Time on Monday, May 01, 2017.

Docket Numbers: RP17-664-000.

Applicants: Elba Express Company, L.L.C.

Description: Elba Express Company, L.L.C. submits tariff filing per 154.204: Fuel Tracker Filing-2017 to be effective 6/1/2017.

Filed Date: 04/20/2017.

Accession Number: 20170420-5020.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, May 02, 2017.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 20, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08801 Filed 5-1-17; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-3145-008; ER10-3116-008; ER10-3120-008; ER11-2036-008; ER13-1544-005; ER10-3128-008; ER10-1800-009; ER10-3136-008; ER11-2701-010; ER10-1728-008; ER16-930-002.

Applicants: AES Alamitos, LLC, AES Energy Storage, LLC, AES Huntington Beach, L.L.C., AES Laurel Mountain, LLC, AES ES Tait, LLC, AES Redondo Beach, L.L.C., Indianapolis Power & Light Company, Mountain View Power Partners, LLC, Mountain View Power Partners IV, LLC, The Dayton Power and Light Company, AES Ohio Generation, LLC.

Description: Supplement to December 21, 2016 Triennial Market Power Analysis for Northeast Region of AES MBR Affiliates.

Filed Date: 4/25/17.

Accession Number: 20170425-5206.

Comments Due: 5 p.m. ET 5/16/17.

Docket Numbers: ER17-1469-000.

Applicants: Northern States Power Company, a Wisconsin corporation.

Description: Notice of cancellation of Transmission Line Coordinating Agreement No. 57 of Northern States Power Company, a Wisconsin corporation.

Filed Date: 4/25/17.

Accession Number: 20170425-5145.

Comments Due: 5 p.m. ET 5/16/17.

Docket Numbers: ER17-1470-000.

Applicants: Duke Energy Progress, LLC.

Description: § 205(d) Rate Filing: DEP-Revised PPAs RS Nos. 174-177 to be effective 7/1/2017.

Filed Date: 4/25/17.

Accession Number: 20170425-5246.

Comments Due: 5 p.m. ET 5/16/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and

385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 25, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08796 Filed 5-1-17; 8:45 am]
BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Numbers: RP17-665-000.

Applicants: Dominion Transmission, Inc.

Description: § 4(d) Rate Filing: DTI-April 20, 2017 Gas Quality Revisions to be effective 6/1/2017.

Filed Date: 4/20/17.

Accession Number: 20170420-5065.

Comments Due: 5 p.m. ET 5/2/17.

Docket Numbers: RP17-666-000.

Applicants: Stingray Pipeline Company, L.L.C.

Description: Compliance filing Stingray Pre-Filing Settlement.

Filed Date: 4/21/17.

Accession Number: 20170421-5033.

Comments Due: 5 p.m. ET 5/3/17.

Docket Numbers: RP17-667-000.

Applicants: UGI Storage Company.

Description: § 4(d) Rate Filing: Operational Sales Filing to be effective 5/22/2017.

Filed Date: 4/21/17.

Accession Number: 20170421-5240.

Comments Due: 5 p.m. ET 5/3/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and § 385.214) on or before 5:00 p.m. Eastern time on the specified comment date.

Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 25, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08798 Filed 5-1-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RD17-4-000]

Commission Information Collection Activities (FERC-725A and FERC-725Z); Comment Request; Revisions

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of revised information collections and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (“Commission”) is soliciting public comment on revisions to the information collections, FERC-725A (Mandatory Reliability Standards for the Bulk-Power System), and FERC-725Z

(Mandatory Reliability Standards: IRO Reliability Standards), which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

DATES: Comments on the collections of information are due July 3, 2017.

ADDRESSES: You may submit comments (identified by Docket No. RD17-4-000) by either of the following methods:

- eFiling at Commission’s Web site: <http://www.ferc.gov/docs-filing/efiling.asp>.
- Mail/Hand Delivery/Courier: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at: (866) 208-3676 (toll-free), or (202) 502-8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

FOR FURTHER INFORMATION CONTACT: Ellen Brown may be reached by email at DataClearance@FERC.gov, telephone at (202) 502-8663, and fax at (202) 273-0873.

SUPPLEMENTARY INFORMATION:
Title: FERC-725A (Mandatory Reliability Standards for the Bulk-Power System), and FERC-725Z (Mandatory

Reliability Standards: IRO Reliability Standards).

OMB Control No.: 1902-0244 (FERC-725A) and 1902-0276 (FERC-725Z).

Type of Request: Revisions to the information collections, as discussed in Docket No. RD17-4-000.

Abstract: In a petition dated March 6, 2017, the North American Electric Reliability Corporation (“NERC”) requested Commission approval for proposed Reliability Standards IRO-002-5 (Reliability Coordination, Monitoring and Analysis) and TOP-001-4 (Transmission Operations). NERC stated that the “proposed Reliability Standards address the Commission directives in Order No. 817 related to: (i) Transmission operator monitoring of non-bulk electric system (“BES”) facilities; (ii) redundancy and diverse routing of transmission operator, balancing authority, and reliability coordinator data exchange capabilities; and (iii) testing of alternative or less frequently used data exchange capabilities.” In addition, NERC requested Commission approval of the retirement of Reliability Standards TOP-001-3 and IRO-002-4. In an order on April 17, 2017,¹ the implementation of Reliability Standard TOP-001-4 and the retirement of Reliability Standard TOP-001-3 was approved.

Type of Respondents: Transmission operators (TOP), balancing authorities (BA), and reliability coordinators (RC).

*Estimate of Annual Burden:*² The Commission estimates the changes in the annual public reporting burden and cost as follows.³

CHANGES DUE TO DOCKET NO. RD17-4-000

| Information collection requirements | Number of respondents and type of entity ⁴ | Annual number of responses per respondent | Total number of responses | Average burden hours and cost per response (\$) | Total annual burden hours and total annual cost (\$) |
|-------------------------------------|---|---|---------------------------|---|--|
| | (1) | (2) | (1) * (2) = (3) | (4) ⁵ | (3) * (4) = (5) |

FERC-725A

| | | | | | |
|---|-------|-------|-------|-----------------|------------|
| Reporting and Recordkeeping Requirements (continuing in TOP-001-4 [formerly in TOP-001-3]) ⁶ . | | | | no change | no change. |
|---|-------|-------|-------|-----------------|------------|

Increases, due to Implementation of TOP-001-4⁷

| | | | | | |
|--|-----------------|---|-----|------------------------|---------------------------|
| Reporting (R10, R20, & R21), in Yr. 1 ... | 323 (TOP) | 1 | 323 | 11 hrs.; \$707.19 | 3,553 hrs.; \$228,422.37. |
| Reporting (R10, R20, & R21), in Yr. 2 & ongoing. | 323 (TOP) | 1 | 323 | 3 hrs.; \$192.87 | 969 hrs.; \$62,297.01. |
| Recordkeeping, in Yr. 1 | 323 (TOP) | 1 | 323 | 3 hrs.; \$113.25 | 969 hrs.; \$36,579.75. |
| Recordkeeping, in Yr. 2 & ongoing | 323 (TOP) | 1 | 323 | 2 hrs.; \$75.50 | 646 hrs.; \$24,386.50. |

¹ The Delegated Letter Order is available in the Commission’s eLibrary at <https://elibrary.ferc.gov/idmws/common/OpenNat.asp?fileID=14560616>.

² Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide

information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

³ For the Reliability Standards being retired in Docket No. RD17-4, the baseline numbers for

respondents, burden, and cost are the same figures as those in Order No. 817. The requirements and burdens (from the standards being retired) are continuing in the new standards, plus there are additional requirements and burdens as indicated in the table.

CHANGES DUE TO DOCKET NO. RD17-4-000—Continued

| Information collection requirements | Number of respondents and type of entity ⁴ | Annual number of responses per respondent | Total number of responses | Average burden hours and cost per response (\$) | Total annual burden hours and total annual cost (\$) |
|--|---|---|---------------------------|---|--|
| | (1) | (2) | (1) * (2) = (3) | (4) ⁵ | (3) * (4) = (5) |
| Reporting (R23 & R24), in Yr. 1 | 99 (BA) | 1 | 99 | 8 hrs.; \$514.32 | 792 hrs.; \$50,917.68. |
| Reporting (R23 & R24), in Yr. 2 & ongoing. | 99 (BA) | 1 | 99 | 2 hrs.; \$128.58 | 198 hrs.; \$12,729.42. |
| Recordkeeping, in Yr. 1 | 99 (BA) | 1 | 99 | 4 hrs.; \$151.00 | 396 hrs.; \$14,949.00. |
| Recordkeeping, in Yr. 2 and ongoing | 99 (BA) | 1 | 99 | 4 hrs.; \$151.00 | 396 hrs.; \$14,949.00. |
| Increase to FERC-725A in Year 1 ..... | ..... | ..... | ..... | ..... | 5,710 hrs.; \$330,868.80. |
| Increase to FERC-725A in Year 2 & ongoing. | ..... | ..... | ..... | ..... | 2,209 hrs.; \$114,361.93. |

FERC-725Z

| | | | | | |
|---|-------|-------|-------|-----------------|------------|
| Reporting and Recordkeeping Requirements (continuing in IRO-002-5 [formerly in IRO-002-4]) ⁸ . | | | | no change | no change. |
|---|-------|-------|-------|-----------------|------------|

Increases, due to Implementation of IRO-002-5⁹

| | | | | | |
|---|---------------|-------|-------|------------------------|---------------------------|
| Reporting (R2 & R3), in Yr. 1 | 11 (RC) | 1 | 11 | 8 hrs.; \$514.32 | 88 hrs.; \$5,657.52. |
| Reporting (R2 & R3), in Yr. 2 & ongoing | 11 (RC) | 1 | 11 | 2 hrs.; \$128.58 | 22 hrs.; \$1,414.38. |
| Recordkeeping, in Yr. 1 | 11 (RC) | 1 | 11 | 5 hrs.; \$188.75 | 55 hrs.; \$2,076.25. |
| Recordkeeping, in Yr. 2 & ongoing | 11 (RC) | 1 | 11 | 4 hrs.; \$151.00 | 44 hrs.; \$1,661.00. |
| Increase to FERC-725Z in Year 1 ..... | ..... | ..... | ..... | ..... | 143 hrs.; \$7,733.77. |
| Increase to FERC-725Z in Year 2 and ongoing. | ..... | ..... | ..... | ..... | 66 hrs.; \$3,075.38. |
| Total Increase in Year 1, Due to Docket No. RD17-4. | ..... | ..... | ..... | ..... | 5,853 hrs.; \$338,602.57. |
| Total Increase in Year 2 and Ongoing, Due to Docket No. RD17-4. | ..... | ..... | ..... | ..... | 2,275 hrs.; \$117,437.31. |

Comments: Comments are invited on: (1) Whether the collections of

⁴ Our estimates are based on the NERC Compliance Registry of 12/12/2016, which indicates there are 323 entities registered as TOPs, 99 entities registered as BAs, and 11 entities registered as RCs within the United States. One entity may be registered as having several rules.

⁵ The hourly cost figures, for salary plus benefits, for the new standards are based on Bureau of Labor Statistics (BLS) information (at http://www.bls.gov/oes/current/naics2_22.htm), as of May 2015. For reporting requirements, an electrical engineer (code 17-2071) is \$64.29/hour; for the recordkeeping requirements, an information and record clerk (code 43-4199) is \$37.75/hour.

⁶ The reporting and recordkeeping requirements and the associated burden will continue in TOP-001-4 (formerly included in TOP-001-3, which is now being retired). The corresponding estimated burden for the 196 TOPs and BAs continues to be 96 hours per response (or a total estimated burden of 18,816 hours).

⁷ Requirement R21 (applicable to TOPs in ongoing yrs.) covers quarterly testing and associated reporting and recordkeeping requirements. Requirement R24 (applicable to BAs in ongoing yrs.) covers quarterly testing and associated engineering and recordkeeping requirements.

⁸ The reporting and recordkeeping requirements and the associated burden will continue in IRO-002-5 (burden formerly included in IRO-002-4, which is being retired). The corresponding estimated burden for the 11 RCs continues to be 24 hours per response (or a total estimated burden of 264 hours).

⁹ Requirement R3 (applicable to RCs in ongoing yrs.) covers quarterly testing and associated reporting and recordkeeping requirements.

information are necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimates of the burden and cost of the collections of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collections; and (4) ways to minimize the burden of the collections of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 25, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08800 Filed 5-1-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17-1464-000]

Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization: World Fuel Services, Inc.

This is a supplemental notice in the above-referenced proceeding of World Fuel Services, Inc's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard

to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is May 15, 2017.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for electronic review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov, or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Dated: April 25, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08799 Filed 5-1-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC17-12-000]

Commission Information Collection Activities (FERC-523); Comment Request; Revision and Extension

AGENCY: Federal Energy Regulatory
Commission, Department of Energy.

ACTION: Notice of revised information collection and request for comments.

SUMMARY: In compliance with the requirements of the Paperwork Reduction Act of 1995, the Federal Energy Regulatory Commission (Commission or FERC) is soliciting public comment on a revision to the information collection, FERC-523, (Application for Authorization for the Issuance of Securities or the Assumption of Liabilities) which will be submitted to the Office of Management and Budget (OMB) for a review of the information collection requirements.

DATES: Comments on the collection of information are due July 3, 2017.

ADDRESSES: You may submit comments identified by Docket No. IC17-12-000 by either of the following methods:

- *eFiling at Commission's Web site:*
<http://www.ferc.gov/docs-filing/efiling.asp>.

- *Mail/Hand Delivery/Courier:*
Federal Energy Regulatory Commission,
Secretary of the Commission, 888 First
Street NE., Washington, DC 20426.

Instructions: All submissions must be formatted and filed in accordance with submission guidelines at: <http://www.ferc.gov/help/submission-guide.asp>. For user assistance contact FERC Online Support by email at ferconlinesupport@ferc.gov, or by phone at: (866) 208-3676 (toll-free), or (202) 502-8659 for TTY.

Docket: Users interested in receiving automatic notification of activity in this docket or in viewing/downloading comments and issuances in this docket may do so at <http://www.ferc.gov/docs-filing/docs-filing.asp>.

FOR FURTHER INFORMATION CONTACT:
Ellen Brown may be reached by email at DataClearance@FERC.gov, telephone at (202) 502-8663, and fax at (202) 273-0873.

SUPPLEMENTARY INFORMATION:

Title: FERC-523, Application for Authorization for the Issuance of Securities or the Assumption of Liabilities.

OMB Control No.: 1902-0043.

Type of Request: Three-year approval of the FERC-523 information collection requirements with no changes to the current reporting requirements.

Abstract: The information collected by FERC-523 is required to implement the statutory provisions of section 204 of the Federal Power Act (FPA) (16 U.S.C. 824c). Under section 204 of the FPA no public utility or licensee shall issue any security, or assume any obligation or liability as guarantor, endorser, surety, or otherwise in respect of any security of another person, until the public utility applies for and receives Commission approval by order authorizing the issue or assumption of the liability. The Commission issues an order if it finds that such issue or assumption (a) is for lawful object, within the corporate purposes of the applicant and compatible with the public interest, which is necessary or appropriate for or consistent with the proper performance by the applicant as a public utility, and which will not impair its ability to perform that service, and (b) is reasonably necessary or appropriate for such purposes.

The Commission uses the information contained in filings to determine its acceptance and/or rejection of applications for authorization to either issue securities or to assume an obligation or liability by the public utilities and their licensees who submit these applications.

The specific application requirements and filing format are found at 18 CFR Part 34; and 18 CFR 131.43 and 131.50. This information is filed electronically.

Type of Respondents: Public utilities subject to the Federal Power Act.

*Estimate of Annual Burden:*¹ The Commission estimates the reduction in the annual public reporting burden for the FERC-523, as follows:

¹ Burden is defined as the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. For further explanation of what is included in the information collection burden, refer to 5 Code of Federal Regulations 1320.3.

FERC-523, APPLICATIONS FOR AUTHORIZATION FOR ISSUANCE OF SECURITIES OR ASSUMPTION OF LIABILITY

| Information collection requirements | Number of respondents ² | Annual number of responses per respondent | Total number of responses | Average burden hours & cost per response ³ | Total annual burden hours & total annual cost |
|-------------------------------------|------------------------------------|---|---------------------------|---|---|
| | (1) | (2) | (1) * (2) = (3) | (4) | (3) * (4) = (5) |
| FERC-523 | 145 | 1 | 145 | 70 \$5,355 | 10,150 \$776,475 |

Comments: Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden and cost of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Dated: April 26, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017-08808 Filed 5-1-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG17-101-000.

Applicants: Shoe Creek Solar, LLC.

Description: Self-Certification of EG of Shoe Creek Solar, LLC.

Filed Date: 4/25/17.

Accession Number: 20170425-5310.

Comments Due: 5 p.m. ET 5/16/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10-1325-007; ER10-1330 005; ER10-1333 007; ER10-2032 006; ER10-2033 006; ER12-1946 007; ER12-2313 003; ER15-190 004;

² The number of respondents is derived from the actual number of applications processed.

³ The Commission staff thinks that the average respondent for this collection is similarly situated to the Commission, in terms of salary plus benefits. Based upon FERC's 2017 annual average of \$158,754 (for salary plus benefits), the average hourly cost is \$76.50/hour.

ER15-255 002; ER16-141 003; ER16-355 001; ER17-543 001.

Applicants: CinCap V LLC, Colonial Eagle Solar, LLC, Conetoe II Solar, LLC, Duke Energy Beckjord, LLC, Duke Energy Beckjord Storage, LLC, Duke Energy Commercial Enterprises, Inc., Duke Energy Kentucky, Inc., Duke Energy Ohio, Inc., Duke Energy Renewable Services, LLC, Duke Energy SAM, LLC, Laurel Hill Wind Energy, LLC, North Allegheny Wind, LLC.

Description: Supplement to December 21, 2016 Triennial Market Power Analysis for the Northeast Region of Duke Energy Corporation subsidiaries.

Filed Date: 4/21/17.

Accession Number: 20170421-5227.

Comments Due: 5 p.m. ET 5/12/17.

Docket Numbers: ER15-1882-003.

Applicants: PSEG Energy Resources & Trade LLC.

Description: Compliance filing: Cancellation of certain tariff records in compliance with FERC Staff to be effective 1/7/2016.

Filed Date: 4/26/17.

Accession Number: 20170426-5252.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER16-1969-004.

Applicants: Midcontinent Independent System Operator, Inc.

Description: Compliance filing: 2017-04-24 Addtl. compliance filing to address NIPSCO Order EL13-88 to be effective 8/22/2016.

Filed Date: 4/24/17.

Accession Number: 20170424-5287.

Comments Due: 5 p.m. ET 5/15/17.

Docket Numbers: ER17-569-002.

Applicants: National Choice Energy LLC.

Description: Tariff Amendment: Baseline Amendment to be effective 12/30/2016.

Filed Date: 4/25/17.

Accession Number: 20170425-5337.

Comments Due: 5 p.m. ET 5/16/17.

Docket Numbers: ER17-891-001.

Applicants: Louisville Gas and Electric Company.

Description: Report Filing: IMEA IMPA Refund Report Compliance Filing to be effective N/A.

Filed Date: 4/26/17.

Accession Number: 20170426-5254.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17-1378-002.

Applicants: Just Energy Solutions Inc.

Description: Tariff Amendment: Errata to supplement to notice of succession to be effective 4/4/2017.

Filed Date: 4/25/17.

Accession Number: 20170425-5211.

Comments Due: 5 p.m. ET 5/16/17.

Docket Numbers: ER17-1465-001.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Amendment: Amendment to Filing of Third Revised Service Agreement No. 974, Queue No. AC1-06 to be effective 3/24/2017.

Filed Date: 4/25/17.

Accession Number: 20170425-5348.

Comments Due: 5 p.m. ET 5/16/17.

Docket Numbers: ER17-1471-000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: SA 243 12th Rev—NITSA with CHS Inc. to be effective 7/1/2017.

Filed Date: 4/25/17.

Accession Number: 20170425-5299.

Comments Due: 5 p.m. ET 5/16/17.

Docket Numbers: ER17-1472-000.

Applicants: NorthWestern Corporation.

Description: § 205(d) Rate Filing: SA 792—NITSA with Big Horn County Electric Cooperative to be effective 7/1/2017.

Filed Date: 4/26/17.

Accession Number: 20170426-5079.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17-1473-000.

Applicants: Duke Energy Florida, LLC.

Description: § 205(d) Rate Filing: DEF IA Annual Cost Factor Update (2017) to be effective 5/1/2017.

Filed Date: 4/26/17.

Accession Number: 20170426-5155.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17-1474-000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC-Kings Mountain Revised PPA RS No. 331 to be effective 7/1/2017.

Filed Date: 4/26/17.

Accession Number: 20170426–5167.
Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17–1475–000.

Applicants: Safeway Inc.

Description: § 205(d) Rate Filing: Safeway Notice of Succession Filing to be effective 4/26/2017.

Filed Date: 4/26/17.

Accession Number: 20170426–5169.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17–1476–000.

Applicants: Interstate Power and Light Company.

Description: Tariff Cancellation: HEG and IPL Notice of Cancellation of Coordination Agreement to be effective 4/26/2017.

Filed Date: 4/26/17.

Accession Number: 20170426–5243.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17–1477–000.

Applicants: Interstate Power and Light Company.

Description: Tariff Cancellation: HEG and IPL Notice of Cancellation of LBA Agreement to be effective 4/26/2017.

Filed Date: 4/26/17.

Accession Number: 20170426–5244.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17–1478–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: Revised Att. L OATT Provisions to be effective 6/26/2017.

Filed Date: 4/26/17.

Accession Number: 20170426–5245.

Comments Due: 5 p.m. ET 5/17/17.

Docket Numbers: ER17–1479–000.

Applicants: Franklin County Wind, LLC.

Description: Tariff Cancellation: FCW Notice of Cancellation of MBR Tariff to be effective 4/26/2017.

Filed Date: 4/26/17.

Accession Number: 20170426–5246.

Comments Due: 5 p.m. ET 5/17/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For

other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 26, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–08806 Filed 5–1–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–103–000.

Applicants: Elgin Energy Center, LLC, Rocky Road Power, LLC, Tilton Energy LLC.

Description: Supplement to April 12, 2017 Application of Elgin Energy Center, LLC, et al. for Approval Pursuant to Section 203 of the Federal Power Act.

Filed Date: 4/24/17.

Accession Number: 20170424–5214.

Comments Due: 5 p.m. ET 5/4/17.

Docket Numbers: EC17–108–000.

Applicants: AltaGas Ltd., WGL Energy Services, Inc.

Description: Joint Application of AltaGas Ltd. and WGL Energy Services, Inc. for Authorization of Disposition of Jurisdictional Assets and Purchase of Securities Under Section 203 of the Federal Power Act.

Filed Date: 4/24/17.

Accession Number: 20170424–5295.

Comments Due: 5 p.m. ET 5/15/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–3285–001; ER10–3177–001; ER10–3181–001.

Applicants: UGI Development Company, UGI Energy Services, LLC, UGI Utilities, Inc., UGI Utilities Inc.

Description: Supplement to December 19, 2016 Updated Triennial Market Power Analysis for Northeast region of the UGI MBR Companies.

Filed Date: 4/25/17.

Accession Number: 20170425–5121.

Comments Due: 5 p.m. ET 6/26/17.

Docket Numbers: ER16–1967–002.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance filing per Order issued 1/19/2017 in Docket Nos. EL13–88–001 et al to be effective 8/22/2016.

Filed Date: 4/24/17.

Accession Number: 20170424–5285.

Comments Due: 5 p.m. ET 5/15/17.

Docket Numbers: ER16–1969–003.

Applicants: Midcontinent

Independent System Operator, Inc.

Description: Compliance filing: 2017–04–24 Addtl compliance filing to address NIPSCO Complaint Order to be effective 8/22/2016.

Filed Date: 4/24/17.

Accession Number: 20170424–5286.

Comments Due: 5 p.m. ET 5/15/17.

Docket Numbers: ER17–1465–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Third Revised SA No. 974, Queue No. AC1–064 to be effective 3/24/2017.

Filed Date: 4/24/17.

Accession Number: 20170424–5232.

Comments Due: 5 p.m. ET 5/15/17.

Docket Numbers: ER17–1466–000.

Applicants: PacifiCorp.
Description: § 205(d) Rate Filing: Tri-State NITSA Rev 8 to be effective 4/1/2017.

Filed Date: 4/24/17.

Accession Number: 20170424–5280.

Comments Due: 5 p.m. ET 5/15/17.

Docket Numbers: ER17–1467–000.

Applicants: Oklahoma Gas and Electric Company.

Description: § 205(d) Rate Filing: Section 205 Filing to Update Depreciation Rates in Transmission Formula Rate to be effective 7/1/2016.

Filed Date: 4/25/17.

Accession Number: 20170425–5112.

Comments Due: 5 p.m. ET 5/16/17.

Docket Numbers: ER17–1468–000.

Applicants: Unitol Power Corp.
Description: Unitol Power Corp submits Statement of all billing transactions under the Amended Unitol System Agreement for the period January 1, 2016 to December 31, 2016.

Filed Date: 4/21/17.

Accession Number: 20170421–5042.

Comments Due: 5 p.m. ET 5/12/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: April 25, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08795 Filed 5-1-17; 8:45 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17-30-000]

Notice of Supplement To Petition for Declaratory Order: Nogales Transmission, L.L.C.; Nogales Frontier Operations, L.L.C.

Take notice that on April 25, 2017, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure,¹ Nogales Transmission, L.L.C. and Nogales Frontier Operations, L.L.C. filed a supplement to its petition for declaratory order filed on December 21, 2016, as more fully explained in its supplemented petition.

Any person desiring to intervene or to protest in this proceeding must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at <http://www.ferc.gov>. To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

The filings in the above proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email FERCOnlineSupport@ferc.gov or call (866) 208-3676 (toll free). For TTY, call (202) 502-8659.

Comment Date: 5:00 p.m. Eastern time on May 25, 2017.

Dated: April 26, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017-08807 Filed 5-1-17; 8:45 am]

BILLING CODE 6717-01-P

FEDERAL COMMUNICATIONS COMMISSION

[GN Docket No. 12-268; AU Docket No. 14-252; MB Docket No. 16-306; DA 17-282]

Procedures for Submitting Financial Information Required for the Disbursement of Incentive Payments and Reimbursement Payments After the Incentive Auction Closes

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: In this document, the Incentive Auction Task Force, Wireless Telecommunications Bureau, and Media Bureau announce instructions to full power and Class A broadcasters and multichannel video programming distributors who anticipate receiving incentive and/or reimbursement payment(s) following the incentive auction. Specifically, the instructions describe the essential steps that must be taken before receiving incentive payments based on winning reverse auction bids or payments from the Television Broadcaster Relocation Fund for expenses eligible for reimbursement. **DATES:** Reverse auction winning bidders must submit an FCC Form 1875 for each station with a winning bid within 20 business days after the release of the *Auction 1000 Closing and Channel Reassignment Public Notice*.

ADDRESSES: Full power and Class A broadcasters and multichannel video programming distributors who anticipate receiving incentive and/or reimbursement payment(s) must mail the original hard-copy of their completed, signed, and notarized FCC

Form 1875 or 1876, as applicable, to: Federal Communications Commission, Travel & Operations Group, Attn: Chief of TOG, 9300 East Hampton Drive, Capitol Heights, MD 20743.

FOR FURTHER INFORMATION CONTACT: For general auction questions, contact Linda Sanderson, Linda.Sanderson@fcc.gov, (717) 338-2868. For reverse auction incentive payment questions, contact Erik Salovaara, Erik.Salovaara@fcc.gov, (202) 418-0660, or Kathryn Hinton, Kathryn.Hinton@fcc.gov, (202) 418-0660. For reimbursement questions, contact Pam Gallant, Pamela.Gallant@fcc.gov, (202) 418-0614. Press contact: Charles Meisch, Charles.Meisch@fcc.gov, (202) 418-2943. For FCC User Registration-related questions, contact the FCC User Registration System and CORES Help Desk, CORESHelpDesk@fcc.gov, (202) 418-4120.

SUPPLEMENTARY INFORMATION: This is a summary of the *Auction 1000 Financial Procedures Public Notice*, GN Docket No. 12-268, AU Docket No. 14-252, MB Docket No. 16-306; DA 17-282, released on March 29, 2017. The complete text of the *Auction 1000 Financial Procedures Public Notice* is available for public inspection and copying from 8:00 a.m. to 4:30 p.m. ET Monday through Thursday or from 8:00 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW., Room CY-A257, Washington, DC 20554. The complete text is also available on the Commission's Web site at <http://www.fcc.gov/media>, the Auction 1000 Web site at <http://www.fcc.gov/auctions/1000>, or by using the search function on the ECFS Web page at <http://www.fcc.gov/cgb/ecfs/>. Alternative formats are available to persons with disabilities by sending an email to FCC504@fcc.gov or by calling the Consumer & Governmental Affairs Bureau at (202) 418-0530 (voice), (202) 418-0432 (TTY).

1. The *Auction 1000 Financial Procedures Public Notice* provides instructions describing the essential steps that full power and Class A broadcasters and multichannel video programming distributors (MVPDs) who anticipate receiving incentive and/or reimbursement payment(s) following the incentive auction (collectively, Payment Applicants) must take before receiving payments. Specifically, the *Auction 1000 Financial Procedures Public Notice* describes and explains FCC Forms 1875 and 1876, the forms that Payment Applicants must use to provide the Commission with directions for making payments. These forms enable Payment Applicants to certify their agreement with and

¹ 18 CFR 385.207(a)(2) (2016).

acknowledgement of required payment terms, to identify the individual(s) authorized to give the Commission instructions regarding payments, and to identify the financial institution and account into which payments should be made. The *Auction 1000 Financial Procedures Public Notice* also describes the CORES Incentive Auction Financial Module, the web-based software that enables Payment Applicants to enter bank account information electronically and view payment information.

I. Procedures for Providing Payment Applicant's Payment Instructions to the Commission

2. A Payment Applicant must submit payment instructions for each station (Facility ID) or MVPD (File Number) for which it anticipates receiving a payment in connection with the incentive auction through a two-step process to reduce the risk of error or fraud. First, a Payment Applicant must submit a signed and notarized FCC Form 1875 (for reverse auction winning bidders) or FCC Form 1876 (for reassigned stations and MVPDs), along with a bank account verification letter or redacted bank statement that confirms ownership of the bank account, for each Facility ID/ File Number receiving an incentive payment or reimbursement payment. After determining that all of the required information has been provided in the FCC Form 1875/1876, as applicable, FCC staff will grant the Payment Applicant access to the CORES Incentive Auction Financial Module. Next, the Payment Applicant must enter bank account information for the payment recipient in the CORES Incentive Auction Financial Module. FCC staff will review the information submitted electronically in the CORES Incentive Auction Financial Module to confirm that it matches the bank account information submitted in the signed and notarized FCC Form 1875/1876, as applicable. FCC staff will contact the Payment Applicant to resolve any discrepancies between information received in the FCC Form 1875/1876, as applicable, and in the CORES Incentive Auction Financial Module and will instruct the Payment Applicant how to submit updated payment instructions. No incentive payment or reimbursement payment will be made if the bank account information in the CORES Incentive Auction Financial Module does not match the bank account information in the FCC Form 1875/1876, as applicable.

3. When filling out an FCC Form 1875/1876, as applicable, and entering bank account information electronically in the CORES Incentive Auction

Financial Module, a Payment Applicant should follow the instructions in the *Auction 1000 Financial Procedures Public Notice*, the forthcoming CORES Incentive Auction Financial Module User Manual, and any related Commission releases. A Payment Applicant should be fully familiar with other public notices and/or decisions that have been issued in this proceeding, any future public notices and/or decisions that may be issued in this proceeding, and any other relevant public notices and/or decisions the Commission issued in other proceedings that may relate to the incentive auction. Additional guidance, data, and information related to the post-auction transition will be available at www.fcc.gov/incentiveauctions. Additionally, copies of these and other relevant documents are available at the FCC's headquarters located at 445 12th Street SW., Washington, DC 20554 during normal business hours. On March 13, 2017, the Incentive Auction Task Force, in conjunction with the Media Bureau, hosted a public workshop to review procedures related to the post-auction broadcast transition. A recording of the workshop is accessible from www.fcc.gov/incentiveauctions and can also be accessed directly at www.fcc.gov/news-events/events/2017/03/post-incentive-auction-transition-workshop.

II. Processing Reverse Auction Incentive Payments

A. Complete Payments

4. Consistent with making only a single incentive payment to a single payee and into a single account for each station with a winning bid, each incentive payment disbursed by the U.S. Treasury will be for the station's total incentive payment. The amount received in the account designated by the Payment Applicant may reflect offsets and withholding. In such circumstances, the amount received may be less than the amount of the winning bid.

B. Sequencing, if Necessary

5. It may be possible to disburse funds to cover the full amount of incentive payments for all stations with winning bids at one time. In the event, however, that this is not possible, incentive payments for stations with winning bids will be disbursed after sufficient funds become available to cover those payments. To allow stations with winning bids to vacate their spectrum in a manner that will maintain the transition schedule for stations remaining on the air, the order in which

stations with winning bids will receive incentive payments will be determined by the post-auction transition schedule.

C. Public Notice of Ready to Pay

6. When the Commission is ready to direct the U.S. Treasury to make incentive payments, a public notice will specify each station with a winning bid, along with its respective winning bidder as identified in the *Auction 1000 Closing and Channel Reassignment Public Notice (Closing and Reassignment Public Notice)*, for which a payment is ready to be disbursed (*Ready to Pay Public Notice*). The precise timing of any such public notice cannot be known with certainty in advance. A single public notice may cover all incentive payments for all winning bidders or multiple public notices may be needed should incentive payments need to be disbursed at more than one time for any reason. In addition, notwithstanding the availability of sufficient funds to make all incentive payments, technical issues or factors relating to a particular payee may require additional time to resolve. In that case, the Commission will issue a *Ready to Pay Public Notice* covering other stations' incentive payments and subsequently issue another *Ready to Pay Public Notice* as soon as the particular issues relating to the delayed payment are resolved.

7. The release of a *Ready to Pay Public Notice* for specified stations with winning bids will indicate that Commission staff has directed the U.S. Treasury to make the related incentive payments. However, the Commission does not control the precise date on which the U.S. Treasury makes each incentive payment or when each incentive payment is received in the account identified by the winning bidder or becomes available to the account holder. For purposes of implementing Commission rules and procedures that establish deadlines based on when a winning bidder receives its incentive payment, a station with a winning bid will be considered to have received its incentive payment five (5) business days after the date of the *Ready to Pay Public Notice* stating that the incentive payment for the particular station with a winning bid is ready to be disbursed.

8. The Auction Payments component of the CORES Incentive Auction Financial Module separately will report the U.S. Treasury scheduled disbursement date. That date is provided for purposes of tracking payments. The scheduled disbursement date reported in the Auction Payments component of the CORES Incentive

Auction Financial Module, however, will not be considered the date of receipt by the winning bidder for purposes of implementing the Commission's rules. Instead, the winning bidder will be considered to have received its payment five (5) business days after the date of the *Ready to Pay Public Notice* stating that the incentive payment for a particular station with a winning bid is ready to be disbursed.

9. The U.S. Treasury has authority to offset federal payments, including incentive payments, based on information not available to the Commission. Consequently, the Auction Payments component of the CORES Incentive Auction Financial Module cannot report information regarding any such offsets. A winning bidder needing information regarding any discrepancy between the amount of its winning bid and the incentive payment received that is not accounted for by offsets or withholdings identified by the Commission must seek the information directly from the U.S. Treasury by calling 1-800-304-3107. Hearing impaired callers may use the Federal Relay Service by dialing 1-800-877-8339 to reach a communications assistant who will dial the toll free number.

III. Processing Reimbursement Payments

A. Tracking Reimbursement Payments

10. The Commission does not control the precise date on which the U.S. Treasury makes each reimbursement payment or when each reimbursement payment is received in the account identified by the Eligible Entity or becomes available to the account holder. After a payment is in fact made, the Auction Payments component of the CORES Incentive Auction Financial Module separately will report the U.S. Treasury scheduled disbursement date for the payment being made. That date is provided for purposes of tracking payments. The Auction Payments component of the CORES Incentive Auction Financial Module will also show the 399 file number, reference code, and the amount that the FCC requested be disbursed with respect to the Facility ID/File Number.

11. The U.S. Treasury has authority to offset federal payments, including reimbursement payments, based on information not available to the Commission. Consequently, the Auction Payments component of the CORES Incentive Auction Financial Module cannot report information regarding any such offsets. An Eligible Entity needing

information regarding any discrepancy between its approved reimbursement payment and the amount it actually received must seek the information directly from the U.S. Treasury by calling 1-800-304-3107. Hearing impaired callers may use the Federal Relay Service by dialing 1-800-877-8339 to reach a communications assistant who will dial the toll free number.

B. Effects of Ownership Changes

12. Given that the Commission will be processing reimbursement payments for several years after the release of the *Closing and Reassignment Public Notice*, a licensee may assign or transfer a reassigned station before it has received all of its reimbursement allotment. If any reassigned station is the subject of a transaction (*i.e.*, assignment or transfer of control) that is consummated after the release of the *Closing and Reassignment Public Notice* and results in a new FRN for that station (*i.e.*, results in a new FRN-Facility ID relationship), FCC staff will deactivate the bank account information associated with the station's pre-consummation FRN, and will hold the station's in-process reimbursement payment(s), if any, upon acceptance of the consummation. Once a reimbursement payment has been processed (*i.e.*, submitted to the U.S. Treasury for disbursement) a freeze will not preclude transmittal of the processed payment. To facilitate future reimbursement payments, the assignee must file a new reimbursement request and timely submit a new FCC Form 1876, along with a bank account verification letter or redacted bank statement that confirms ownership of the bank account. Any delay in submission of a new FCC Form 1876 may cause a delay in the disbursement of a reimbursement payment as directed by the assignee.

13. The assignee also must submit bank account information in the Auction Bank Accounts component of the CORES Incentive Auction Financial Module even if the bank account information has not changed as a result of the ownership change. None of the station's payment information associated with the pre-consummation FRN will transfer over to the station's post-consummation FRN in the Auction Payments component of the CORES Incentive Auction Financial Module. Any pre-consummation payment information will, however, remain available to any authorized users via the pre-consummation FRN account. Therefore, the assignor and assignee should address in any transaction agreement the responsibilities and

expectations of each party with respect to reimbursement payments, use of the FRN accounts related to the transferred or assigned station(s), and any related matters.

14. Reimbursement payments will be disbursed only to an Eligible Entity—reimbursement payments will not be disbursed to third parties. As a result, once the assignment or transfer of a reassigned station has been consummated, reimbursement payments will only be disbursed to the assignee or transferee. Because an assignment or transfer of control application could be granted and the parties could consummate the transaction while a reimbursement request is pending, we strongly encourage licensees of reassigned stations to account for this possibility in their transaction agreements and to consider the status of pending reimbursement requests when deciding to consummate a transaction. Failure to do so may result in a delay in grant of the assignment or transfer of control application and/or delay the Commission's reimbursement process.

15. Prior to granting and/or accepting consummation of a post-auction transaction involving one or more reassigned stations, the Media Bureau will provide additional procedural guidance to the parties involved in the transaction.

Federal Communications Commission.

Gary D. Michaels,
Deputy Chief, Auctions and Spectrum Access
Division, WTB.

[FR Doc. 2017-08816 Filed 5-1-17; 8:45 am]

BILLING CODE 6712-01-P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE AND TIME: Tuesday, April 25, 2017 at 10:00 a.m. and its continuation at the conclusion of the open meeting on April 27, 2017.

PLACE: 999 E Street NW., Washington, DC.

STATUS: This meeting was closed to the public.

FEDERAL REGISTER NOTICE OF PREVIOUS ANNOUNCEMENT: 82 FR 18644.

CHANGE IN THE MEETING: The April 25th meeting was postponed to April 26th.

THIS MEETING ALSO DISCUSSED: Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

PERSON TO CONTACT FOR INFORMATION:
Judith Ingram, Press Officer, Telephone:
(202) 694-1220.

Dayna C. Brown,

Secretary and Clerk of the Commission.

[FR Doc. 2017-08912 Filed 4-28-17; 11:15 am]

BILLING CODE 6715-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier CMS-10418]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including any of the following subjects 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 must be received by July 3, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to <http://www.regulations.gov>. Follow the instructions for "Comment or Submission" or "More Search Options" to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4-26-05, 7500 Security Boulevard, Baltimore, Maryland 21244-1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at <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: Reports Clearance Office at (410) 786-1326.

SUPPLEMENTARY INFORMATION:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS-10418 Medical Loss Ratio Annual Reports, MLR Notices, and Recordkeeping Requirements

Under the PRA (44 U.S.C. 3501-3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term "collection of information" is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Annual MLR and Rebate Calculation Report and MLR

Rebate Notices; *Use:* Under Section 2718 of the Affordable Care Act and implementing regulation at 45 CFR part 158, a health insurance issuer (issuer) offering group or individual health insurance coverage must submit a report to the Secretary concerning the amount the issuer spends each year on claims, quality improvement expenses, non-claims costs, Federal and State taxes and licensing and regulatory fees, the amount of earned premium, and beginning with the 2014 reporting year, the amounts related to the transitional reinsurance, risk corridors, and risk adjustment programs established under sections 1341, 1342, and 1343, respectively, of the Affordable Care Act. An issuer must provide an annual rebate if the amount it spends on certain costs compared to its premium revenue (excluding Federal and States taxes and licensing and regulatory fees) does not meet a certain ratio, referred to as the medical loss ratio (MLR). Each issuer is required to submit annually MLR data, including information about any rebates it must provide, on a form prescribed by CMS, for each State in which the issuer conducts business. Each issuer is also required to provide a rebate notice to each policyholder that is owed a rebate and each subscriber of policyholders that are owed a rebate for any given MLR reporting year. Additionally, each issuer is required to maintain for a period of seven years all documents, records and other evidence that support the data included in each issuer's annual report to the Secretary. Under Section 1342 of the Patient Protection and Affordable Care Act and implementing regulation at 45 CFR part 153, issuers of qualified health plans (QHPs) must participate in a risk corridors program. A QHP issuer will pay risk corridors charges or be eligible to receive payments based on the ratio of the issuer's allowable costs to the target amount. Each QHP issuer is required to submit an annual report to CMS concerning the issuer's allowable costs, allowable administrative costs, premium, and proportion of market premium information that is specific to an issuer's QHPs is collected through a separate plan-level data form, which is included in this information collection. Additionally, each QHP issuer is required to maintain for a period of ten years all documents, records and other evidence sufficient to enable the evaluation of the issuer's compliance with applicable risk corridors standards.

Based upon CMS' experience in the MLR data collection and evaluation process, CMS is updating its annual

burden hour estimates to reflect the actual numbers of submissions, rebates and rebate notices.

The 2016 MLR Reporting Form and Instructions reflect changes for the 2016 reporting/benefit year and beyond. In 2017, it is expected that issuers will submit fewer reports and send fewer notices and rebate checks in the mail to policyholders and subscribers, which will reduce burden on issuers. It is estimated that there will be a net reduction in total burden from 235,148 to 200,597. *Form Number:* CMS-10418 (OMB Control Number: 0938-1164); *Frequency:* Annually; *Affected Public:* Private Sector, Business or other for-profit and not-for-profit institutions; *Number of Respondents:* 545; *Number of Responses:* 2,532; *Total Annual Hours:* 200,597. (For policy questions regarding this collection contact Christina Whitefield at 301-492-4172.)

Dated: April 27, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017-08848 Filed 5-1-17; 8:45 am]

BILLING CODE 4120-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meeting Announcement for the Physician-Focused Payment Model Technical Advisory Committee Required by the Medicare Access and CHIP Reauthorization Act (MACRA) of 2015

ACTION: Notice of public meeting.

SUMMARY: This notice announces the next meeting date for the Physician-Focused Payment Model Technical Advisory Committee (hereafter referred to as “the Committee”) which will be held in Washington, DC and will be open to the public.

DATES: The PTAC meeting will occur on the following dates:

- Monday, June 5, 2017 from 9:00 a.m. to 4:00 p.m. ET

Please note that times are subject to change. If the times change, registrants will be notified directly via email.

ADDRESSES: The Hubert H. Humphrey Building Great Hall, 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Ann Page, Designated Federal Officer, at the Office of Health Policy, Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, 200 Independence Ave. SW., Washington, DC 20201 (202) 690-6870.

SUPPLEMENTARY INFORMATION:

I. Purpose

The Physician-Focused Payment Model Technical Advisory Committee (“the Committee”) is required by Section 101(e) of the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). This Committee is also governed by provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), which sets forth standards for the formation and use of federal advisory committees. In accordance with its statutory mandate, the Committee is to review physician-focused payment model proposals and prepare recommendations regarding whether such models meet criteria that were established through rulemaking by the Secretary of Health and Human Services (the Secretary). The Committee is composed of 11 members appointed by the Comptroller General.

II. Agenda

At the June 5, 2017 meeting, the Committee will hear presentations by PTAC members on proposals for Medicare physician-focused payment models submitted by members of the public. Presentations will be followed by public comments and Committee deliberation and voting on recommendations to the Secretary of HHS. There will be time allocated for public comment on these agenda items as well as other issues the public would like to raise. Documents will be posted on the PTAC Web site prior to the public meeting. The agenda is subject to change. If the agenda does change, we will inform registrants and update our Web site to reflect any changes.

III. Meeting Attendance

The June 5, 2017 meeting is open to the public. The public may also attend via conference call or livestream at www.hhs.gov/live. The conference call dial-in information will be sent to registrants prior to the meeting.

Meeting Registration

The public may attend the meeting in-person or listen by phone via audio teleconference. Space is limited and registration is preferred in order to attend in-person or by phone. Registration may be completed online at www.regonline.com/PTACMeetingsRegistration.

The following information is submitted when registering:

- Name:
- Company/organization name:
- Postal address:
- Email address:

A confirmation email will be sent to the registrants shortly after completing the registration process.

IV. Special Accommodations

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Angela Tejada, no later than May 19, 2017. Please submit your requests by email to Angela.Tejeda@hhs.gov or by calling 202-401-8297.

V. Copies of the PTAC Charter and Meeting Material

The Secretary’s Charter for the Physician-Focused Payment Model Technical Advisory Committee is available on the ASPE Web site at <https://aspe.hhs.gov/charter-physician-focused-payment-model-technical-advisory-committee>.

Additional material for this meeting can be found on the PTAC Web site. For updates and announcements, please use the link to subscribe to the PTAC email listserv.

Dated: April 24, 2017.

John R. Graham,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 2017-08846 Filed 5-1-17; 8:45 am]

BILLING CODE 4150-05-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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 Institute on Minority Health and Health Disparities Special Emphasis Panel; NIMHD Research Centers in Minority Institutions (RCMI) (U54).

Date: June 21-23, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: William F. Bolger Center, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: Maryline Laude-Sharp, Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, 7201 Wisconsin Ave., Suite 525, RM 533F, Bethesda, MD 20814, (301) 451-9536, mlaudesharp@nih.gov.

Dated: April 26, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-08785 Filed 5-1-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Minority Health and Health Disparities; Notice of Closed Meeting

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 meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable materials, 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 Institute on Minority Health and Health Disparities Special Emphasis Panel; NIH Pathway to Independence Award.

Date: June 16, 2017.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate cooperative agreement applications.

Place: National Institute on Minority Health and Health Disparities, 7201 Wisconsin Ave., Suite 525, Rm. 533K, Bethesda, MD 20814 (Virtual Meeting).

Contact Person: Xinli Nan, Ph.D., Scientific Review Officer, National Institute on Minority Health and Health Disparities, National Institutes of Health, Scientific Review Branch, OERA, 7201 Wisconsin Ave., Suite 525, Bethesda, MD 20814, (301) 594-2704, Xinli.Nan@nih.gov.

Dated: April 26, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-08786 Filed 5-1-17; 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; PAR16-448: Decision Making and Aging in Alzheimer's Disease.

Date: May 22, 2017.

Time: 8:00 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 (Virtual Meeting).

Contact Person: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205, MSC 7846, Bethesda, MD 20892, (301) 437-0911, kramerkm@csr.nih.gov.

Name of Committee: Immunology Integrated Review Group; Cellular and Molecular Immunology—B Study Section.

Date: May 24-25, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Betty Hayden, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4206, MSC 7812, Bethesda, MD 20892, 301-435-1223, haydenb@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR16-212: Cognitive Neuroscience and Assessment of Cancer Treatment-Related Cognitive Impairment.

Date: May 25, 2017.

Time: 8:00 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: Kristin Kramer, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5205,

MSC 7846, Bethesda, MD 20892, (301) 437-0911, kramerkm@csr.nih.gov.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: High Throughput Screening.

Date: May 25, 2017.

Time: 9:00 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: David Filpula, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6181, MSC 7892, Bethesda, MD 20892, 301-435-2902, filpuladr@mail.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: April 26, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-08783 Filed 5-1-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Human Genome Research Institute.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the NATIONAL HUMAN GENOME RESEARCH INSTITUTE, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Human Genome Research Institute Workgroup.

Date: June 14-15, 2017.

Time: June 14, 2017, 5:30 p.m. to 10:00 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Time: June 15, 2017, 7:30 a.m. to 5:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, FAES classroom 4, 10 Center Drive, Bethesda, MD 20892.

Contact Person: Paul Liu, BA, Ph.D., MB, MD, Deputy Scientific Director, National Institutes of Health, National Human Genome Res Institute, Bldg. 49, Rm. 3A26/49 Covent Dr., MSC442, Bethesda, MD 20892, (301) 402-2529, pliu@mail.nih.gov.

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: April 26, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-08784 Filed 5-1-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program Board of Scientific Counselors; Announcement of Meeting; Request for Comments

SUMMARY: This notice announces the next meeting of the National Toxicology Program (NTP) Board of Scientific Counselors (BSC). The BSC, a federally chartered, external advisory group composed of scientists from the public and private sectors, will review and provide advice on programmatic activities. The meeting is open to the public and registration is requested for both attendance and oral comment and required to access the webcast. Information about the meeting and registration are available at <http://ntp.niehs.nih.gov/go/165>.

DATES:

Meeting: June 29, 2017; it begins at 8:30 a.m. Eastern Daylight Time (EDT) and continues until adjournment.

Written Public Comment

Submissions: Deadline is June 22, 2017.

Registration for Meeting and/or Oral Comments: Deadline is June 22, 2017. Registration to view the meeting via the webcast is required.

ADDRESSES:

Meeting Location: Rodbell Auditorium, Rall Building, National Institute of Environmental Health Sciences (NIEHS), 111 T.W. Alexander Drive, Research Triangle Park, NC 27709.

Meeting Web page: The preliminary agenda, registration, and other meeting

materials are at <http://ntp.niehs.nih.gov/go/165>.

Webcast: The meeting will be webcast; the URL will be provided to those who register for viewing.

FOR FURTHER INFORMATION CONTACT: Dr. Mary Wolfe, Designated Federal Officer for the BSC, Office of Liaison, Policy and Review, Division of NTP, NIEHS, P.O. Box 12233, K2-03, Research Triangle Park, NC 27709. Phone: 919-541-7539, Fax: 301-451-5759, Email: wolfe@niehs.nih.gov. Hand Deliver/Courier address: 530 Davis Drive, Room K2130, Morrisville, NC 27560.

SUPPLEMENTARY INFORMATION:

Meeting and Registration: The meeting is open to the public with time scheduled for oral public comments; attendance at the meeting is limited only by the space available.

The BSC will provide input to the NTP on programmatic activities and issues. Preliminary agenda topics include: Reports from the NIEHS/NTP Director and NTP Associate Director, and presentations on programmatic activities including issues related to studying mixtures, an evaluation of the zebrafish model for toxicology, a state of the science evaluation of transgenerational inheritance of health effects, and the new Integrated Chemical Environment database. This meeting will also provide opportunity for input on an effort being coordinated by the Interagency Coordinating Committee on the Validation of Alternative Methods (ICCVAM) to explore new approaches for evaluating the safety of chemicals and medical products in the United States. The preliminary agenda, roster of BSC members, background materials, public comments, and any additional information, when available, will be posted on the BSC meeting Web site (<http://ntp.niehs.nih.gov/go/165>) or may be requested in hardcopy from the Designated Federal Officer for the BSC. Following the meeting, summary minutes will be prepared and made available on the BSC meeting Web site.

The public may attend the meeting in person or view the webcast. Registration is required to view the webcast; the URL for the webcast will be provided in the email confirming registration. Individuals who plan to provide oral comments (see below) are encouraged to register online at the BSC meeting Web site (<http://ntp.niehs.nih.gov/go/165>) by June 22, 2017, to facilitate planning for the meeting. Individuals are encouraged to access the Web site to stay abreast of the most current information regarding the meeting. Visitor and security information for those attending in-person is available at niehs.nih.gov/

[about/visiting/index.cfm](http://niehs.nih.gov/about/visiting/index.cfm). Individuals with disabilities who need accommodation to participate in this event should contact Ms. Robbin Guy at phone: (919) 541-4363 or email: guyr2@niehs.nih.gov. TTY users should contact the Federal TTY Relay Service at 800-877-8339. Requests should be made at least five business days in advance of the event.

Request for Comments: Written comments submitted in response to this notice should be received by June 22, 2017. Comments will be posted on the BSC meeting Web site and persons submitting them will be identified by their name and affiliation and/or sponsoring organization, if applicable. Persons submitting written comments should include their name, affiliation (if applicable), phone, email, and sponsoring organization (if any) with the document. Guidelines for public comments are at http://ntp.niehs.nih.gov/ntp/about_ntp/guidelines_public_comments_508.pdf.

Time is allotted during the meeting for the public to present oral comments to the BSC on the agenda topics. Public comments can be presented in-person at the meeting or by teleconference line. There are 50 lines for this call; availability is on a first-come, first-served basis. The lines will be open from 8:30 a.m. until adjournment, although the BSC will receive public comments only during the formal public comment periods, which are indicated on the preliminary agenda. Each organization is allowed one time slot per agenda topic. Each speaker is allotted at least 7 minutes, which if time permits, may be extended to 10 minutes at the discretion of the BSC chair. Persons wishing to present oral comments should register on the BSC meeting Web site by June 22, 2017, indicate whether they will present comments in-person or via the teleconference line, and indicate the topic(s) on which they plan to comment. The access number for the teleconference line will be provided to registrants by email prior to the meeting. On-site registration for oral comments will also be available on the meeting day, although time allowed for comments by these registrants may be limited and will be determined by the number of persons who register at the meeting.

Persons registering to make oral comments are asked to send a copy of their statement and/or PowerPoint slides to the Designated Federal Officer by June 22, 2017. Written statements can supplement and may expand upon the oral presentation. If registering on-site and reading from written text,

please bring 20 copies of the statement for distribution to the BSC and NTP staff and to supplement the record.

Background Information on the BSC: The BSC is a technical advisory body comprised of scientists from the public and private sectors that provides primary scientific oversight to the NTP. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purpose of determining and advising on the scientific merit of its activities and their overall scientific quality. Its members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology, neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Members serve overlapping terms of up to four years. The BSC usually meets biannually. The authority for the BSC is provided by 42 U.S.C. 217a, section 222 of the Public Health Service Act (PHS), as amended. The BSC is governed by the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. app.), which sets forth standards for the formation and use of advisory committees.

Dated: April 13, 2017.

John R. Bucher,

Associate Director, NTP.

[FR Doc. 2017-08836 Filed 5-1-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF HOMELAND SECURITY

[Docket No. DHS-2017-0018]

The President's National Security Telecommunications Advisory Committee

AGENCY: Department of Homeland Security.

ACTION: Committee management; notice of partially closed Federal Advisory Committee meeting.

SUMMARY: The President's National Security Telecommunications Advisory Committee (NSTAC) will meet on Thursday, May 18, 2017, in Washington, DC. The meeting will be partially closed to the public.

DATES: The NSTAC will meet on Thursday, May 18, 2017, from 9:00 a.m. to 3:05 p.m. Eastern Standard Time (EST). Please note that the meeting may close early if the committee has completed its business.

ADDRESSES: The May 2017 NSTAC Meeting's open session will be held at the Eisenhower Executive Office Building, Washington, DC. Due to limited seating, requests to attend in person will be accepted and processed in the order in which they are received. The meeting's proceedings will also be available via Webcast at <http://www.whitehouse.gov/live>, for those who cannot attend in person. Individuals who intend to participate in the meeting will need to register by sending an email to NSTAC@hq.dhs.gov by 5:00 p.m. EST on Friday, May 12, 2017. For information on facilities or services for individuals with disabilities, or to request special assistance at the meeting, please contact NSTAC@hq.dhs.gov as soon as possible.

Members of the public are invited to provide comment on the issues to be considered by the committee as listed in the **SUPPLEMENTARY INFORMATION** section below. Associated briefing materials to be discussed at the meeting will be available at www.dhs.gov/nstac for review on Friday, May 5, 2017. Comments may be submitted at any time and must be identified by docket number DHS-2017-0018.

Comments may be submitted by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Please follow the instructions for submitting written comments.
- **Email:** NSTAC@hq.dhs.gov. Include the docket number DHS-2017-0018 in the subject line of the email message.
- **Fax:** (703) 235-5962, ATTN: Sandy Benevides.

- **Mail:** Designated Federal Officer, Stakeholder Engagement and Critical Infrastructure Resilience Division, National Protection and Programs Directorate, Department of Homeland Security, 245 Murray Lane, Mail Stop 0604, Arlington, VA 20598-0604.

Instructions: All submissions received must include the words "Department of Homeland Security" and the docket number for this action. Comments received will be posted without alteration at www.regulations.gov, including any personal information provided.

Docket: For access to the docket and comments received by the NSTAC, please go to www.regulations.gov and enter docket number DHS-2017-0018.

A public comment period will be held during the meeting from 2:15 p.m. to 2:35 p.m. Speakers who wish to participate in the public comment period must register in advance and can do so by emailing NSTAC@hq.dhs.gov no later than Friday, May 12, 2017, at 5:00 p.m. EST. Speakers are requested to

limit their comments to three minutes. Please note that the public comment period may end before the time indicated, following the last call for comments.

FOR FURTHER INFORMATION CONTACT: Helen Jackson, NSTAC Designated Federal Officer, Department of Homeland Security, (703) 235-5321 (telephone) or helen.jackson@hq.dhs.gov (email).

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under *the Federal Advisory Committee Act*, 5 U.S.C. Appendix (Pub. L. 92-463). The NSTAC advises the President on matters related to national security and emergency preparedness (NS/EP) telecommunications policy.

Agenda: The committee will meet in an open session on May 18, 2017, to receive remarks from Department of Homeland Security (DHS) leadership and other senior Government officials regarding the Government's current cybersecurity initiatives and NS/EP priorities. Additionally, the committee will receive an overview of the Administration's NS/EP communications and cybersecurity priorities. Finally, the NSTAC members will deliberate and vote on the NSTAC Emerging Technologies Strategic Vision Subcommittee's study of the near- and long-term NS/EP implications of emergent and expected information and communications technologies.

The committee will also meet in a closed session to receive a classified briefing regarding cybersecurity threats and discuss future studies based on the Government's NS/EP priorities and perceived vulnerabilities.

Basis for Closure: In accordance with 5 U.S.C. 552b(c), *The Government in the Sunshine Act*, it has been determined that two agenda items require closure, as the disclosure of the information discussed would not be in the public interest.

The first of these agenda items, the classified briefing, will provide members with a cybersecurity threat briefing on vulnerabilities related to the communications infrastructure. Disclosure of these threats would provide criminals who seek to compromise commercial and Government networks with information on potential vulnerabilities and mitigation techniques, weakening the Nation's cybersecurity posture. This briefing will be classified at the top secret level, thereby exempting disclosure of the content by statute. Therefore, this portion of the meeting is required to be closed pursuant to 5 U.S.C. 552b(c)(1)(A) & (B).

The second agenda item, a discussion of potential NSTAC study topics, will address areas of critical cybersecurity vulnerabilities and priorities for Government. Government officials will share data with NSTAC members on initiatives, assessments, and future security requirements across public and private sector networks. The information will include specific vulnerabilities within cyberspace that affect the United States' information and communication technology infrastructures and proposed mitigation strategies. Disclosure of this information to the public would provide criminals with an incentive to focus on these vulnerabilities to increase attacks on the Nation's critical infrastructure and communications networks. As disclosure of this portion of the meeting is likely to significantly frustrate implementation of proposed DHS actions, it is required to be closed pursuant to 5 U.S.C. 552b(c)(9)(B).

Dated: April 21, 2017.

Helen Jackson,

Designated Federal Officer for the NSTAC.

[FR Doc. 2017-08823 Filed 5-1-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX17LR000F60100]

Agency Information Collection Activities: Request for Comments

AGENCY: U.S. Geological Survey (USGS), Interior.

ACTION: Notice of a renewal of a currently approved information collection (1028-0068).

SUMMARY: We (the U.S. Geological Survey) will ask the Office of Management and Budget (OMB) to approve the information collection (IC) described below. This collection consists of 15 forms. As required by the Paperwork Reduction Act (PRA) of 1995, and as part of our continuing efforts to reduce paperwork and respondent burden, we invite the general public and other Federal agencies to take this opportunity to comment on this IC. This collection is scheduled to expire on September 30, 2017.

DATES: To ensure that your comments are considered, we must receive them on or before July 3, 2017.

ADDRESSES: You may submit comments on this information collection to the Information Collection Clearance

Officer, U.S. Geological Survey, 12201 Sunrise Valley Drive MS 807, Reston, VA 20192 (mail); (703) 648-7197 (fax); or *gs-info_collections@usgs.gov* (email). Please reference 'Information Collection 1028-0068, Ferrous Metals Surveys in all correspondence.

FOR FURTHER INFORMATION CONTACT:

Elizabeth S. Sangine, National Minerals Information Center, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 989, Reston, VA 20192 (mail); 703-648-7720 (phone); or *escottssangine@usgs.gov* (email). You may also find information about this ICR at *www.reginfo.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

Respondents to these forms supply the USGS with domestic production and consumption data for 13 ores, concentrates, metals, and ferroalloys, some of which are considered strategic and critical to assist in determining stockpile goals. These data and derived information will be published as chapters in Minerals Yearbooks, monthly Mineral Industry Surveys, annual Mineral Commodity Summaries, and special publications, for use by Government agencies, industry, education programs, and the general public.

II. Data

OMB Control Number: 1028-0068.

Form Number: Various (15 forms).

Title: Ferrous Metals Surveys.

Type of Request: Renewal of existing information collection.

Affected Public: Business or Other-For-Profit Institutions: U.S. nonfuel minerals producers and consumers of ferrous and related metals.

Respondent's Obligation: None. Participation is voluntary.

Frequency of Collection: Monthly or Annually.

Estimated Total Number of Annual Responses: 2,296.

Estimated Time per Response: For each form, we will include an average burden time ranging from 10 minutes to 1 hour.

Estimated Annual Burden Hours: 1,199 hours.

Estimated Reporting and Recordkeeping "Non-Hour Cost"

Burden: There are no "non-hour cost" burdens associated with this IC.

Public Disclosure Statement: The PRA (44 U.S.C. 3501, *et seq.*) provides that an agency may not conduct or sponsor and you are not required to respond to a collection of information unless it displays a currently valid OMB control number and current expiration date.

III. Request for Comments

We are soliciting comments as to: (a) Whether the proposed collection of information is necessary for the agency to perform its duties, including whether the information is useful; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; and (d) how to minimize the burden on the respondents, including the use of automated collection techniques or other forms of information technology.

Please note that the comments submitted in response to this notice are a matter of public record. Before including your personal mailing address, phone number, email address, or other personally identifiable information in your comment, you should be aware that your entire comment, including your personally identifiable information, may be made publicly available at any time. While you can ask us in your comment to withhold your personally identifiable information from public view, we cannot guarantee that we will be able to do so.

IV. Authority

The authorities for this action are the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the National Materials and Minerals Policy, Research and Development Act of 1980 (30 U.S.C. 1601 *et seq.*), and the National Mining and Minerals Policy Act of 1970 (30 U.S.C. 21(a)).

Michael J. Magyar,

Associate Director, National Minerals Information Center, U.S. Geological Survey.

[FR Doc. 2017-08782 Filed 5-1-17; 8:45 am]

BILLING CODE 4338-11-P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[L19200000.AL0000.LRORB1518600. LLCAD06000.15X; CACA-56671]

Public Land Order No. 7861; Transfer of Administrative Jurisdiction, Chocolate Mountain Aerial Gunnery Range; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order transfers administrative jurisdiction of 225,651 acres, more or less, of public lands from the Secretary of the Interior to the Secretary of the Navy for use as part of

the Chocolate Mountain Aerial Gunnery Range (CMAGR) in Imperial and Riverside Counties, California. This transfer of administrative jurisdiction is directed by the National Defense Authorization Act for Fiscal Year 2014.

DATES: This Public Land Order is effective on May 2, 2017.

FOR FURTHER INFORMATION CONTACT:

Thomas Zale, Bureau of Land Management, El Centro Field Office, 1661 S. 4th Street, El Centro, CA 92243, 760-337-4400. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 800-877-8339 to reach the above contact. The FRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: In accordance with section 2961 of the National Defense Authorization Act for Fiscal Year 2014, the Bureau of Land Management (BLM) transmits the enclosed Public Land Order (PLO) and associated documents which will effectuate the transfer of administrative jurisdiction over approximately 225,651 acres of withdrawn public lands located in Imperial and Riverside Counties, California to the Department of the Navy (DON) for use as part of the CMAGR to include the lands described in this order.

Order

By virtue of the authority vested in the Secretary of the Interior by Public Law 113-66, 127 Stat. 1040, it is ordered as follows:

1. Subject to valid existing rights, including any property, easements, or improvements held by the Bureau of Reclamation and appurtenant to the Coachella Canal, the administrative jurisdiction of the following described public lands is hereby transferred from the Secretary of the Interior to the Secretary of the Navy to be administered as part of the CMAGR in accordance with the provisions in Public Law 113-66:

San Bernardino Meridian

T.7S., R.12E.,

Sec. 34, lot 9.

T.8S., R.12E.,

Sec. 2, lots 2 thru 5, SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 4, lots 5, 8, 9, and 14, and S $\frac{1}{2}$;

Sec. 6, lots 24, 25, and 28;

Sec. 8, lots 1 thru 12, and 16, SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Secs. 10, 12, and 14;

Sec. 22, lots 1 thru 14 and 17 thru 23,

N $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$,

N $\frac{1}{2}$ SW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 24, lots 1, 2, and 3, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Sec. 26, lots 1, 3, 5, 6 thru 12, 16 thru 25, 32, and 33.

T.7S., R.13E.,

Sec. 22, lots 3, 4, 9, and 10, SE $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and SE $\frac{1}{4}$;

Secs. 24 and 26;

Sec. 28, lots 6 and 7, NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Sec. 32, lot 1, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Sec. 34.

T.8S., R.13E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.9S., R.13E.,

Secs. 2, 4, and 6;

Sec. 8, lots 1 thru 6, N $\frac{1}{2}$, and SW $\frac{1}{4}$;

Secs. 10, 12, and 14;

Sec. 18, lot 7;

Sec. 20, lot 1;

Sec. 22, lots 1 thru 4, 6 thru 9, 12 thru 17, and 21, N $\frac{1}{2}$ NE $\frac{1}{4}$, and N $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 24;

Sec. 26, lots 1 thru 5, 9, 11, 16, 17, and 20, and NE $\frac{1}{4}$ NE $\frac{1}{4}$.

T.7S., R.14E.,

Sec. 20, lot 6;

Sec. 26, lots 3, 6, 9, and 12, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 28, lots 3, 6, 9, and 12;

Secs. 30, 32, and 34.

T.8S., R.14E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.9S., R.14E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, and 30.

Sec. 32, lots 1 and 5 thru 14, N $\frac{1}{2}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 34.

T.10S., R.14E.,

Sec. 2;

Sec. 4, lots 3 thru 18, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 6, lots 17, 18, 19, 22 thru 25, 27, and 29;

Sec. 8, lots 1 and 4;

Sec. 10, lots 1 thru 9, E $\frac{1}{2}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 12;

Sec. 14, lots 1 thru 9, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 22, lots 1 thru 5, and NW $\frac{1}{4}$ NE $\frac{1}{4}$;

Sec. 24, lots 1 thru 5, N $\frac{1}{2}$, and SW $\frac{1}{4}$.

T.7S., R.15E.,

Sec. 30, lots 10, 13, 16, and 19;

Sec. 31, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, unsurveyed, SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, unsurveyed,

N $\frac{1}{2}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,

W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$,

NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$, and

N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 32, lots 5, 8, 11, and 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Sec. 33, lots 13, 16, and 21;

Sec. 34, lots 5 and 8.

T.8S., R.15E.,

Sec. 2, lots 7, 13, 16, and 17;

Secs. 4, 6, 8, and 10;

Sec. 11, lot 7, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$,

NW $\frac{1}{4}$ SE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$, and

E $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 12, lots 3, 6, 9, and 12, S $\frac{1}{2}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$;

Secs. 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.9S., R.15E.,

Secs. 2, and 4;

Sec. 5, N $\frac{1}{2}$ of lot 5, N $\frac{1}{2}$ NW $\frac{1}{4}$ of lot 7, SE $\frac{1}{4}$ SW $\frac{1}{4}$ of lot 7, and N $\frac{1}{2}$ NW $\frac{1}{4}$ of lot 9;

Secs. 6, 8, and 10;

Sec. 11, S $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;

Secs. 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.10S., R.15E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, and 34.

T.11S., R.15E.,

Secs. 2 and 12.

T.8S., R.16E.,

Sec. 8, lots 3, 6, 9, 12, and 15, NW $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;

Sec. 14, lot 3;

Secs. 18, 20, and 22;

Sec. 24, lot 3;

Secs. 26, 28, 30, 32, and 34.

T.9S., R.16E.,

Secs. 2, 4, 6, 8, and 10;

Sec. 12, lots 1, 2, and 3, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and S $\frac{1}{2}$ NW $\frac{1}{4}$;

Sec. 14, SW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$, and SE $\frac{1}{4}$;

Secs. 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.10S., R.16E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, and 24;

Sec. 25, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SE $\frac{1}{4}$;

Secs. 26, 28, 30, 32, and 34.

T.11S., R.16E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, and 34.

T.12S., R.16E.,

Secs. 2 and 12.

T.8S., R.17E.,

Sec. 32, lot 10.

T.9S., R.17E.,

Sec. 6, lots 7, 8, and 17;

Sec. 20, lots 1, 2, and 3;

Sec. 26;

Sec. 28, NE $\frac{1}{4}$ NE $\frac{1}{4}$, S $\frac{1}{2}$ NE $\frac{1}{4}$, and S $\frac{1}{2}$;

Secs. 30, 32, and 34.

T.10S., R.17E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.11S., R.17E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.12S., R.17E.,

Secs. 2, 4, 6, 8, 10, 12, 13, and 14;

Sec. 15, S $\frac{1}{2}$;

Sec. 17, S $\frac{1}{2}$;

Secs. 18, 20 thru 28, and 35.

T.10S., R.18E.,

Secs. 6, 8, 18, 20, 22, 26, 28, 30, 32, and 34.

T.11S., R.18E.,

Secs. 2, 4, 6, 8, 10, 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.

T.12S., R.18E.,

Secs. 2, 4, 6, 8, 10, 12 thru 15, and 17 thru 35.

T.13S., R.18E.,

Secs. 1 thru 6, all unsurveyed;

Sec. 8, E $\frac{1}{2}$;

Secs. 9, 10, and 11, all unsurveyed.

T.10S., R.19E.,

Sec. 32.

T.11S., R.19E.,

Secs. 4, 6, 8, 10, 14, 18, 20, 22, 26, 28, 30, 32, and 34.

T.12S., R.19E.,
Secs. 2, 4, 6, 8, and 10;
Sec. 15, S½;
Sec. 17, S½;
Secs. 18 thru 22 and 27 thru 34.

The area described aggregates 225,651 acres, more or less, in Imperial and Riverside Counties, California.

Dated: April 26, 2017.

Ryan K. Zinke,

Secretary of the Interior.

[FR Doc. 2017-08853 Filed 5-1-17; 8:45 am]

BILLING CODE 4310-40-P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—IMS Global Learning Consortium, Inc.

Notice is hereby given that, on April 19, 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”), IMS Global Learning Consortium, Inc. (“IMS Global”) has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act’s provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Collective Shift/LRNG, Chicago, IL; Hancorn Communication, Inc., Gyeonggi-do, REPUBLIC OF KOREA; Harford County Public Schools, Bel Air, MD; ICT and Systems Development, Umeå University, Umeå, SWEDEN; Infinitas Learning (incl. Noordhoff Health), Houton, THE NETHERLANDS; Lee County Public Schools, Fort Meyers, FL; Mozilla, Mountain View, CA; Neosho School District, Neosho, MO; Park Hill School District, Kansas City, MO; ProExam, New York, NY; Renaissance Learning, Wisconsin Rapids, WI; Apereo Foundation (Sakai/Tsugi), Ann Arbor, MI; and Trifork Learning Solutions B.V., Amsterdam, THE NETHERLANDS, have been added as parties to this venture.

Also, Newton Public Schools, Newton, MA; and Lone Star College Online, The Woodlands, TX, 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 IMS Global intends to file additional written

notifications disclosing all changes in membership.

On April 7, 2000, IMS Global filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on September 13, 2000 (65 FR 55283).

The last notification was filed with the Department on February 8, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 6, 2017 (82 FR 12639).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017-08850 Filed 5-1-17; 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 ROS-Industrial Consortium-Americas

Notice is hereby given that, on April 7, 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 ROS-Industrial Consortium-Americas (“RIC-Americas”) 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, Magna Services of America Inc., Troy, MI, and Cognex Corporation, Natick, MA, have been added as parties to this venture. In addition, Cessna Aircraft Company, a Textron Company, Wichita, KS, 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 RIC-Americas intends to file additional written notifications disclosing all changes in membership or planned activities.

On April 30, 2014, RIC-Americas 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 June 9, 2014 (79 FR 32999).

The last notification was filed with the Department on February 21, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 4, 2017 (82 FR 16420).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017-08852 Filed 5-1-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to The National Cooperative Research and Production Act of 1993—Medical CBRN Defense Consortium

Notice is hereby given that, on April 10, 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”), Medical CBRN Defense Consortium (“MCDC”) 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, Codagenix, Inc., Great Neck, NY; Fraunhofer USA Center for Molecular Biotechnology, Newark, DE; FUJIFILM Pharmaceuticals USA, Inc., Boston, MA; Ibis Biosciences Inc., an Abbott Company, Carlsbad, CA; Biomeme, Inc., Philadelphia, PA; PPD Development LP, Wilmington, NC; California Institute for Biomedical Research, La Jolla, CA; Leidos, Inc., Reston, VA; Merck Research Laboratories, Whitehouse Station, NJ; Tetracore, Inc., Rockville, MD; Mesa Tech International, San Diego, CA; Synthetic Genomics Vaccines, Inc., La Jolla, CA; Brimrose Technology Corporation, Sparks, MD; Bioo Scientific Corporation, Austin, TX; Click Diagnostics, Inc., San Jose, CA; Pulmotect, Inc., Houston, TX; JYANT Technologies, Inc., Marietta, GA; YourEncore, Inc., Indianapolis, IN; and Texas Biomedical Research Institute, San Antonio, 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 MCDC intends to file additional written notifications disclosing all changes in membership.

On November 13, 2015, MCDC 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 January 6, 2016 (81 FR 513).

The last notification was filed with the Department on February 3, 2017. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 7, 2017 (82 FR 12847).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017-08849 Filed 5-1-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—PXI Systems Alliance, Inc.

Notice is hereby given that, on April 12, 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”), PXI Systems Alliance, Inc. (“PXI Systems”) 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, Instrumental Systems Corp., Moscow, RUSSIA; Sundance Digital Signal Processing, Inc., Reno, NV; and Circuit Check, Inc., Maple Grove, MN, have been added as parties to this venture.

Also, Meilhaus Electric GmbH, Alling, GERMANY; and Acquisys, Voisins le Bretonneux, FRANCE, 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 PXI Systems intends to file additional written notifications disclosing all changes in membership.

On November 22, 2000, PXI Systems 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 March 8, 2001 (66 FR 13971).

The last notification was filed with the Department on December 15, 2016.

A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 11, 2017 (82 FR 3360).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017-08851 Filed 5-1-17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

[OMB Number 1125-0005]

Agency Information Collection Activities; Proposed Collection; Comments Requested; Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals

AGENCY: Executive Office for Immigration Review, Department of Justice.

ACTION: 60-day notice.

SUMMARY: The Department of Justice (DOJ), Executive Office for Immigration Review (EOIR), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until July 3, 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 Jean King, General Counsel, USDOJ-EOIR-OGC, Suite 2600, 5107 Leesburg Pike, Falls Church, Virginia 20530; telephone: (703) 305-0470.

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 Statistics, including whether the information will have practical utility;
- Evaluate the accuracy of the agency’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate whether and if so how the quality, utility, and clarity of the

information to be collected can be enhanced; and

- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of This Information Collection:

1. *Type of Information Collection:* Revision and extension of a currently approved collection.

2. *The Title of the Form/Collection:* Notice of Entry of Appearance as Attorney or Representative Before the Board of Immigration Appeals.

3. *The agency form number:* EOIR-27 (OMB #1125-0005).

4. *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Attorneys or representatives notifying the Board of Immigration Appeals (Board) that they are representing a party in proceedings before the Board.

Other: None.

Abstract: This information collection is necessary to allow an attorney or representative to notify the Board that he or she is representing a party before the Board.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 20,669 respondents will complete each form within approximately 6 minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* 2,066 annual burden hours.

If additional information is required contact: Melody D. Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405B, Washington, DC 20530.

Dated: April 27, 2017.

Melody D. Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017-08821 Filed 5-1-17; 8:45 am]

BILLING CODE 4410-30-P

JUSTICE DEPARTMENT**National Institute of Corrections****Charter Re-Establishment for the National Institute of Corrections Advisory Board**

ACTION: Re-establishment of Federal Advisory Committee.

SUMMARY: Under the provisions of the Federal Advisory Committee Act of 1972 (FACA) and the Government in the Sunshine Act of 1976, the National Institute of Corrections (NIC) gives notice that it is re-establishing the charter for the National Institute of Corrections Advisory Board (hereafter referred to as “the Board”).

FOR FURTHER INFORMATION CONTACT: Shaina Vanek, Advisory Board Designated Federal Officer for the National Institute of Corrections, 202–514–4202 or svanek@bop.gov.

SUPPLEMENTARY INFORMATION: The overall policy and operations of the NIC are under the supervision of the Board. In general, the NIC provides training, technical assistance, information services, and policy/program development assistance to Federal, state, and local corrections agencies; through cooperative agreements, awards funds to support program initiatives; and provides leadership to influence correctional policies, practices, and operations nationwide in areas of emerging interest and concern to correctional executives and practitioners as well as public policymakers. The Board will help develop long-range plans, advise on program development, and recommend guidance to assist the NIC’s efforts in these areas. The Board will also advise the Attorney General about the appointment of the Director of the NIC.

The Board shall report to the Director of the NIC. The Director of NIC or his/her designated representatives may act upon the Board’s advice and recommendations.

Under 18 U.S.C. 4351(b) and (c), the Board shall consist of sixteen members. The following six individuals shall serve as members of the Board ex officio: The Director of the Federal Bureau of Prisons or his designee, the Assistant Attorney General for the Office of Justice Programs or his designee, Chairman of the United States Sentencing Commission or his designee, the Director of the Federal Judicial Center or his designee, the Associate Administrator for the Office of Juvenile Justice and Delinquency Prevention or his designee, and the Assistant Secretary for Human Development of

the Department of Health and Human Services or his designee. The remaining ten members of the Board shall be selected by the Attorney General of the United States, after consultation with the Federal Bureau of Prisons and the NIC. Five of these shall be qualified as a practitioner (Federal, State, or local) in the field of corrections, probation, or parole, and shall serve for staggered three-year terms. Five of these members shall be from the private sector, such as business, labor, and education, having demonstrated an active interest in corrections, probation, or parole, and shall serve for staggered three-year terms.

The NIC, when necessary, and consistent with the Board’s mission and NIC policies and procedures may establish subcommittees, task groups, or working groups deemed necessary to support the Board. Establishment of subcommittees will be based upon an identified and articulated need, a verbal or written vote by the Board, and approval by the NIC Director. The Board has established no permanent subcommittees.

Any established subcommittees shall not work independently of the chartered Board, and shall report all of their recommendations and advice to the Board for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of the chartered Board; nor can any subcommittees or any of its members update or report directly to the NIC or any Federal officers or employees. All subcommittees operate under the provisions of the FACA (5 U.S.C. appendix), the Government in the Sunshine Act (5 U.S.C. 552b), governing Federal statutes and regulations, and governing NIC policies/procedures.

The Board shall meet at the call of the Board’s Designated Federal Officer, in consultation with the Chairperson. The estimated number of Committee meetings is two per year.

In addition, the Designated Federal Officer is required to be in attendance at all Board and subcommittee meetings for the entire duration of each and every meeting; however, in the absence of the Designated Federal Officer, the Alternate Designated Federal Officer shall attend the entire duration of the Committee or subcommittee meeting.

Pursuant to 41 CFR 102–3.105(j) and 102–3.140, the public or interested organizations may submit written statements to NIC Advisory Board’s membership about the Board’s mission and functions. Written statements may be submitted at any time or in response to the stated agenda of planned meeting of NIC Advisory Board.

All written statements shall be submitted to the Designated Federal Officer for the National Institute of Corrections Advisory Board, and this individual will ensure that the written statements are provided to the membership for their consideration.

The Designated Federal Officer, pursuant to 41 CFR 102–3.150, will announce planned meetings of the Department of Defense Historical Advisory Committee. The Designated Federal Officer, at that time, may provide additional guidance on the submission of written statements that are in response to the stated agenda for the planned meeting in question.

Dated: April 10, 2017.

Shaina Vanek,

Acting Director and Advisory Board Designated Federal Officer, National Institute of Corrections.

[FR Doc. 2017–07554 Filed 5–1–17; 8:45 am]

BILLING CODE M

DEPARTMENT OF JUSTICE**National Institute of Justice**

[OMB Number 1121—NEW]

Agency Information Collection Activities: Proposed New Information Collection Activity; Comment Request, Proposed Study Entitled “Historically Black Colleges and Universities (HBCU) Sexual Violence Climate Survey Project”

AGENCY: National Institute of Justice, U.S. Department of Justice

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Office of Justice Programs, National Institute of Justice, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until July 3, 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 Carrie Mulford, National Institute of Justice, Office of Research & Evaluation, 810 Seventh Street NW., Washington, DC 20531 (overnight 20001) or via email at Carrie.Mulford@ojp.usdoj.gov.

SUPPLEMENTARY INFORMATION: This process is conducted in accordance with 5 CFR 1320.10. 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 National Institute of Justice, 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:* Modification of the Bureau of Justice Statistics' (BJS) campus climate survey; Cognitive testing; Pilot testing of modified survey.

2. *The Title of the Form/Collection:* Historically Black Colleges and Universities (HBCU) Sexual Violence Climate Survey Project.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The applicable component within the U.S. Department of Justice is the National Institute of Justice in the Office of Justice Programs.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* In early 2014, the White House established the Task Force to Protect Students from Sexual Assault. Representatives to the Task Force were from several federal departments and agencies, including the Centers for Disease Control and Prevention (CDC), the Office on Violence Against Women (OVW), and the National Institute of Justice (NIJ). The task force put forth a mandate to strengthen federal enforcement efforts and provide schools with additional tools to help prevent sexual violence on campuses. One such tool is the campus climate survey

designed to help schools understand the magnitude and nature of sexual victimization experienced by students. As such, in 2014 OVW funded BJS, within the U.S. Department of Justice, to develop and test a pilot campus climate survey. The current project builds on the work of BJS by modifying their campus climate survey for use at HBCUs.

5. NIJ, in collaboration with the Rutgers Violence Against Women Research Consortium, will begin by engaging in cognitive testing to determine if the BJS campus climate survey is relevant to students from HBCUs. The methods for cognitive testing are based on the methods used in the BJS Validation Study. Two forms of cognitive testing will be used. First, crowdsourcing will be used to test the instrument online. Approximately 240 crowdsourced surveys will be piloted with participants who are 18–25 years old, with a high school degree and matching the racial/ethnic demographics of HBCUs over approximately 2 months. Second, cognitive interviewing will then be used to further test the BJS campus climate survey with 30 African American students (potentially to be recruited from the Rutgers-Newark campus). The BJS survey instrument will then be modified based the findings from the crowdsourced surveys and cognitive interviews for use at HBCUs. Lastly, the modified BJS survey will be pilot tested at three to six HBCUs; the survey will be offered to a random sample of 3,300 students over a period of approximately 2 months. At the end of this study, results from the survey will assist with the validation of a campus climate survey tool for HBCUs as well as information on the sexual violence rates at HBCUs.

6. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated range of burden for respondents completing the crowdsourcing survey is 30 minutes. Approximately 240 participants will be recruited to complete the survey. The estimated range of burden for respondents participating in the cognitive interviewing is 60 minutes. Approximately 30 students will be recruited to complete a cognitive interview. Lastly, the estimated range of burden for respondents completing the HBCU campus climate survey is expected to be between 15 to 30 minutes for completion. The following factors were considered when creating the burden estimate: the estimated total number of sites (three HBCUs plus one cognitive testing site) and students

within sites (240 for crowd sourced surveys, 30 for cognitive interviews, and 3,300 at HBCUs), in the sampling plan for a total of 3,570 expected respondents.

7. *An estimate of the total public burden (in hours) associated with the collection:* The estimated public burden associated with this collection is 1,800 hours. It is estimated that each of the 240 crowd sourced surveys will take 30 minutes to complete (240 respondents × 30 minutes = 120 hours). It is estimated that each of the cognitive interviews will take 60 minutes to complete (30 respondents × 1 hour = 30 hours). Lastly, it is estimated that each campus climate survey will take 30 minutes to complete (3,300 respondents × 30 minutes = 1,650 hours). We estimate a 24-month data collection period, with all cognitive testing completed in year one (1) for an annualized burden of 150 hours and all surveys administered in year two (2), or an annualized burden of 1,650 hours for year 2.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., 3E.405A, Washington, DC 20530.

Dated: April 27, 2017.

Melody Braswell,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2017–08822 Filed 5–1–17; 8:45 am]

BILLING CODE 4410–18–P

LEGAL SERVICES CORPORATION

Extension of Comment Period for Proposed Revisions to the Grant Terms and Conditions for Grant Year 2018 Basic Field Grants

AGENCY: Legal Services Corporation.

ACTION: Notice of extended comment period.

SUMMARY: The Legal Services Corporation (“LSC”) is extending the public comment period for the proposed Terms and Conditions (formerly the LSC Grant Assurances) for Grant Year 2018 Basic Field Grants. LSC published the original request for comments in the **Federal Register** on April 7, 2017. The proposed Terms and Conditions are available at <http://www.lsc.gov/about-lsc/matters-comment>. This notice extends the comment period for ten business days, from May 8, 2017, to May 22, 2017.

DATES: All comments must be received on or before the close of business on May 22, 2017.

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

- *Email:* rweir@lsc.gov (preferred).
- *Fax:* (202) 337-6813.
- *Mail:* Legal Services Corporation, 3333 K Street NW., Washington, DC 20007.

All comments should be addressed to Rebecca D. Weir, Senior Assistant General Counsel, Legal Services Corporation. Include "2018 Basic Field Grant Terms and Conditions" as the heading or subject line for all comments submitted. LSC will not consider comments sent to another address or received after the deadline.

FOR FURTHER INFORMATION CONTACT: Rebecca D. Weir, Senior Assistant General Counsel, rweir@lsc.gov, (202) 295-1618.

SUPPLEMENTARY INFORMATION: In response to a recent request, LSC is extending the comment period for proposed changes to the Terms and Conditions for grant year 2018 Basic Field Grants. LSC originally announced a 30-day public comment period through a notice published in the **Federal Register** on April 7, 2017, 82 FR 17307 [FR Doc. 2017-06937]. LSC is extending the comment period by ten business days. Comments are now due on or before May 22, 2017.

LSC is revising its process for developing the Grant Assurances for the Basic Field Grant program. The Grant Assurances will be renamed the Grant Terms and Conditions and will become a part of the Request for Proposals to better notify Basic Field Grant applicants about the legal, regulatory, and contractual requirements of the grants. The Grant Terms and Conditions delineate LSC's and recipients' rights and responsibilities under the grant.

For grant year 2018, LSC has not made substantive changes to the grant year 2017 Grant Assurances/Terms and Conditions. LSC proposes adding several terms, however, including:

- Expanded explanations of the statutory restrictions on the use of LSC and non-LSC funds;
- Expanded explanations on the organizational governance and programmatic requirements that recipients of Basic Field Grant funds must follow;
- Explanation of governing law, venue, and mandatory mediation requirements;
- Prohibition on assigning a Basic Field Grant award to another organization;

- Explanation of intellectual property rights in products developed by a grantee using Basic Field Grant funds;
- Explanation of the grantor-grantee relationship between LSC and a successful applicant for funding;
- Standard integration, severability, and indemnification clauses; and
- Expanded explanation of enforcement procedures.

The 2018 Basic Field Grant Terms and Conditions are available for review at <http://www.lsc.gov/about-lsc/matters-comment>.

Dated: April 27, 2017.

Stefanie K. Davis,
Assistant General Counsel.

[FR Doc. 2017-08834 Filed 5-1-17; 8:45 am]

BILLING CODE 7050-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-311; NRC-2017-0082]

PSEG Nuclear LLC; Salem Nuclear Generating Station, Unit No. 2

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; withdrawal by applicant.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has granted the request of PSEG Nuclear LLC (PSEG or the licensee) to withdraw its application dated March 13, 2017, for a proposed amendment to Facility Operating License No. DPR-75. The proposed amendment would have extended the Salem Nuclear Generating Station (Salem), Unit No. 2, implementation period for Amendment No. 294 from the Spring 2017 refueling outage to prior to restart from the Fall 2018 refueling outage. Amendment No. 294, which was issued by the NRC staff on April 28, 2016, revised the Salem, Unit No. 2 Technical Specifications in support of replacement of the Source Range and Intermediate Range Neutron Monitoring Systems.

ADDRESSES: Please refer to Docket ID NRC-2017-0082 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 ID NRC-2017-0082. 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: Carleen J. Parker, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1603, email: Carleen.Parker@nrc.gov.

SUPPLEMENTARY INFORMATION: The NRC has granted the request of PSEG to withdraw its March 13, 2017, application (ADAMS Accession No. ML17072A443) for a proposed amendment to Facility Operating License No. DPR-75 for Salem, Unit No. 2, located in Salem County, New Jersey.

The proposed amendment would have extended the Salem, Unit No. 2, implementation period for Amendment No. 294 from the Spring 2017 refueling outage to prior to restart from the Fall 2018 refueling outage. Amendment No. 294, which was issued by the NRC staff on April 28, 2016 (ADAMS Accession No. ML16096A419), revised the Salem, Unit No. 2, Technical Specifications in support of replacement of the Source Range and Intermediate Range Neutron Monitoring Systems.

The licensee's application was previously noticed in the **Federal Register** on March 30, 2017 (82 FR 15179). The licensee requested to withdraw the application on April 18, 2017 (ADAMS Accession No. ML17108A248).

Dated at Rockville, Maryland, this 25th day of April 2017.

For the Nuclear Regulatory Commission.

James G. Danna,

Chief, Plant Licensing Branch I, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017-08842 Filed 5-1-17; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40-9083; NRC-2017-0106]

U.S. Army Installation Command

AGENCY: Nuclear Regulatory Commission.

ACTION: 10 CFR 2.206 request; receipt.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is giving notice that by petition dated March 16, 2017, Dr. Michael Reimer (the petitioner) has requested that the NRC take action with regard to facilities licensed under source materials license SUC-1593. The petitioner's requests are included in the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Please refer to Docket ID NRC-2017-0106 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 ID NRC-2017-0106. Address questions about NRC dockets to Carol Gallagher; telephone: 301-415-3463; email: Carol.Gallagher@nrc.gov.

- *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.

SUPPLEMENTARY INFORMATION: On March 16, 2017, the petitioner requested that

the NRC take action with regard to the U.S. Army Installation Command (ADAMS Accession No. ML17110A308). The petitioner requested that the NRC reconsider its approval of License SUC-1593 (ADAMS Accession No. ML16343A161) for possession of depleted uranium at various military installations in the United States.

As the basis for this request, the petitioner identified concerns about lack of air sampling, inappropriateness of the location and number of sediment samples, and insufficient geologic sampling procedures for sediment collection for the licensed depleted uranium that is located in radiation controlled areas on the United States Army's Pohakuloa Training Area, one of the facilities licensed under License SUC-1593.

The request is being treated pursuant to section 2.206 of Title 10 of the *Code of Federal Regulations* (10 CFR) of the Commission's regulations. The request has been referred to the Director of Nuclear Material Safety and Safeguards. As provided by 10 CFR 2.206, appropriate action will be taken on this petition within a reasonable time.

Dated at Rockville, Maryland, this 21st day of April 2017.

For the Nuclear Regulatory Commission.

Theodore Smith,

Acting Branch Chief, Materials Decommissioning Branch, Division of Decommissioning, Uranium Recovery, and Waste Programs, Office of Nuclear Material Safety and Safeguards.

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NUCLEAR REGULATORY COMMISSION

[NRC-2017-0100]

Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving Proposed No Significant Hazards Considerations and Containing Sensitive Unclassified Non-Safeguards Information and Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; notice of opportunity to comment, request a hearing, and petition for leave to intervene; order imposing procedures.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) received and is

considering approval of three amendment requests. The amendment requests are for Duke Energy Progress, LLC, Shearon Harris Nuclear Power Plant, Unit 1, and H. B. Robinson Steam Electric Plant Unit No. 2; Exelon Generation Company, LLC and PSEG Nuclear LLC, Peach Bottom Atomic Power Station, Units 2 and 3; and South Carolina Electric & Gas Company and South Carolina Public Service Authority, Virgil C. Summer Nuclear Station, Units 2 and 3. For each amendment request, the NRC proposes to determine that they involve no significant hazards consideration. Because each amendment request contains sensitive unclassified non-safeguards information (SUNSI) an order imposes procedures to obtain access to SUNSI for contention preparation.

DATES: Comments must be filed by June 1, 2017. A request for a hearing must be filed by July 3, 2017. Any potential party as defined in § 2.4 of title 10 of the *Code of Federal Regulations* (10 CFR), who believes access to SUNSI is necessary to respond to this notice must request document access by May 12, 2017.

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

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0100. 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-8-D36, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lynn Ronewicz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1927; email: Lynn.Ronewicz@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0100, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site*: Go to <http://www.regulations.gov> and search for Docket ID NRC–2017–0100.

- *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 it is available in ADAMS) is provided the first time that it is mentioned in this document.

- *NRC's PDR*: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0100, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

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

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

II. Background

Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the NRC is publishing this notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This notice includes notices of amendments containing SUNSI.

III. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility.

If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish a notice of issuance in the **Federal Register**. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order that may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also

provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or

agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by July 3, 2017. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition, any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562; August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not

submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public Web site at <http://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket, which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings,

unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Duke Energy Progress, LLC, Docket No. 50-400, Shearon Harris Nuclear Power Plant, Unit 1 (HNP), Wake and Chatham Counties, North Carolina

Duke Energy Progress, LLC, Docket No. 50-261, H. B. Robinson Steam Electric Plant Unit No. 2 (RNP), Darlington County, South Carolina

Date of amendment request: November 19, 2015, as supplemented by letters dated October 3, 2016, and November 10, 2016. Publicly-available versions are in ADAMS under Accession Nos. ML15323A351, ML16278A080, and ML16315A286.

Description of amendment request: The amendment request contains sensitive unclassified non-safeguards information (SUNSI). The NRC staff previously made a proposed determination that the license amendment request dated November 19, 2015, involves no significant hazards consideration (81 FR 19645; April 5, 2016). Subsequently, by letter dated October 3, 2016, the licensee provided additional information that expanded the scope of the amendment request as originally noticed. Accordingly, this notice supersedes the previous notice in its entirety. The amendment requests plant-specific review and approval of reactor core design methodology reports DPC-NE-3008-P, Revision 0, "Thermal-Hydraulic Models for Transient Analysis," and DPC-NE-3009-P, Revision 0, "FSAR/UFSAR [Final Safety Analysis Report/Updated Final Safety Analysis Report] Chapter 15 Transient Analysis Methodology," for adoption into the HNP and RNP Technical Specifications. In the supplement dated October 3, 2016, the licensee added the request for the review and approval of DPC-NE-3009-P, Revision 0.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or

consequences of an accident previously evaluated?

Response: No.

The proposed changes request review and approval of DPC-NE-3008-P, Revision 0, "Thermal-Hydraulic Models for Transient Analysis," and DPC-NE-3009-P, Revision 0, "FSAR/UFSAR Chapter 15 Transient Analysis Methodology" to be applied to Shearon Harris Nuclear Power Plant (HNP) and H. B. Robinson Steam Electric Plant (RNP). The benchmark calculations performed confirm the accuracy of the codes and models. The proposed use of this methodology does not affect the performance of any equipment used to mitigate the consequences of an analyzed accident. There is no impact on the source term or pathways assumed in accidents previously assumed. No analysis assumptions are violated and there are no adverse effects on the factors that contribute to offsite or onsite dose as the result of an accident.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes request review and approval of DPC-NE-3008-P, Revision 0, "Thermal-Hydraulic Models for Transient Analysis," and DPC-NE-3009-P, Revision 0, "FSAR/UFSAR Chapter 15 Transient Analysis Methodology" to be applied to Shearon Harris Nuclear Power Plant (HNP) and H. B. Robinson Steam Electric Plant (RNP). It does not change any system functions or maintenance activities. The change does not physically alter the plant, that is, no new or different type of equipment will be installed. The software is not installed in any plant equipment, and therefore the software is incapable of initiating an equipment malfunction that would result in a new or different type of accident from any previously evaluated. The proposed methodology and safety analysis assumptions ensure that the core will operate within safe limits. This change does not create new failure modes or mechanisms which are not identifiable during testing, and no new accident precursors are generated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The proposed changes request review and approval of DPC-NE-3008-P, Revision 0, "Thermal-Hydraulic Models for Transient Analysis," and DPC-NE-3009-P, Revision 0, "FSAR/UFSAR Chapter 15 Transient Analysis Methodology" to be applied to Shearon Harris Nuclear Power Plant (HNP)

and H. B. Robinson Steam Electric Plant (RNP). As a portion of the overall Duke Energy methodology for cycle reload safety analyses, DPC-NE-3008-P will be used in thermal-hydraulic transient analyses and DPC-NE-3009-P will support the performance of FSAR/UFSAR Chapter 15 transient analysis. As with the existing methodologies, the Duke Energy methodologies will continue to ensure (a) the acceptability of analytical limits under normal, transient, and accident conditions, and (b) that all applicable design and safety limits are satisfied such that the fission product barriers will continue to perform their design functions.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tyron Street, Mail Code DEC45A, Charlotte, NC 28202.

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket Nos. 50-277 and 50-278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

Date of amendment request: February 17, 2017. A publicly-available version is in ADAMS under Accession No. ML17048A444.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment would revise the Renewed Facility Operating Licenses and Technical Specifications to implement a measurement uncertainty recapture power uprate. Specifically, the amendment would authorize an increase in the maximum licensed thermal power level from 3,951 megawatts thermal (MWt) to 4,016 MWt, which is an increase of approximately 1.66 percent.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No, the proposed increase in power level does not significantly increase the probability or consequences of an accident previously evaluated.

The proposed changes do not affect system design or operation and thus do not create any new accident initiators or increase the probability of an accident previously evaluated. All accident mitigation systems will function as designed, and all performance requirements for these systems have been evaluated and were found acceptable.

The Nuclear Steam Supply System (NSSS) components (e.g., reactor vessel, reactor internals, control rod drive housings, piping and supports, and recirculation pumps) remain within their applicable structural limits and will continue to perform their intended design functions during normal and accident conditions. Thus, there is no increase in the probability of a structural failure of these components.

The balance of plant systems and components continue to meet their applicable structural limits and will continue to perform their intended design functions. Thus, there is no increase in the probability of a failure of these components. The safety relief valves and containment isolation valves meet design sizing requirements at the uprated power level. Because the integrity of the plant will not be affected by operation at the uprated condition, EGC [Exelon Generation Company] has concluded that all structures, systems, and components required to mitigate a transient remain capable of fulfilling their intended functions.

All safety analyses have either been performed at 102% of Current Licensed Thermal Power (CLTP) and therefore bound the proposed uprate or have been subject to plant-specific analyses at a power level equal to or greater than the proposed uprate. The results demonstrate that acceptance criteria of the applicable analyses continue to be met at the uprated conditions. The analyses performed to assess the effects of mass and energy releases remain valid. The source terms used to assess radiological consequences have been reviewed and determined to bound operation at the uprated condition.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No, the proposed increase in power level does not create the possibility of a new or different kind of accident from any accident previously evaluated.

No new accident scenarios, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. All systems, structures, and components previously required for the mitigation of a transient remain capable of fulfilling their intended design functions. The proposed changes have no adverse effects on any safety-related system or component and do not challenge the performance or integrity of any safety-related

system. No new equipment or procedure changes are involved that could add new accident initiators.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No, the proposed increase in power level does not involve a significant reduction in a margin of safety.

Operation at the uprated power condition does not involve a significant reduction in a margin of safety. Analyses of the primary fission product barriers have concluded that relevant design criteria remain satisfied, both from the standpoint of the integrity of the primary fission product barrier, and from the standpoint of compliance with the required acceptance criteria. As appropriate, all evaluations have been performed using methods that have either been reviewed or approved by the Nuclear Regulatory Commission, or that are in compliance with regulatory review guidance and standards.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Rd., Warrenville, IL 60555.

NRC Branch Chief: James G. Danna.

South Carolina Electric & Gas Company and South Carolina Public Service Authority, Docket Nos. 52-027 and 52-028, Virgil C. Summer Nuclear Station, Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: October 27, 2016. A publicly-available version is in ADAMS under Accession No. ML16301A385.

Description of amendment request: This amendment request contains sensitive unclassified non-safeguards information (SUNSI). The amendment request proposes a change to Updated Final Safety Analysis Report (UFSAR) Tier 2* information to specify the supplemental requirement of American Institute of Steel Construction (AISC) N690-1994, "American National Standard Specification for the Design, Fabrication, and Erection of Steel Safety-Related Structures for Nuclear Facilities" (AISC N690-1994), Section Q1.26.2.2, "Partial-Penetration Welds," for the demonstration of sufficient strength and quality of the carbon steel embedment plate coupler welds to be

credited as justification for the determination that the installed coupler welds are capable of performing their intended design function. The requested amendment proposes a change to Tier 2* information. This submittal requests approval of the license amendment necessary to implement these changes.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change describes how evaluation of coupler strength, and by extension, weld strength and quality are used to demonstrate the capacity of partial joint penetrate on (PJP) welds with fillet weld reinforcement joining weldable couplers to carbon steel embedment plates as being able to perform their intended design function in lieu of satisfying the American Institute of Steel Construction (AISC) N690–1994, Section Q1.26.2.2 requirement for non-destructive examination (NDE) on 10 percent weld populations. The proposed change does not affect the operation of any systems or equipment that initiate an analyzed accident or alter any structures, systems, and components (SSCs) accident initiator or initiating sequence of events.

The change has no adverse effect on the design function of the mechanical couplers or the SSCs to which the mechanical couplers are welded. The probabilities of the accidents evaluated in the Updated Final Safety Analysis Report (UFSAR) are not affected. The change does not impact the support, design, or operation of mechanical or fluid systems. The change does not impact the support, design, or operation of any safety-related structures. There is no change to plant systems or the response of systems to postulated accident conditions. There is no change to the predicted radioactive releases due to normal operation or postulated accident conditions. The plant response to previously evaluated accidents or external events is not adversely affected, nor does the proposed change create any new accident precursors.

Therefore, the requested amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change describes how evaluation of coupler strength, and by extension, weld strength and quality are used to demonstrate the capacity of PJP welds with fillet weld reinforcement joining weldable couplers to carbon steel embedment plates as being able to perform their design

function in lieu of satisfying the AISC N690–1994, Section Q1.26.2.2 requirement for non-destructive examination on 10 percent weld populations. The proposed change does not affect the operation of any systems or equipment that may initiate a new or different kind of accident, or alter any SSC such that a new accident initiator or initiating sequence of events is created.

The proposed change does not adversely affect the design function of the mechanical couplers, the structures in which the couplers are used, or any other SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or nonsafety-related equipment. This activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures.

Therefore, the requested amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change describes how evaluation of coupler strength, and by extension, weld strength and quality are used to demonstrate the capacity of PJP welds with fillet weld reinforcement joining weldable couplers to carbon steel embedment plates as being able to perform their design function in lieu of satisfying the AISC N690–1994, Section Q1.26.2.2 requirement for non-destructive examination on 10 percent weld populations. The proposed change satisfies the same design functions in accordance with the same codes and standards as stated in the UFSAR. This change does not adversely affect compliance with any design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, and no margin of safety is reduced.

Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Ms. Kathryn M. Sutton, Morgan, Lewis & Bockius, LLC, 1111 Pennsylvania Ave. NW., Washington, DC 20004–2514.

NRC Branch Chief: Jennifer Dixon-Herrity.

Order Imposing Procedures for Access to Sensitive Unclassified Non-Safeguards Information for Contention Preparation

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1 (HNP), Wake and Chatham Counties, North Carolina

Exelon Generation Company, LLC and PSEG Nuclear LLC, Docket Nos. 50–277 and 50–278, Peach Bottom Atomic Power Station, Units 2 and 3, York and Lancaster Counties, Pennsylvania

South Carolina Electric & Gas Company and South Carolina Public Service Authority, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station, Units 2 and 3, Fairfield County, South Carolina

A. This Order contains instructions regarding how potential parties to this proceeding may request access to documents containing sensitive unclassified non-safeguards information (SUNSI).

B. Within 10 days after publication of this notice of hearing and opportunity to petition for leave to intervene, any potential party who believes access to SUNSI is necessary to respond to this notice may request access to SUNSI. A “potential party” is any person who intends to participate as a party by demonstrating standing and filing an admissible contention under 10 CFR 2.309. Requests for access to SUNSI submitted later than 10 days after publication of this notice will not be considered absent a showing of good cause for the late filing, addressing why the request could not have been filed earlier.

C. The requester shall submit a letter requesting permission to access SUNSI to the Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemakings and Adjudications Staff, and provide a copy to the Associate General Counsel for Hearings, Enforcement and Administration, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. The expedited delivery or courier mail address for both offices is: U.S. Nuclear Regulatory Commission, 11555 Rockville Pike, Rockville, Maryland 20852. The email address for the Office of the Secretary and the Office of the General Counsel are Hearing.Docket@nrc.gov and OGCmailcenter@nrc.gov, respectively.¹

¹ While a request for hearing or petition to intervene in this proceeding must comply with the filing requirements of the NRC's “E-Filing Rule,” the initial request to access SUNSI under these

The request must include the following information:

- (1) A description of the licensing action with a citation to this **Federal Register** notice;
- (2) The name and address of the potential party and a description of the potential party's particularized interest that could be harmed by the action identified in C.(1); and
- (3) The identity of the individual or entity requesting access to SUNSI and the requester's basis for the need for the information in order to meaningfully participate in this adjudicatory proceeding. In particular, the request must explain why publicly available versions of the information requested would not be sufficient to provide the basis and specificity for a proffered contention.

D. Based on an evaluation of the information submitted under paragraph C.(3) the NRC staff will determine within 10 days of receipt of the request whether:

(1) There is a reasonable basis to believe the petitioner is likely to establish standing to participate in this NRC proceeding; and

(2) The requestor has established a legitimate need for access to SUNSI.

E. If the NRC staff determines that the requestor satisfies both D.(1) and D.(2) above, the NRC staff will notify the requestor in writing that access to SUNSI has been granted. The written notification will contain instructions on how the requestor may obtain copies of the requested documents, and any other conditions that may apply to access to those documents. These conditions may include, but are not limited to, the signing of a Non-Disclosure Agreement or Affidavit, or Protective Order² setting forth terms and conditions to prevent the unauthorized or inadvertent

disclosure of SUNSI by each individual who will be granted access to SUNSI.

F. Filing of Contentions. Any contentions in these proceedings that are based upon the information received as a result of the request made for SUNSI must be filed by the requestor no later than 25 days after receipt of (or access to) that information. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of hearing or opportunity for hearing), the petitioner may file its SUNSI contentions by that later deadline.

G. Review of Denials of Access.

(1) If the request for access to SUNSI is denied by the NRC staff after a determination on standing and requisite need, the NRC staff shall immediately notify the requestor in writing, briefly stating the reason or reasons for the denial.

(2) The requester may challenge the NRC staff's adverse determination by filing a challenge within 5 days of receipt of that determination with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

(3) Further appeals of decisions under this paragraph must be made pursuant to 10 CFR 2.311.

H. Review of Grants of Access. A party other than the requester may challenge an NRC staff determination granting access to SUNSI whose release would harm that party's interest

independent of the proceeding. Such a challenge must be filed within 5 days of the notification by the NRC staff of its grant of access and must be filed with: (a) The presiding officer designated in this proceeding; (b) if no presiding officer has been appointed, the Chief Administrative Judge, or if he or she is unavailable, another administrative judge, or an Administrative Law Judge with jurisdiction pursuant to 10 CFR 2.318(a); or (c) if another officer has been designated to rule on information access issues, with that officer.

If challenges to the NRC staff determinations are filed, these procedures give way to the normal process for litigating disputes concerning access to information. The availability of interlocutory review by the Commission of orders ruling on such NRC staff determinations (whether granting or denying access) is governed by 10 CFR 2.311.³

I. The Commission expects that the NRC staff and presiding officers (and any other reviewing officers) will consider and resolve requests for access to SUNSI, and motions for protective orders, in a timely fashion in order to minimize any unnecessary delays in identifying those petitioners who have standing and who have propounded contentions meeting the specificity and basis requirements in 10 CFR part 2. The attachment to this Order summarizes the general target schedule for processing and resolving requests under these procedures.

It is so ordered.

Dated at Rockville, Maryland, this 27th day of April, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,
Secretary of the Commission.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING

| Day | Event/activity |
|----------|---|
| 0 | Publication of Federal Register notice of hearing and opportunity to petition for leave to intervene, including order with instructions for access requests. |
| 10 | Deadline for submitting requests for access to Sensitive Unclassified Non-Safeguards Information (SUNSI) with information: Supporting the standing of a potential party identified by name and address; describing the need for the information in order for the potential party to participate meaningfully in an adjudicatory proceeding. |
| 60 | Deadline for submitting petition for intervention containing: (i) Demonstration of standing; and (ii) all contentions whose formulation does not require access to SUNSI (+ 25 Answers to petition for intervention; + 7 petitioner/requestor reply). |

procedures should be submitted as described in this paragraph.

² Any Motion for Protective Order or draft Non-Disclosure Affidavit or Agreement for SUNSI must be filed with the presiding officer or the Chief Administrative Judge, if the presiding officer has

not yet been designated, within 30 days of the deadline for the receipt of the written access request.

³ Requesters should note that the filing requirements of the NRC's E-Filing Rule (72 FR 49139; August 28, 2007, as amended at 77 FR

46562; August 3, 2012) apply to appeals of NRC staff determinations (because they must be served on a presiding officer or the Commission, as applicable), but not to the initial SUNSI request submitted to the NRC staff under these procedures.

ATTACHMENT 1—GENERAL TARGET SCHEDULE FOR PROCESSING AND RESOLVING REQUESTS FOR ACCESS TO SENSITIVE UNCLASSIFIED NON-SAFEGUARDS INFORMATION IN THIS PROCEEDING—Continued

| Day | Event/activity |
|---------------|---|
| 20 | U.S. Nuclear Regulatory Commission (NRC) staff informs the requester of the staff's determination whether the request for access provides a reasonable basis to believe standing can be established and shows need for SUNSI. (NRC staff also informs any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information.) If NRC staff makes the finding of need for SUNSI and likelihood of standing, NRC staff begins document processing (preparation of redactions or review of redacted documents). |
| 25 | If NRC staff finds no "need" or no likelihood of standing, the deadline for petitioner/requester to file a motion seeking a ruling to reverse the NRC staff's denial of access; NRC staff files copy of access determination with the presiding officer (or Chief Administrative Judge or other designated officer, as appropriate). If NRC staff finds "need" for SUNSI, the deadline for any party to the proceeding whose interest independent of the proceeding would be harmed by the release of the information to file a motion seeking a ruling to reverse the NRC staff's grant of access. |
| 30 | Deadline for NRC staff reply to motions to reverse NRC staff determination(s). |
| 40 | (Receipt + 30) If NRC staff finds standing and need for SUNSI, deadline for NRC staff to complete information processing and file motion for Protective Order and draft Non-Disclosure Affidavit. Deadline for applicant/licensee to file Non-Disclosure Agreement for SUNSI. |
| A | If access granted: Issuance of presiding officer or other designated officer decision on motion for protective order for access to sensitive information (including schedule for providing access and submission of contentions) or decision reversing a final adverse determination by the NRC staff. |
| A + 3 | Deadline for filing executed Non-Disclosure Affidavits. Access provided to SUNSI consistent with decision issuing the protective order. |
| A + 28 | Deadline for submission of contentions whose development depends upon access to SUNSI. However, if more than 25 days remain between the petitioner's receipt of (or access to) the information and the deadline for filing all other contentions (as established in the notice of opportunity to request a hearing and petition for leave to intervene), the petitioner may file its SUNSI contentions by that later deadline. |
| A + 53 | (Contention receipt + 25) Answers to contentions whose development depends upon access to SUNSI. |
| A + 60 | (Answer receipt + 7) Petitioner/Intervenor reply to answers. |
| >A + 60 | Decision on contention admission. |

[FR Doc. 2017-08896 Filed 5-1-17; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52-027 and 52-028; NRC-2008-0441]

Virgil C. Summer Nuclear Station, Units 2 and 3; South Carolina Electric & Gas Company; South Carolina Public Service Authority Relocation of Air Cooled Chiller Pump 3, VWS-MP-03

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption and combined license amendment; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is granting an exemption to allow a departure from the certification information of Tier 1 of the generic AP1000 design control document (DCD) and is issuing License Amendment No. 62 to Combined Licenses (COL), NPF-93 and NPF-94. The COLs were issued to South Carolina Electric & Gas Company and the South Carolina Public Service Authority, (both collectively referred to as the licensee) for construction and operation of the Virgil C. Summer Nuclear Station (VCSNS) Units 2 and 3, located in Fairfield County, South Carolina.

The granting of the exemption allows the changes to Tier 1 information asked for in the amendment. Because the acceptability of the exemption was determined in part by the acceptability of the amendment, the exemption and amendment are being issued concurrently.

DATES: The exemption and amendment were issued on March 1, 2017.

ADDRESSES: Please refer to Docket ID NRC-2008-0441 when contacting the NRC about the availability of information regarding this document. You may access information related to this document, which the NRC possesses and is publicly available, using any of the following methods:

- *Federal Rulemaking Web site:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2008-0252. 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 (if it is available in ADAMS) is provided the first time that it is mentioned in this document. The request for the amendment and exemption was submitted by letter dated October 21, 2015 (ADAMS Accession No. ML16246A214), and supplemented by letters dated March 31 and July 14, 2016 (ADAMS Accession Nos. ML16091A380 and ML16196A354).

- *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: William C. Gleaves, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-5848; email: Bill.Gleaves@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC is granting an exemption from Paragraph B of Section III, "Scope and Contents," of appendix D, "Design Certification Rule for the AP1000," to part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), and issuing

License Amendment No. 64 to COLs, NPF-93 and NPF-94, to the licensee. The exemption is required by Paragraph A.4 of Section VIII, "Processes for Changes and Departures," of appendix D, to 10 CFR part 52 to modify the design of the low capacity Central Chilled Water Subsystem (VWS) by relocating Air Cooled Chiller Pump 3 and its associated equipment, including a new chemical feed tank, from the Auxiliary Building to the Annex Building. The LAR consists of changes to the Updated Final Safety Analysis Report (UFSAR) in the form of departures from the incorporated generic AP1000 Design Control Document (DCD) Tier 2 and Tier 2* information and changes to Tier 1 information, with corresponding changes to the associated COL Appendix C information.

Part of the justification for granting the exemption was provided by the review of the amendment. Because the exemption is necessary in order to issue the requested license amendment, the NRC granted the exemption and issued the amendment concurrently, rather than in sequence. This included issuing a combined safety evaluation containing the NRC staff's review of both the exemption request and the license amendment. The exemption met all applicable regulatory criteria set forth in 10 CFR 50.12, and 52.7, and Section VIII.A.4 of appendix D to 10 CFR part 52. The license amendment was found to be acceptable as well. The combined safety evaluation is available in ADAMS under Accession No. ML17031A116.

Identical exemption documents (except for referenced unit numbers and license numbers) were issued to the licensee for VCSNS Units 2 and 3 (COLs NPF-93 and NPF-94). The exemption documents for VCSNS Units 2 and 3 can be found in ADAMS under Accession Nos. ML17031A106 and ML17031A113, respectively. The exemption is reproduced (with the exception of abbreviated titles and additional citations) in Section II of this document. The amendment documents for COLs NPF-93 and NPF-94 are available in ADAMS under Accession Nos. ML17031A098 and ML17031A104, respectively. A summary of the amendment documents is provided in Section III of this document.

II. Exemption

Reproduced below is the exemption document issued to VCSNS Units 2 and Unit 3. It makes reference to the combined safety evaluation that provides the reasoning for the findings made by the NRC (and listed under Item 1) in order to grant the exemption:

1. In a letter dated October 21, 2015, as supplemented by letters dated March 31 and July 14, 2016, South Carolina Electric & Gas Company on behalf of itself and the South Carolina Public Service Authority (both hereafter called the licensee) requested from the Nuclear Regulatory Commission (NRC or Commission) an exemption to allow departures from Tier 1 information in the certified Design Control Document (DCD) incorporated by reference in Title 10 of the *Code of Federal Regulations* (10 CFR) Part 52, Appendix D, "Design Certification Rule for the AP1000 Design," as part of license amendment request (LAR) 13-31, "Relocation of Air Cooled Chiller Pump 3."

For the reasons set forth in Section 3.1 of the NRC staff's Safety Evaluation, which can be found at ADAMS Accession Number ML17031A116, the Commission finds that:

- A. the exemption is authorized by law;
- B. the exemption presents no undue risk to public health and safety;
- C. the exemption is consistent with the common defense and security;
- D. special circumstances are present in that the application of the rule in this circumstance is not necessary to serve the underlying purpose of the rule;
- E. the special circumstances outweigh any decrease in safety that may result from the reduction in standardization caused by the exemption; and
- F. the exemption will not result in a significant decrease in the level of safety otherwise provided by the design.

2. Accordingly, the licensee is granted an exemption from the certified DCD Tier 1 information, with corresponding changes to Appendix C of the Facility Combined Licenses as described in the licensee's request dated October 21, 2015, as supplemented by letters dated March 31 and July 14, 2016. This exemption is related to, and necessary for, the granting of License Amendment No. 62, which is being issued concurrently with this exemption.

3. As explained in Section 5.0 of the NRC staff's Safety Evaluation (ADAMS Accession Number ML17031A116), this exemption meets the eligibility criteria for categorical exclusion set forth in 10 CFR 51.22(c)(9). Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment needs to be prepared in connection with the issuance of the exemption.

4. This exemption is effective as of the date of its issuance.

III. License Amendment Request

By letter dated October 21, 2015 (ADAMS Accession No. ML15295A090),

supplemented by letters dated March 31 and July 14, 2016 (ADAMS Accession Nos. ML16091A380 and ML16196A354, respectively), the licensee requested that the NRC amend the COLs for VCSNS, Units 2 and 3, COLs NPF-93 and NPF-94. The proposed amendment is described in Section I of this **Federal Register** notice.

The Commission has determined for these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or COL, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** on January 19, 2016 (81 FR 2915). No comments were received during the 30-day comment period.

The Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments.

IV. Conclusion

Using the reasons set forth in the combined safety evaluation, the staff granted the exemption and issued the amendment that the licensee requested on March 1, 2017. The exemption and amendment were also issued on March 1, 2017, as part of a combined package to the licensee (ADAMS Accession No. ML17031A088).

Dated at Rockville, Maryland, this 21st day of April 2017.

For the Nuclear Regulatory Commission.

Jennifer Dixon-Herrity,

Chief, Licensing Branch 4, Division of New Reactor Licensing, Office of New Reactors.

[FR Doc. 2017-08844 Filed 5-1-17; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket No. CP2017-175]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* May 4, 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:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39

U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s):* CP2017-175; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* April 26, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* May 4, 2017.

This Notice will be published in the **Federal Register**.

Stacy L. Ruble,
Secretary.

[FR Doc. 2017-08826 Filed 5-1-17; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL SERVICE

Product Change—Priority Mail Express and Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 2, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202-268-3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 25, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express & Priority Mail Contract 47 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2017-123, CP2017-174.

Stanley F. Mires,
Attorney, Federal Compliance.

[FR Doc. 2017-08791 Filed 5-1-17; 8:45 am]

BILLING CODE 7710-12-P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* May 2, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202-268-3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on April 25, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 313 to Competitive Product List*. Documents are available at www.prc.gov, Docket Nos. MC2017-122, CP2017-173.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017-08794 Filed 5-1-17; 8:45 am]

BILLING CODE 7710-12-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80531; File No. SR-OCC-2017-002]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving Proposed Rule Change Concerning Changes to the Options Clearing Corporation's Management Structure

April 26, 2017.

On February 22, 2017, the Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2017-002 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on March 13, 2017.³ The Commission did not receive any comment letters on the proposed rule

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 80168 (March 7, 2017), 82 FR 13522 (March 13, 2017) (SR-OCC-2017-002).

change. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

This proposed rule change by OCC will amend OCC's By-Laws, Rules, Board of Directors Charter ("Board Charter"), Compensation and Performance Committee Charter ("CPC Charter"), Dividend Policy, and Refund Policy to address organizational changes within OCC's management structure. Specifically, OCC is proposing the following: (1) Amendments to OCC's By-Laws to provide that the Executive Chairman will also serve as Chief Executive Officer ("CEO"); (2) amendments to OCC's By-Laws and Rules to reflect that the President will no longer be a recognized officer of OCC; (3) amendments to OCC's By-Laws to provide that the Board will elect the Chief Operating Officer ("COO") and a newly recognized Chief Administrative Officer ("CAO"); (4) amendments to OCC's By-Laws and Rules to provide that the COO and CAO will each have authority to take certain actions or grant exceptions where that authority was previously granted to the President; (5) conforming changes to OCC's Board Charter, CPC Charter, and the Dividend and Refund Policies reflecting the proposed amendments described above; (6) amendments to OCC's By-Laws to separate the positions of Treasurer and Chief Financial Officer ("CFO"); and (7) a number of administrative changes and refinements to the By-Laws and Rules.

(1) *The Executive Chairman Also Serves as a Newly Recognized CEO*

Under the proposed rule change, the Executive Chairman will continue to be appointed by the Board and be responsible for OCC's control functions. However, OCC proposes to amend Article IV, Section 6 of the By-Laws to provide that the Executive Chairman will also serve as a newly recognized CEO. In that capacity, the Executive Chairman and CEO will be responsible for all aspects of OCC's business and the day-to-day administration of its affairs that are not otherwise assigned to the COO or CAO.

OCC notes that, under its current By-Laws, the President is responsible for all aspects of OCC's business that do not report directly to the Executive Chairman and is responsible for the day-to-day administration of OCC's affairs in accordance with the directions of the Executive Chairman. The proposed rule change will provide the Executive Chairman/CEO with explicit responsibility for overseeing all aspects of OCC's business and the day-to-day

administration of its affairs, with the COO and CAO each being responsible for aspects of the business of OCC that do not report directly to the Executive Chairman and CEO and administering the day to day affairs and business of OCC in accordance with the directions of the Executive Chairman and CEO. In connection with this change, OCC's senior management will be reorganized within an Office of the Executive Chairman that will be comprised of the Executive Chairman (who will also serve as CEO), the COO and the CAO. OCC believes that this new management structure will combine the breadth and depth of experience and skill necessary within OCC's senior management team to provide for the efficient and effective management and operation of OCC, improve OCC's ability to serve Clearing Members and the markets for which it clears, and help to ensure that OCC is so organized and has the capacity to facilitate the prompt and accurate clearance and settlement of the transactions it clears.

(2) *The President Is No Longer a Recognized Officer of OCC*

OCC proposes a number of amendments throughout its By-Laws and Rules to remove references to the office of President to reflect the fact that the President will no longer be a recognized officer within OCC's management. As described in more detail below, all references to the authority and responsibilities of the President will be removed and such references will be replaced as appropriate with references to the COO and newly appointed CAO. OCC believes that eliminating the role of President and distributing the wide range of authority and responsibilities associated therewith to two senior officers (the CAO and COO) will provide for a broader range of knowledge, skills, and experience within OCC's senior management team, promote more efficient and effective management and operation of OCC, improve OCC's ability to serve Clearing Members and the markets for which it clears, and help to ensure that OCC is so organized and has the capacity to facilitate the prompt and accurate clearance and settlement of the transactions it clears.

(3) *Election of the COO and CAO*

OCC proposes to amend Article IV, Sections 1, 8 and 13 of the By-Laws to provide that the Board will elect a COO and a CAO and will set the salaries for such officers. Accordingly, OCC will continue to have a COO within its management structure because, as noted

above, the President also serves as COO under OCC's existing By-Laws. The CAO, however, is a newly recognized officer within OCC's management structure. As is currently the case regarding the President, neither the COO nor the CAO will be required to be a member of the Board upon election. Also, consistent with the existing prohibition against the same person holding any two of the offices of Executive Chairman, President and Member Vice Chairman,⁴ the restriction will continue to apply but will reference the COO and CAO rather than the President. As noted above, OCC believes that eliminating the role of President and distributing the wide range of responsibilities associated therewith to the COO and a newly appointed CAO will provide for more efficient and effective management and operation of OCC, improve OCC's ability to serve Clearing Members and the markets for which it clears, and help to ensure that OCC is so organized and has the capacity to facilitate the prompt and accurate clearance and settlement of the transactions it clears.

(4) *Assignment of Certain Responsibilities to the COO and CAO*

The responsibility of management to carry out OCC's affairs is frequently assigned to groups of officers, including the Executive Chairman, President, and other officers of appropriate seniority. This approach provides flexibility to help ensure that responsibility is not concentrated in any one officer, that OCC's affairs are carried out efficiently, and that management has the capacity to continue carrying out OCC's business and day-to-day affairs even if a particular officer is absent or becomes disabled. To preserve the benefits of this structure given the elimination of the office of President, OCC proposes that the COO and CAO will instead assume certain responsibilities in the By-Laws and Rules where they are currently assigned, at least in part, to the President.

Under the proposed changes to Article IV, Section 8 of the By-Laws, the COO and CAO will be responsible for the aspects of OCC's business that do not report directly to the Executive Chairman, as determined by the Board to promote the efficient and effective management and operation of OCC, and they will administer their responsibilities in accordance with directions from the Executive Chairman. Under the proposed management structure changes, the COO initially will be responsible for the oversight of OCC's

⁴ See Article IV, Section 1 of the By-Laws.

technology and operations functions while the CAO will be responsible for the oversight of the finance, human resources, financial risk management, corporate planning, product and business development, and project management aspects of OCC's business. In addition, in the event of any absence or disability of the Executive Chairman, the COO and CAO will each have the authority and responsibility to fulfill the duties and have the powers of the Executive Chairman. However, in the absence or disability of the Executive Chairman, neither the COO nor the CAO will be permitted to preside at meetings of the Board or stockholders.

Under the proposed amendments to Article IV, Sections 2, 3, 9, and 13 of the By-Laws, the COO and CAO each will have authority, consistent with the authority previously granted to the President, to appoint officers and agents as they deem necessary or appropriate to carry out the functions assigned to them. This includes, but is not limited to, the authority to appoint certain Vice Presidents within management. Any officers or agents who are appointed by the COO or CAO will be subject to their supervision and will be able to be removed by the COO and CAO, respectively, at any time, with or without cause. Such officers or agents will exercise powers and perform duties as determined by the COO or the CAO and the term and salary⁵ of any such positions will also be determined by the COO or CAO, respectively. The Executive Chairman and CEO will also have the authority to set the terms, powers, duties, and salaries of any officer or agent appointed by the COO or CAO and to remove officers or agents appointed by the COO and CAO.

Other examples of the responsibilities of the President being reallocated to the COO and CAO in the By-Laws and Rules include, but are not limited to, that the COO and CAO will, under certain conditions, have shared authority with the Executive Chairman and other officers to do the following: (1) Approve banks or trust companies as Approved Custodians; (2) declare the existence of an emergency and take related actions; (3) approve clearing membership applications and grant related extensions; (4) impose restrictions on options exercises; (5) determine reasonable means through which to borrow or otherwise obtain funds using Clearing Fund

⁵ Any salary fixed by the COO or CAO will be subject to any contrary action taken by the Board, as is the case today regarding any officers or agents appointed by the Executive Chairman or the President. See Article IV, Section 13 of the By-Laws.

contributions; (6) sign certificates representing shares in OCC; (7) waive or suspend OCC's By-Laws, Rules, policies, procedures or any other of OCC's rules in emergency circumstances to protect OCC or the public interest; (8) impose restrictions on certain Clearing Member transactions, positions and activities; (9) extend settlement times in emergency conditions; (10) waive the required margin deposit of a Clearing Member in the interest of maintaining fair and orderly markets;⁶ and (11) authorize late filing of an exercise notice by a Clearing Member.⁷

OCC believes the proposed changes described above will result in an appropriate and effective management structure that combines the breadth and depth of experience and skill necessary within OCC's senior management team to (i) provide for the efficient and effective management and operation of OCC, (ii) improve OCC's ability to serve Clearing Members and the markets for which it clears, and (iii) help to ensure that OCC is so organized and has the capacity to facilitate the prompt and accurate clearance and settlement of the transactions it clears. Moreover, the proposed changes to OCC's management structure will provide important flexibility to help ensure that responsibility is not unduly concentrated in any one officer, that OCC's affairs are carried out efficiently, and that management has the capacity to continue carrying out OCC's business and day-to-day affairs even if a particular officer is absent or becomes disabled.

OCC also proposes to amend Article IV, Section 12 of the By-Laws to provide that, in the event of a vacancy of the office of Controller, the Executive Chairman (in addition to the Board) will have the authority to designate a person to serve as chief accounting officer of OCC until the office of Controller is filled. OCC believes it will be appropriate for the Executive Chairman to replace the President in this role given the Executive Chairman's capacity as Management Director.

(5) Conforming Changes to Certain OCC Charters and Policies

In connection with the proposed changes described above, OCC also proposes to change certain references to

⁶ See Rule 609A. OCC also proposes to make a ministerial change to this rule to clarify a reference to the Securities and Exchange Commission.

⁷ See proposed changes in (1) OCC By-Laws Article I, Section 1; (2) Article III, Section 15; (3) Article V, Sections 1-3, I&P .01; (4) Article VI, Section 17; (5) Article VIII, Section 5; (6) Article IX, Section 12; (7) Article IX, Section 14; (8) OCC Rule 305; (9) Rule 505; (10) Rule 609A; and (11) Rule 801.

the President that appear in its Board Charter, CPC Charter, Dividend Policy and Refund Policy. These changes are described below and will not otherwise modify OCC's management structure.

OCC proposes to amend the Board Charter to reflect that the Board has responsibility for selecting, overseeing and, where appropriate, replacing the COO and CAO, and that the Board evaluates and sets the compensation of these officers. The proposed amendments will also state that the Board provides counsel and advice to the COO and CAO and oversees those officers as part of the Board's evaluation of whether OCC's business is being appropriately managed. OCC notes that the proposed amendments are consistent with the Board's existing obligations with respect to the election and oversight of the President.

Additionally, OCC proposes to amend the CPC Charter to reflect that the CPC will generally oversee the compensation, benefits and perquisites of the COO and CAO, including responsibility for making associated recommendations to the Board, and to identify that the CPC is responsible for reviewing and approving the annual goals and objectives of the COO and CAO. OCC also proposes to amend the CPC Charter to reflect that the CPC will now meet at least annually with the COO and CAO (instead of the President) to discuss and review compensation and performance levels of senior management and other key officers. In addition, the CPC Charter will be amended to reflect that the CPC reviews OCC's employment contracts with the COO and CAO (in place of the President) and makes recommendations to the Board regarding related approvals.

OCC's Refund Policy will be amended to reflect that, in addition to the Executive Chairman, the COO or CAO will have authority under certain conditions to determine the payment date of refunds. This authority is currently reserved to the Executive Chairman and the President. OCC will also amend the Dividend Policy to reflect that, in addition to the Executive Chairman, the COO or CAO (rather than the President) will have authority under certain conditions to determine the payment date of dividends if for any reason OCC's Refund Policy is not in effect. As a housekeeping matter that is unrelated to the COO and CAO assuming certain responsibilities of the President, OCC is also updating its Dividend Policy and Refund Policy to reflect that the Commission recently

adopted its Standards for Covered Clearing Agencies.⁸

(6) Separation of Treasurer and Chief Financial Officer Positions

OCC proposes to amend Article IV, Section 11 of the By-Laws to eliminate a sentence that provides that OCC's Treasurer shall also serve as CFO absent another person being designated by the Board to serve in that capacity. OCC believes that separating these positions and eliminating this provision of the By-Laws will allow for greater flexibility relative to the structure, management and operation of OCC's corporate finance group. Under the proposed rule change, the Board will continue to appoint OCC's Treasurer as currently required under Article IV, Section 1 of the By-Laws; however, the Treasurer will no longer automatically serve as CFO, and the Board will not be responsible for appointing OCC's CFO.

(7) Administrative Changes and Refinements

OCC is proposing a number of administrative changes and refinements to its By-Laws and Rules. Specifically, OCC proposes to add a definition of "Designated Officer" in Article I, Section 1 of the By-Laws. The term is already used elsewhere in OCC's By-Laws and Rules (e.g., Article III, Section 15 of the By-Laws and Rule 1102). OCC believes that locating this definition in Article, I, Section 1 of the By-Laws with the majority of the other definitions that are used in OCC's By-Laws and Rules promotes organizational consistency and clarity in OCC's legal framework. OCC also proposes to amend Interpretation and Policy .01 of Rule 309 to change a reference to "OCC" to "the Corporation" to conform to existing convention in OCC's By-Laws and Rules.

Additionally, OCC proposes to amend Interpretation and Policy .01 of Article III, Section 7 of the By-Laws, which concerns the use of the criteria of OCC's Fitness Standards for Directors, Clearing Members and Others in the election of Management Directors, to remove a reference to the President. OCC notes that, in addition to the proposed elimination of the office of President in this proposed rule change, in 2014, the Commission approved a proposed rule change providing that OCC's President will no longer be considered a Management Director.⁹ OCC also

proposes to amend Interpretation and Policy .02 of Rule 1104 to remove references to the Management Vice Chairman. In September 2016, the Commission approved a proposed rule change by OCC to eliminate the role of Management Vice Chairman.¹⁰ OCC is proposing to remove remaining references to this position that were intended to be removed as part of SR-OCC-2016-002.

Finally, OCC proposes a number of non-substantive amendments to correct typographical errors in the By-Laws and Rules (e.g., correction of typographical error in Rule 305(c) to refer to the "Executive" Chairman and in Rule 309A to state "an" Appointed Clearing Member).

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act¹¹ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. The Commission finds that the proposal is consistent with Section 17A(b)(3)(A) of the Act¹² and Rules 17Ad-22(e)(1)¹³ and 17Ad-22(e)(2)¹⁴ thereunder, as described in detail below.

A. Consistency With Section 17A(b)(3)(A) of the Act

The Commission finds OCC's proposed changes to be consistent with Section 17A(b)(3)(A) of the Act.¹⁵ Section 17A(b)(3)(A) of the Act¹⁶ requires, among other things, that a clearing agency be so organized and have the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions and derivative agreements, contracts, and transactions for which it is responsible. As noted above, after implementation of the proposed changes, OCC's Executive Chairman will also serve as OCC's CEO, the President's duties and powers will be reallocated among the Executive Chairman, COO and CAO, the COO and CAO will have authority to take action or grant exceptions under certain conditions, and the positions of Treasurer and CFO will be separated. According to OCC, these leadership and

organizational changes are intended to promote efficient management and operation by doing the following: (i) Providing for a broad range of knowledge, skills, and experience within OCC's management team, (ii) improving the alignment of officers' responsibilities with their skills and experience and thereby enhancing efficiency and effectiveness within OCC's management, and (iii) ensuring that there continues to be an appropriate allocation of duties and powers among officers such that management has the capacity to continue carrying out OCC's affairs even if a particular officer is absent or disabled. By promoting OCC's efficient management and operation, the proposed leadership and organizational changes will support OCC's efforts to ensure that it is organized and has the capacity to be able to facilitate the prompt and accurate clearance and settlement of securities transactions.

B. Consistency With Rule 17Ad-22(e)(1)

The Commission finds that the proposed changes are consistent with Rule 17Ad-22(e)(1).¹⁷ Rule 17Ad-22(e)(1)¹⁸ requires each covered clearing agency to 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. Pursuant to this proposal, OCC is centralizing the definition of "Designated Officer" in Article I, Section 1 and making other clarifying and conforming changes to OCC's governing documents. OCC states that such conforming and clarifying changes will promote organizational consistency and clarity in OCC's legal framework to ensure that the legal framework remains well-founded, transparent and enforceable in all relevant jurisdictions.

C. Consistency With Rule 17Ad-22(e)(2)

The Commission finds that the proposed changes to specify the responsibilities of the Chairman/CEO, COO and CAO, as well as the proposed changes to specify which positions are board-appointed, are consistent with the requirements in Rule 17Ad-22(e)(2).¹⁹ Rule 17Ad-22(e)(2)²⁰ requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for governance arrangements that, among

⁸ See Securities Exchange Act Release No. 78961 (September 28, 2016), 81 FR 70786 (October 13, 2016).

⁹ See Securities Exchange Act Release No. 73785 (December 8, 2014), 79 FR 73915 (December 12, 2014) (SR-OCC-2014-18).

¹⁰ See Securities Exchange Act Release No. 78862 (September 16, 2016), 81 FR 65415 (September 22, 2016) (SR-OCC-2016-002).

¹¹ 15 U.S.C. 78s(b)(2)(C).

¹² 15 U.S.C. 78q-1(b)(3)(A).

¹³ 17 CFR 240.17Ad-22(e)(1).

¹⁴ 17 CFR 240.17Ad-22(e)(2).

¹⁵ 15 U.S.C. 78q-1(b)(3)(A).

¹⁶ *Id.*

¹⁷ 17 CFR 240.17Ad-22(e)(1).

¹⁸ *Id.*

¹⁹ 17 CFR 240.17Ad-22(e)(2).

²⁰ *Id.*

other things, are clear and transparent and specify clear and direct lines of responsibility. According to OCC, the proposed amendments to OCC's By-Laws, Rules, charters and policies will provide clear and transparent statements of the responsibilities of its Executive Chairman/CEO, COO and CAO within the overall management structure of OCC. In addition, the proposed amendments support clarity and transparency by reflecting in OCC's By-Laws and Rules organizational changes to provide that the President will no longer be a recognized officer of OCC, to provide that the Board will appoint the COO and CAO, and to separate the positions of Treasurer and CFO. Finally, the proposed changes, in specifying the responsibilities of the Chairman/CEO, COO and CAO, support the requirement that OCC provide for governance arrangements that specify clear and direct lines of responsibility, helping to clarify the roles that each individual will fulfill and fostering accountability at OCC.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act²¹ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,²² that the proposed rule change (SR-OCC-2017-002) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-08814 Filed 5-1-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80529; File No. SR-BatsBZX-2017-14]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment Nos. 3 and 5, To List and Trade Shares of the Amplify YieldShares Oil Hedged MLP Fund, a Series of the Amplify ETF Trust, Under BZX Rule 14.11(i), Managed Fund Shares

April 26, 2017.

I. Introduction

On February 17, 2017, Bats BZX Exchange, Inc. ("Exchange" or "BZX") filed with the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act" or "Exchange Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to list and trade shares ("Shares") of the Amplify YieldShares Oil Hedged MLP Fund ("Fund"), a series of the Amplify ETF Trust ("Trust"). The proposed rule change was published for comment in the **Federal Register** on March 7, 2017.³ On March 30, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.⁴ On April 7, 2017, the Exchange filed Amendment No. 3 to the proposed rule change,⁵ and on April 24, 2017, the Exchange filed Amendment No. 5 to the proposed rule change.⁶ The Commission

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 34-80136 (March 1, 2017), 82 FR 12860.

⁴ The Exchange filed and withdrew Amendment No. 1 on March 30, 2017. Amendment No. 2 replaced the original filing in its entirety.

⁵ In Amendment No. 3, which amended and replaced the proposed rule change, as modified by Amendment No. 2, in its entirety, the Exchange: (a) Added representations clarifying that the proposed rule change will constitute continued listing requirements for listing Shares on the Exchange; (b) added representations that the Fund will conform with certain requirements applicable to Managed Fund Shares; and (c) made other technical and clarifying amendments. Because Amendment No. 3 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 3 is available at <https://www.sec.gov/comments/sr-batsbzx-2017-14/batsbzx201714-1692102-149689.pdf>.

⁶ The Exchange filed Amendment No. 4 on April 19, 2017, and withdrew it on April 24, 2017. In Amendment No. 5, the Exchange: (1) Clarified how the composition of the Fund's holdings would be calculated; and (2) provided additional detail regarding the historical average daily contract volume for WTI Crude Oil Futures (as defined below). Because Amendment No. 5 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. Amendment No. 5 is available at <https://www.sec.gov/comments/sr-batsbzx-2017-14/batsbzx201714-1719288-150433.pdf>.

²¹ 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).

²² 15 U.S.C. 78s(b)(2).

²³ 17 CFR 200.30-3(a)(12).

received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment Nos. 3 and 5.

II. Exchange's Description of the Proposal

The Exchange proposes to list and trade the Shares under BZX Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the Trust, which is registered with the Commission as an investment company and has filed a Registration Statement on Form N-1A with the Commission.⁷

The Exchange states that the Fund will invest in equity securities of energy master limited partnerships ("MLPs") and selectively hedge its positions to limit the correlation of its performance to the price of West Texas Intermediate Crude Oil ("WTI Crude Oil"). WTI Crude Oil, also known as Texas light sweet, is a grade of crude oil used as a benchmark in oil futures contracts pricing. According to the Exchange, the Fund will seek to exceed the performance of the Oil Hedged MLP Index ("Benchmark")⁸ by actively selecting its investments from the underlying components of the Benchmark. The Exchange represents that the Fund is not an index tracking exchange-traded fund and is not required to invest in all of the components of the Benchmark. However, the Exchange states that generally, the Fund will seek to hold similar instruments to those in the Benchmark and will therefore invest in MLPs and short exposure oil futures contracts included in the Benchmark.

The Exchange represents that it submitted the proposal in order to allow the Fund to hold listed derivatives, specifically WTI Crude Oil futures traded on the New York Mercantile Exchange and ICE Futures Europe ("WTI Crude Oil Futures"), in a manner that would exceed the limitations of BZX Rule 14.11(i)(4)(C)(iv)(b), which prevents, among other things, a series of Managed Fund Shares from holding listed derivatives based on any single underlying reference asset in excess of 30 percent of the weight of its portfolio (including gross notional exposures) ("30% Limitation").⁹ Namely, the

⁷ www.sec.gov/comments/sr-batsbzx-2017-14/batsbzx201714-1719288-150433.pdf.

⁸ See Post-Effective Amendment No. 27 to Registration Statement on Form N-1A for the Trust, dated January 6, 2017 (File Nos. 333-207937 and 811-23108).

⁹ The Benchmark is developed, maintained, and sponsored by ETP Ventures LLC.

⁹ BZX Rule 14.11(i)(4)(C)(iv)(b) requires that the aggregate gross notional value of listed derivatives

Exchange proposes to allow the Fund to hold up to 50 percent of the weight of its portfolio (including gross notional exposures) in WTI Crude Oil Futures. Notwithstanding this, the Exchange also states that, in order to achieve its investment objective, under Normal Market Conditions,¹⁰ the Fund will invest at least 80 percent of its total assets in equity securities of MLPs and up to 20 percent of its total assets in fixed income securities, cash, and the cash value¹¹ of futures positions.¹² The Exchange notes that this is different than the calculation used to measure the Fund's holdings in WTI Crude Oil Futures as it relates to the Fund holding up to 50 percent of the weight of its portfolio, which includes gross notional exposures gained through the WTI Crude Oil Futures in both the numerator and denominator, which is consistent with the derivatives exposure calculation under BZX Rule 14.11(i)(4)(C)(iv).

According to the Exchange, allowing the Fund to hold a greater portion of its portfolio in WTI Crude Oil Futures than would be permitted under the 30% Limitation would reduce the Fund's operational burden, mitigate the Fund's dependency on holding over-the-counter ("OTC") instruments, and reduce counter-party risk associated with holding OTC instruments. The Exchange notes that the Fund may also hold certain fixed income securities and cash and cash equivalents in compliance with BZX Rules

based on any five or fewer underlying reference assets to not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset to not exceed 30% of the weight of the portfolio (including gross notional exposures). The Exchange states that the proposal is to allow the Fund to exceed the specific requirement of BZX Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures). According to the Exchange, the Fund will meet the other requirement of BZX Rule 14.11(i)(4)(C)(iv)(b).

¹⁰ As defined in BZX Rule 14.11(i)(3)(E), the term "Normal Market Conditions" includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events, such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

¹¹ The Exchange states that the cash value of futures positions is based on the value of the Fund's daily margin account with the applicable futures exchange(s).

¹² The Exchange states that the combination of MLPs, fixed income securities, cash, and the cash value of futures positions will constitute the entirety of the Fund's holdings.

14.11(i)(4)(C)(ii) and (iii) in order to collateralize its derivatives positions.

The Exchange represents that, except for the 30% Limitation, the Fund's proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under BZX Rule 14.11(i).

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 Nos. 3 and 5, is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.¹³ In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Exchange Act,¹⁴ which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that, according to the Exchange, the Shares will meet each of the initial and continued listing criteria in BZX Rule 14.11(i), with the exception of the 30% Limitation.

According to the Exchange, the liquidity in the WTI Crude Oil Futures mitigates the concerns that Rule 14.11(i)(4)(C)(iv)(b) is intended to address and that such liquidity would prevent the Shares from being susceptible to manipulation.¹⁵ In addition, the Exchange represents that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange further represents that all of the futures contracts held by the Fund will trade on markets that are members

¹³ 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).

¹⁴ 15 U.S.C. 78f(b)(5).

¹⁵ According to the Exchange, as of January 31, 2017, the average daily contract volume combined on the New York Mercantile Exchange and ICE Futures Europe over the last year was 558,353, 307,289, and 110,208, respectively, for the front, second, and third month WTI Crude Oil Futures contracts. At today's price levels, that equates to an average daily traded notional of approximately \$29.4 billion, \$16.2 billion, and \$5.8 billion for the first, second, and third month contracts, respectively.

of the Intermarket Surveillance Group ("ISG") or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, the Exchange represents that it may obtain information regarding trading in the Shares and the underlying futures contracts held by the Fund via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.¹⁶

The Exchange states that the Trust is required to comply with Rule 10A-3 under the Act for the initial and continued listing of the Shares of the Fund. The Exchange further represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares including, but not limited to, requirements relating to the dissemination of key information such as the Disclosed Portfolio,¹⁷ net asset value, and the Intraday Indicative Value,¹⁸ and rules governing the trading of equity securities, trading hours, trading halts, surveillance, and the information circular, as set forth in Exchange rules applicable to Managed Fund Shares and the orders approving such rules.

The Exchange represents that all statements and representations made in the filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund or the Shares to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund or the Shares are not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under BZX Rule 14.12.

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in Amendment Nos. 3 and 5 to the proposed rule change.

¹⁶ For a list of the current members and affiliate members of ISG, see www.isgportal.com. 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.

¹⁷ See BZX Rule 14.11(i)(4)(B)(ii).

¹⁸ See BZX Rule 14.11(i)(4)(B)(i).

The Commission notes that the Shares must comply with the requirements of BZX Rule 14.11(i), other than the 30% Limitation, to be listed and traded on the Exchange on an initial and continuing basis.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 3 and 5, is consistent with Section 6(b)(5) of the Exchange Act¹⁹ and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,²⁰ that the proposed rule change (SR-BatsBZX-2017-14), as modified by Amendment Nos. 3 and 5, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²¹

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-08812 Filed 5-1-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80530; File No. SR-ISE-2017-32]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing of Proposed Rule Change To Harmonize the Corporate Governance Framework With That of the NASDAQ Stock Market LLC, NASDAQ PHLX LLC, and NASDAQ BX, Inc.

April 26, 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 April 11, 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, 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 a rule change (the "Proposed Rule Change") in connection with the proposed merger (the "Merger") with a newly-formed Delaware limited liability company under the Exchange's ultimate parent, Nasdaq, Inc., resulting in the Exchange as the surviving entity. Following the Merger, the Exchange's board and committee structure, and all related corporate governance processes, will be harmonized with that of the three other registered national securities exchanges and self-regulatory organizations owned by Nasdaq, Inc., namely: The NASDAQ Stock Market LLC ("NSM"), NASDAQ PHLX LLC ("Phlx"), and NASDAQ BX, Inc. ("BX" and together with NSM and Phlx, the "Nasdaq Exchanges").

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 was recently acquired by Nasdaq, Inc. ("HoldCo").³ Following the acquisition, the Exchange has continued to operate as a separate self-regulatory organization ("SRO") and continues to have separate rules,

³ On June 30, 2016, HoldCo acquired all of the capital stock of U.S. Exchange Holdings, Inc., the Exchange's indirect parent company (the "Acquisition"). As a result, the Exchange, in addition to its affiliates Nasdaq GEMX, LLC ("ISE Gemini") and Nasdaq MRX, LLC ("ISE Mercury"), became a wholly-owned subsidiary of HoldCo, and also became an affiliate of NSM, Phlx, and BX through common, ultimate ownership by HoldCo. HoldCo is the ultimate parent of the Exchange. See Securities Exchange Act Release No. 78119 (June 21, 2016), 81 FR 41611 (June 27, 2016) (SR-ISE-2016-11).

membership rosters, and listings, distinct from the rules, membership rosters, and listings of the Nasdaq Exchanges as well as from ISE Gemini and ISE Mercury. The Exchange now proposes to harmonize the corporate governance framework of the Exchange with that of the Nasdaq Exchanges, and submits this Proposed Rule Change to seek the Commission's approval of various changes to the Exchange's organizational documents and Rules that are necessary in connection with the Merger, as described below.

The proposed changes consist of: (1) Deleting the Exchange's current Third Amended and Restated Limited Liability Company Agreement (the "Current LLC Agreement") in its entirety and replacing it with a new limited liability company agreement (the "LLC Agreement") that is based on the limited liability company agreement of NSM, (2) deleting the Exchange's current Second Amended and Restated Constitution ("Current Constitution" and together with the Current LLC Agreement, the "Current Governing Documents") in its entirety and replacing it with a new set of by-laws (the "Bylaws" and together with the LLC Agreement, the "New Governing Documents") that is based on the by-laws of NSM, and (3) amending certain rules to reflect the changes to its constituent documents through the adoption of the New Governing Documents to replace the Current Governing Documents.⁴

All of the proposed changes are designed to align the Exchange's corporate governance framework to the existing structure at the Nasdaq Exchanges, particularly as it relates to board and committee structure, nomination and election processes, and related governance practices.⁵ The Exchange is not proposing any amendments to its ownership structure and International Securities Exchange Holdings, Inc. ("ISE Holdings") will remain as the Exchange's sole limited liability company member ("Sole LLC Member") and owner of 100% of the Exchange's limited liability company

⁴ The Exchange's affiliates, ISE Gemini and ISE Mercury, will submit nearly identical proposed rule changes.

⁵ The new LLC Agreement and Bylaws are based in form and substance on the NASDAQ Stock Market LLC's Second Amended Limited Liability Company Agreement (the "NSM LLC Agreement") and By-Laws (the "NSM Bylaws"). Additionally, the majority of provisions in the organizational documents of Phlx and BX were also based on those of NSM with differences that relate mainly to disciplinary processes (for Phlx) or to corporate structure (for BX). Notwithstanding, the vast majority of the new governance framework and processes proposed herein are materially identical to those of all three Nasdaq Exchanges.

¹⁹ 15 U.S.C. 78f(b)(5).

²⁰ 15 U.S.C. 78s(b)(2).

²¹ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

interests. Furthermore, the Exchange is not proposing any amendments to its trading rules at this time relating to the Merger other than the minor clarifying changes and technical amendments as noted below.

A. The Merger

In order to effectuate the proposed changes above, the Exchange proposes to merge with a Delaware limited liability company (“NewCo”), newly-formed as a wholly-owned subsidiary of ISE Holdings, resulting in the Exchange as the surviving entity. Specifically, pursuant to the Delaware Limited Liability Company Act, as amended from time to time (the “LLC Act”), NewCo would be formed under ISE Holdings upon filing a certificate of formation with the Secretary of State of the State of Delaware (“DE Secretary of State”). Subsequently, the Exchange would enter into an agreement and plan of merger with NewCo (the “Merger Agreement”), under which NewCo would merge into the Exchange, with the Exchange surviving the Merger. The Merger Agreement contemplates that the merged limited liability company (*i.e.*, the Exchange) would have a new LLC Agreement and new Bylaws, which would be attached to the Merger Agreement. Then, a certificate of merger would be filed with the DE Secretary of State, which will effectuate the Merger at the time of filing. The new LLC Agreement and the new Bylaws would also become effective at the time of filing the certificate of merger. Under the LLC Act, the Merger is subject to approval by the Exchange Board and by ISE Holdings as the Sole LLC Member. The Exchange represents that it has obtained or will obtain the necessary approvals prior to filing the certificate of merger with the DE Secretary of State.

Following the Merger, the Exchange proposes to be governed by the New Governing Documents in accordance with the LLC Act. The specific changes effected by the New Governing Documents to the current documents are discussed in the following sections.

B. Limited Liability Company Agreement

Following the Merger, the Exchange proposes to adopt the LLC Agreement,⁶ which would replace the Current LLC Agreement.⁷ The proposed LLC Agreement reflects the expectation that the Exchange will be operated with a governance structure substantially

similar to that of the Nasdaq Exchanges, and substantially mirrors the provisions found in the NSM LLC Agreement other than as specifically noted herein.⁸ Schedule B of the LLC Agreement describes the proposed ownership of the Exchange’s limited liability company interests, which ownership structure is identical to that currently in place. ISE Holdings would remain as the Sole LLC Member (and a member of the Exchange within the meaning of the LLC Act) and the sole owner of 100% of the limited liability company interests of the Exchange. Except as specified below, the proposed changes do not affect the manner of the Exchange’s operations or governance structure.

Section 1 of the LLC Agreement, titled “Name,” specifies the name of the surviving entity of the Merger as the name of the Exchange. Section 2 of the LLC Agreement, titled “Principal Business Office,” provides for the principal business office of the Exchange and such other location as may hereafter be determined by the Board.

Sections 3 and 4 of the LLC Agreement, titled “Registered Office” and “Registered Agent,” specifies the place of the Exchange’s registered office and the entity acting as its registered agent, which is the same place and entity used by the Nasdaq Exchanges.⁹ The Exchange proposes to replace its current registered office and agent set forth in Section 1.5 of the Current LLC Agreement with the registered office and agent used by the Nasdaq Exchanges for administrative efficiency. This change will not have any material substantive effect on the current operations or the governance of the Exchange.

Section 5 of the LLC Agreement, titled “Member,” provides that the mailing address of the Sole LLC Member is set forth on Schedule B of the LLC Agreement. As noted above, ISE Holdings will remain as the Sole LLC Member of the Exchange.

Section 6 of the LLC Agreement, titled “Certificates,” refers to the filing of the

Certificate of Merger with respect to the Merger. Such provision acknowledges and confirms that such filings, which were necessary for the merger to be effected, were authorized by the Exchange. This Section additionally sets forth those person(s) who have the authority to file any other certificates with the Delaware Secretary of State on behalf of the Exchange pursuant to the LLC Act. This provision is purely administrative in nature and therefore will have no material substantive effect on the current operations or the governance of the Exchange.

Section 7 of the LLC Agreement, titled “Purposes,” discusses the Exchange’s business purpose, which provides that the Exchange may engage in any lawful act or activity for which limited liability companies may be formed under the LLC Act and any and all activities necessary or incidental to the foregoing. Without limiting these general powers, proposed Section 7 also specifically provides that the Exchange’s business would include actions that support its regulatory responsibilities under the Act, including: (i) Supporting the operation, regulation, and surveillance of the national securities exchange operated by the Exchange, (ii) preventing fraudulent and manipulative acts and practices, promoting just and equitable principles of trade, fostering cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, removing impediments to and perfecting the mechanisms of a free and open market and a national market system, and, in general, protecting investors and the public interest, (iii) supporting the various elements of the national market system pursuant to Section 11A of the Act and the rules thereunder, (iv) fulfilling the Exchange’s self-regulatory responsibilities as set forth in the Act, and (v) supporting such other initiatives as the Board may deem appropriate. Section 7 mirrors the Section 7 of the NSM LLC Agreement, and is similar to the language in Section 1.3 of the Current LLC Agreement of the Exchange.

Section 8 of the LLC Agreement, titled “Powers,” discusses the general powers of the Exchange, the Board and the officers of the Exchange. Specifically, the Exchange, the Board and the officers on behalf of the Exchange (i) shall have and exercise all powers necessary, convenient or incidental to accomplish its purposes as set forth in Section 7 of the LLC Agreement and (ii) shall have and exercise all of the powers and rights conferred upon limited liability companies formed pursuant to the LLC

⁶ The proposed LLC Agreement is attached hereto as Exhibit 5A [sic].

⁷ The Current LLC Agreement is attached hereto as Exhibit 5B [sic].

⁸ See the Second Amended Limited Liability Company Agreement of The NASDAQ Stock Market LLC (the “NSM LLC Agreement”). The Second Amended Limited Liability Company Agreement of NASDAQ PHLX LLC (the “Phlx LLC Agreement”) is also based on and is substantially similar to the NSM LLC Agreement. BX is a Delaware corporation and is governed by a Certificate of Incorporation, not an LLC Agreement. However, the board structure is identical across the Nasdaq Exchanges and therefore, BX’s Second Restated Certificate of Incorporation (the “BX COI”) contains substantially similar governance provisions as the NSM LLC Agreement and Phlx LLC Agreement.

⁹ See NSM LLC Agreement, Sections 3 and 4; Phlx LLC Agreement, Section 3; and BX COI, Article Second.

Act. Section 8 is based on Section 8 of the NSM LLC Agreement, and is similar to the provisions in the Current LLC Agreement and the Current Bylaws.¹⁰

Section 9 of the LLC Agreement, titled "Management," sets forth the proposed management structure of the Exchange. Section 9(a) pertains to the Board of the Exchange and provides that the Board will manage the Exchange's business and affairs, similar to the provisions in Section 5.1 of the Current LLC Agreement.¹¹ By adopting new Section 9(a), the Exchange proposes to mirror the board structure of the Nasdaq Exchanges.¹² The Exchange proposes to add language to indicate that the Sole LLC Member may determine at any time in its sole and absolute discretion the number of Directors¹³ to constitute the Board.¹⁴ The authorized number of Directors may be increased or decreased by the Sole LLC Member at any time in its sole and absolute discretion, upon notice to all Directors, but no decrease in the number of Directors shall shorten the term of any incumbent Member Representative Director.¹⁵ This language mirrors Section 9(a) of the NSM LLC Agreement. In addition, the exact composition of the Board is subject to the requirements in the Bylaws relating to independence and fair representation of members, which are described in detail below.

Fair Representation of Members

The Exchange proposes in Section 9(a), similar to the Nasdaq Exchanges, that at least 20% of the Directors would be Member Representative Directors.¹⁶

¹⁰ See Current LLC Agreement, Sections 5.1 and 5.7 and Current Constitution, Sections 3.1 and 4.1.

¹¹ See also Current Constitution, Section 3.1.

¹² See NSM LLC Agreement, Section 9; Phlx LLC Agreement, Section 8; and BX COI, Article Fifth.

¹³ "Director" will be defined as the persons elected or appointed to the board of directors from time to time in accordance with the LLC Agreement and the Bylaws, in their capacity as managers of the Exchange. See proposed Bylaw Article I(j), which is based on NSM Bylaw Article I(i).

¹⁴ See proposed LLC Agreement, Section 9(a). In contrast, the Current Governing Documents have specific limits on the size of the Board in that the Exchange is required to have no less than fifteen and no more than sixteen directors. See Current LLC Agreement, Section 5.2 and Current Constitution, Section 3.2(a).

¹⁵ Currently, the number of directors may only be changed by the approval of the affirmative vote of the holders of two-thirds of the then outstanding Exchange Rights. See Current Constitution, Section 3.2(a).

¹⁶ See NSM LLC Agreement, Section 9; Phlx LLC Agreement, Section 8; BX Bylaws, Section 4.3. "Member Representative Director" will be defined as a Director who has been elected or appointed after having been nominated by the Member Nominating Committee or by an ISE Member. A Member Representative Director may, but is not required to be, an officer, director, employee, or agent of an ISE Member. See proposed Bylaw

Member Representative Directors are elected or appointed after having been nominated by a Member Nominating Committee¹⁷ composed of representatives of the Exchange members or by Exchange members in the manner described in the proposed Bylaws.¹⁸ Currently, there are six directors on the Board who are officers, directors or partners of Exchange members, and are elected by a plurality of the holders of Exchange Rights¹⁹ (the "Exchange Directors"), of which: (i) Two must be elected by a plurality of the holders of Primary Market Maker ("PMM") Exchange Rights, (ii) two must be elected by a plurality of holders of Competitive Market Maker ("CMM") Exchange Rights, and (iii) two must be elected by a plurality of holders of Electronic Access Member ("EAM") Exchange Rights.²⁰ The Exchange adopted the current board structure as it relates to Exchange Directors to comply with Section 6(b) of the Act, which provides that the Exchange must, among other things, assure fair representation of its members (here, the PMMs, CMMs, and EAMs) in the selection of its directors and administration of its affairs (the "fair representation requirement").²¹ Therefore, the Exchange believes that the Exchange Directors serve the same function on the current Board as "Member

Article I(r), which is based on NSM Bylaw Article I(q).

¹⁷ See proposed Section 6(b) of Bylaw Article III. "Member Nominating Committee" will be defined as the Member Nominating Committee appointed pursuant to the Bylaws. See proposed Bylaw Article I(q), which is based on NSM Bylaw Article I(p).

¹⁸ The Commission has previously found that the requirement in the NSM LLC Agreement that 20% of the directors shall be "Member Representative Directors" and the means by which they are elected by the members provides for the fair representation of members in the selection of directors and administration of NSM consistent with the requirement in Section 6(b) of the Act. See Securities Exchange Act Release No. 53128 (Jan. 13, 2006), 71 FR 3550 (January 23, 2006) (Order Granting Registration as a National Securities Exchange).

¹⁹ See Rule 300 Series. "Exchange Rights" means the PMM Rights, CMM Rights and EAM Rights collectively. See Rule 100(a)(17). PMM Rights, CMM Rights and EAM Rights have the meaning set forth in Article VI of the Current LLC Agreement. See Rules 100(a)(11), 100(a)(14) and 100(a)(36). See also Current Constitution, Section 13.1(q). PMMs, CMMs, and EAMs represent the three classes of membership on the Exchange. See Current Constitution, Sections 13.1(g), 13.1(l) and 13.1(bb).

²⁰ See Current Constitution, Section 3.2(b).

²¹ See Section 6(b)(3) of the Act, 15 U.S.C. 78f(b)(3). Upon granting the Exchange's application for registration as a national securities exchange, the Commission found that the board composition requirements related to the Exchange Directors satisfied the principles of fair representation as required by Section 6(b) of the Act. See Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange).

Representative Directors" on the boards of the Nasdaq Exchanges in that the Exchange Directors give members a voice in the Exchange's use of self-regulatory authority.²²

By adopting the new Board structure set forth in the New Governing Documents, the Exchange is proposing to replace the Exchange Director positions and all related concepts thereto,²³ with Member Representative Director positions and all related concepts that will be further discussed below. The Exchange believes that the new Board structure will still provide for the fair representation of its members because the new structure is well-established as meeting the fair representation requirement.²⁴ It should be noted that there are certain additional protections other than the right to elect Exchange Directors that are afforded to the holders of PMM Rights and CMM Rights (the "Market Maker Rights") set forth in the Current Governing Documents, namely: (i) The right to vote on any change in, amendment or modification of the Core Rights or the definition of "Core Rights"²⁵ and (ii) the right to transfer or lease PMM or CMM Rights upon approval of the Exchange.²⁶ These rights reflect ISE's original membership structure, where the original Market Maker Rights provided the holders with an equity ownership interest in ISE as well as trading rights on the Exchange.²⁷

²² Currently, the six Exchange Directors comprise 37.5% of the sixteen-member Board.

²³ Related concepts include: "CMM Directors," "CMM Right," "Competitive Market Maker," "Core Rights," "EAM Directors," "EAM Right," "Electronic Access Member," "Exchange Directors," "Exchange Rights," "PMM Director," "PMM Rights," "Primary Market Maker," and "Voting Rights." See Current LLC Agreement, Section 2.2 and Current Constitution, Section 13 for the definitions.

²⁴ See note 18 above.

²⁵ See Current LLC Agreement, Section 6.3(b) and Current Constitution, Section 10.1. "Core Rights" represents the voting rights with respect to any increase in the number of authorized PMM and CMM rights. See Current LLC Agreement, Section 2.2. The number of authorized PMM Rights and CMM Rights are 10 and 160, respectively. See Current LLC Agreement, Section 6.1.

²⁶ See Current LLC Agreement, Article VI and Current Constitution, Article XII. As stated below, most of the transfer and lease provisions in the Current Governing Documents are also already in the current Rule 300 Series. See note 28 below.

²⁷ See Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange). All of the initial Market Maker Rights provided the rights holders with an equity ownership interest in ISE as well as trading rights on the Exchange. As such, those rights were transferable or leaseable to approved persons or entities (*i.e.*, Exchange members or non-member owners as provided in Rule 300(a)). Additionally, holders of the Market Maker Rights had the right to vote on corporate actions such as increasing the

Today, the Market Maker Rights do not confer any equity ownership in the Exchange and the Market Maker Rights are, for all practical purposes, rights to trade on the Exchange. As such, the Exchange believes that provisions governing the trading privileges of its members are more appropriately located in the Rules than in its organizational documents. Already, all of the provisions governing the transfer and lease of Market Maker Rights located in the Current Governing Documents are also substantially set forth in the Rules,²⁸ and the Exchange is not proposing any changes to those rules or to any of its trading rules in connection with the Merger. As described in more detail below, the Exchange will amend its Rules only (i) to clarify any Rules that refer back to the Current LLC Agreement or the Current Constitution in the rule text or (ii) to relocate or memorialize in the rulebook certain rights and protections afforded to the Market Maker Rights holders, which are primarily found in the Current Governing Documents as discussed above. As such, the holders of Exchange Rights will continue to have the same trading privileges they currently hold as PMMs, CMMs and EAMs under the Exchange Rules and the proposed Board structure of the Exchange will not change any trading privileges. Virtually all of the proposed changes regarding the removal of Exchange Director positions and related concepts from the Exchange's organizational documents are corporate in nature, and are intended simply to conform the organizational documents with those of the Nasdaq Exchanges in order to

number of memberships in a class (akin to the voting rights related to "Core Rights" today). From the beginning, the holders of EAM Rights had no equity interests in the Exchange and only had rights to trade on the Exchange. Those rights were not transferable by the holders, and could only be held by Exchange members. The Exchange has since demutualized and reorganized into a holding company structure, all of which resulted in the separation of the equity ownership rights in the Exchange (currently all held by ISE Holdings as the Sole LLC Member) from the trading privileges on the Exchange (currently held by PMMs, CMMs, and EAMs). The ability to transfer the PMM Rights and CMM Rights (and the non-transferability of the EAM rights), however, still remains the same today, as reflected in the Exchange's rules as well as the Current Governing Documents. See Rule 307(a); Current LLC Agreement, Section 6.4; and Current Constitution, Sections 12.1(c), 12.2(c), and 12.3(b).

²⁸ See Rule 300 Series. For example, the holders of PMM Rights and CMM Rights (the "Market Maker Rights") have the right to transfer and lease the Market Maker Rights to an Exchange member. See Rules 307 and 308. Holders of Market Maker Rights that are not Exchange members are required to lease their Market Maker Rights to an Exchange member. See Rule 300(b). Such transfers or leases will be subject to the trading concentration limits associated with PMM Rights and CMM Rights. See Rule 303.

harmonize the Exchange's board structure with its affiliates. The proposed changes will primarily affect current board composition requirements, the current nomination and election processes of the directors and the current committee composition requirements. These provisions are outlined in detail in the proposed Bylaws of the Exchange, which will be discussed below.

New Section 9(a) of the LLC Agreement also proposes that all Directors other than the Member Representative Directors shall be elected by the Sole LLC Member in the manner described in the proposed Bylaws. Mirroring Section 9(a) of the NSM LLC Agreement, each Director elected, designated or appointed by the Sole LLC Member shall hold office until a successor is elected and qualified or until such Director's earlier death, resignation, expulsion or removal. As noted above, Member Representative Directors shall be elected in accordance with the Bylaws. Each Director shall execute and deliver an instrument accepting such appointment and agreeing to be bound by all the terms and conditions of the LLC Agreement and the Bylaws. A Director need not be an Exchange member.

The Exchange is also proposing to adopt the exact verbiage of Section 9 of the NSM LLC Agreement with respect to the Powers of the Board, the By-Laws, the Meeting of the Board of Directors, Quorum; LLC Acts of the Board and Electronic Communications.²⁹ The section discussing the Powers of the Board is similar to the current provisions in the Current Constitution in that the Board is vested with the power to do any and all acts necessary or for the furtherance of the purposes described in the LLC Agreement, including all powers, statutory or otherwise.³⁰ The Board also has the power to bind the Exchange and delegate powers.³¹ As discussed in the Bylaws section below, the Bylaws proposed to be adopted by the Exchange, the Sole LLC Member and the Board in Section 9(c) of the LLC Agreement will replace the Current Constitution of the Exchange.

The Meeting of the Board contains standard Delaware limited liability company provisions governing regular and special meetings of the board, and

²⁹ See proposed Sections 9(b) through (f) of the Exchange's LLC Agreement.

³⁰ See Current Constitution, Section 3.1.

³¹ See Current LLC Agreement, Section 2.2 (providing that the Sole LLC Member does not have the power to bind the Exchange, said power being vested solely and exclusively in the Board) and Current Constitution, Sections 3.1, 4.12 and 5.1.

related notice provisions. Similar language is found in Section 3.6 of the Current Constitution, and the Exchange is proposing to streamline these administrative procedures across the Nasdaq Exchanges.

The subsections, Quorum; LLC Acts of the Board and Electronic Communications, contain standard Delaware limited liability company provisions governing quorum rules for Board actions, Board action by unanimous written consent, and how Board and committee members may participate in Board and committee meetings, as applicable. The Exchange notes that these provisions are similar in all material respects to those in the Current Governing Documents³² and relate primarily to the administrative processes of the Board. Therefore, the Exchange is proposing to streamline these processes across the Nasdaq Exchanges for the sake of efficiency.

Section 9(g) of the LLC Agreement generally discusses the standing committees and provides that the Board may designate one or more committees. By adopting new Section 9(g), the Exchange is proposing to delete the current committees set forth in Article V of the Current Constitution and adopt the standing committees similar to those of the Nasdaq Exchanges. Article V of the Current Constitution provides for the following committees: An Executive Committee, a Corporate Governance Committee, a Finance and Audit Committee, a Compensation Committee, and such other additional committees as may be established by Board resolution. Article V also provides for a nominating committee, which is a committee of the Exchange and not the Board, and nominates the Exchange Directors for election to the Board (the "Exchange Director Nominating Committee"). The Exchange proposes to replace these rules with "Committees Composed Solely of Directors" and "Committees Not Composed Solely of Directors" at newly proposed and named Bylaw Article III. The details of those committees will be discussed below in the Bylaws section.

The Exchange proposes to adopt identical provisions set forth in Section 9(g) of the NSM LLC Agreement with respect to the standing committees.³³ First, the Board may designate one or more Directors as alternate members of any committee who may replace any absent or disqualified member at any meeting of the committee. Second, the Committee members shall hold office

³² See Current Constitution, Sections 3.6 and 3.7.

³³ See proposed LLC Agreement, Section 9(g)(i)-(v).

for such period as may be fixed by a resolution adopted by the Board. Any member of a committee may be removed from such committee only by the Board. Vacancies shall be filled by the Board. Third, each committee may adopt its own rules of procedure and may meet at stated times or on such notice as such committee may determine. Each committee shall be required to keep regular minutes of its meetings and report the same to the Board when required. Fourth, a majority of the committee shall constitute a quorum and the vote of a majority present shall be an act of the committee. Finally, to the extent provided in the resolution of the Board, any committee that consists solely of one or more Directors shall have and may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange. Such committee or committees shall have such name or names as may be determined from time to time by resolution adopted by the Board. Further, in the absence or disqualification of a member of a committee composed solely of Directors, the member or members thereof present at any meeting and not disqualified from voting, whether or not such members constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in the place of any such absent or disqualified member. The foregoing provisions are similar to the language found in Section 5.1 of the Current Constitution.

Similar to Section 3.9 of the Current Constitution, proposed Section 9(h) provides that the compensation of Directors shall be fixed by the Board. This language mirrors the provisions in Section 9(h) of the NSM LLC Agreement. The Removal and Resignation of Directors language in proposed Section 9(i) also mirrors Section 9(i) of the NSM LLC Agreement, and is similar to the resignation and removal language in Section 5.4 of the Current LLC Agreement and Sections 3.4 and 3.5 of the Current Constitution. The Directors as Agents language in proposed Section 9(j) provides that the Directors are agents of the Exchange and mirrors Section 9(j) of the NSM LLC Agreement.

Section 10, titled "Officers," the Exchange proposes to adopt identical language regarding officer appointments found in Section 10 of the NSM LLC Agreement, which provisions are similar in nature to the existing provisions in Article IV of the Current Constitution.

Section 11, titled "Limited Liability," contains standard Delaware limited liability company language on the

limitation of liability of the Sole LLC Member and the Directors in the manner permitted under the LLC Act. The proposed language is similar to the limitation of liability language found in the Current LLC Agreement³⁴ and mirrors Section 11 of the NSM LLC Agreement.

Sections 12 through 14 of the LLC Agreement, which are virtually identical to Sections 12 through 14 of the NSM LLC Agreement, are equity-related provisions that encompass the topics of capital contributions, additional capital contributions, and allocations of profits and losses. These provisions set forth the basic economic arrangement of the Sole LLC Member and remain consistent with the economic arrangement under the Current Governing Documents.³⁵ Proposed Section 15, which relates to distributions, provides that ISE Holdings, as the Sole LLC Member, is generally entitled to all distributions made by the Exchange. Similar to Section 3.3 of the Current LLC Agreement, however, proposed Section 15 also contains a stipulation that (i) the Exchange shall not be required to make a distribution to the Sole LLC Member on account of its interest in the Exchange if such distribution would violate the LLC Act or any other applicable law or is otherwise required to fulfill the regulatory functions or responsibilities of the Exchange, and (ii) Regulatory Funds shall not be used for non-regulatory purposes, but rather shall be used to fund the legal, regulatory and surveillance operations of the Exchange and the Exchange shall not make a distribution to the Sole LLC Member using Regulatory Funds. "Regulatory Funds" means fees, fines, or penalties derived from the regulatory operations of the Exchange. "Regulatory Funds" shall not be construed to include revenues derived from listing fees, market data revenues, transaction revenues, or any other aspect of the commercial operations of the Exchange, even if a portion of such revenues are used to pay costs associated with the regulatory operations of the Exchange.³⁶ This provision is designed to preclude the Exchange from using its authority to raise Regulatory Funds for the purpose of benefitting its Sole LLC Member.

Similar to Section 4.1 of the Current LLC Agreement, Section 16 of the LLC Agreement, titled "Books and Records," sets forth certain information relating to general administrative matters with

respect to the books and records of the Exchange. Specifically, the Board shall keep or cause to be kept complete and accurate books of account and records with respect to the Exchange's business. The books of the Exchange shall at all times be maintained by the Board. The Sole LLC Member and its duly authorized representatives shall have the right to examine the Exchange books, records and documents during normal business hours. The Exchange, and the Board on behalf of the Exchange, shall not have the right to keep confidential from the Sole LLC Member any information that the Board would otherwise be permitted to keep confidential from the Sole LLC Member pursuant to Section 18-305(c) of the LLC Act. The Exchange's books of account shall be kept using the method of accounting determined by the Sole LLC Member. Further, the Exchange's independent auditor shall be an independent public accounting firm selected by the Board.³⁷ Finally, the Exchange proposes to retain some of the existing concepts on books and records from Section 4.1(b) of the Current LLC Agreement in the new Section 16.³⁸ First, the books of account and records with respect to the Exchange's business must be kept within the United States. Second, other than as provided in Section 16 with respect to the Sole LLC Member and the Commission, all confidential information pertaining to the self-regulatory function of the Exchange (including but not limited to disciplinary matters, trading data, trading practices and audit information) contained in the books and records of the Exchange shall: (i) Not be made available to any persons other than to those officers, directors, employees and agents of the Exchange that have a reasonable need to know the contents thereof; (ii) be retained in confidence by the Exchange and the officers, directors, employees and agents of the Exchange;

³⁷ See Section 16 of the NSM LLC Agreement for identical provisions.

³⁸ These concepts are generally not in the governing documents of the Nasdaq Exchanges, and relate to where the Exchange's books and records must be maintained and who may access such books and records, in particular those that contain confidential information pertaining to the self-regulatory function of the Exchange. While Phlx has a requirement under Section 15 of the Phlx LLC Agreement to keep its books and records in the United States, neither BX nor NSM has this requirement under their respective governing documents. Furthermore, none of the Nasdaq Exchanges have in their governing documents a provision that explicitly sets forth the Commission's right to access their books and records. The Nasdaq Exchanges will each separately file proposed rule changes to harmonize the books and records provisions in their respective governing documents with the language the Exchange proposes for Section 16.

³⁴ See Current LLC Agreement, Sections 2.3 and 5.8.

³⁵ See Current LLC Agreement, Sections 3.1 and 3.2.

³⁶ See proposed LLC Agreement, Schedule A.

and (iii) not be used for any non-regulatory purposes. Nothing in the LLC Agreement shall be interpreted as to limit or impede the rights of the Commission to access and examine such confidential information pursuant to the federal securities laws and the rules and regulations thereunder, or to limit and impede the ability of any officers, directors, employees or agents of the Exchange to disclose such confidential information to the Commission.

Section 17, titled "Reports," is being added to mirror the language of the NSM LLC Agreement, and requires the Board, after the end of each fiscal year, to use reasonable efforts to cause the Exchange's independent accountants, if any, to prepare and transmit to the Sole LLC Member any tax information that the Sole LLC Member may reasonably need to prepare its federal, state and local income tax returns for such fiscal year.³⁹ Section 18, titled "Other Business," is standard language in the Delaware limited liability company context and merely states that the Sole LLC Member and any Director, officer, employee or agent of the Exchange may engage in other business and that the Exchange has no rights to such other business or the proceeds derived therefrom. The Exchange is proposing to mirror the language found in Section 18 of the NSM LLC Agreement.

Section 19, titled "Exculpation and Indemnification," is based on Section 19 of the NSM LLC Agreement. Similar to the provisions in Article VI of the Current Constitution, the language provides for the exculpation and indemnification of ISE Holdings and any officer, Director, employee or agent of the Exchange or of the affiliate of ISE Holdings. Section 20, titled Assignment, is based on Section 20 of the NSM LLC Agreement, but retains similar transfer restrictions from Section 7.1 of the Current LLC Agreement on any assignments by the Sole LLC Member and prohibits the Sole LLC Member from transferring or assigning its limited liability company interest in the Exchange, unless the Commission approves such transfer or assignment pursuant to a rule filing under Section 19 of the Act.⁴⁰ Section 21, titled

³⁹ See Section 17 of the NSM LLC Agreement for identical provisions.

⁴⁰ BX has a similar provision in Section 9.4(c) of the BX Bylaws, which restricts HoldCo, as BX's sole shareholder, from transferring any shares of stock to any entity unless such transfer is filed and approved by the Commission pursuant to a rule filing. In contrast, Section 20 of the NSM LLC Agreement allows HoldCo, as NSM's sole LLC member, to assign NSM's limited liability company interest solely to an affiliate of HoldCo, but does not require approval by the Commission for such assignments. Phlx follows the NSM model. As such,

"Dissolution," sets forth the events which will cause the dissolution of the Exchange, as prescribed by mandatory provisions of the LLC Act or as otherwise agreed among the parties, and is based on Section 21 of the NSM LLC Agreement. The proposed language is similar to the language currently in Section 7.2 of the Current LLC Agreement.

Sections 22 through 28 of the proposed LLC Agreement contain general provisions which are relatively standard in Delaware limited liability company agreements.⁴¹ These provisions include: A benefits of agreement clause, a severability clause, an entire agreement clause, a binding agreement clause, a governing law clause, an amendment provision and a notice provision. The Exchange notes that its members are acknowledged in proposed Section 22 as holding rights under the LLC Agreement and included as third-party beneficiaries to the LLC Agreement as is similarly provided in Section 22 of the NSM LLC Agreement.

Section 27, titled "Amendments," provides that the LLC Agreement may be amended by a resolution adopted by the Board and a written agreement executed and delivered by the Sole LLC Member, and further provides that all such amendments to the LLC Agreement will not become effective until filed with, or filed with and approved by, the Commission, as required under Section 19 of the Exchange Act and the rules promulgated thereunder.⁴²

The Exchange proposes to add a new Schedule A to the LLC Agreement, which contains key definitions used in the LLC Agreement. The Exchange also proposes a section on rules of construction further explaining the definitions in proposed Schedule A.

C. Bylaws

The Exchange proposes to adopt the Bylaws,⁴³ which would replace the

Phlx and NSM will each separately file a proposed rule change to harmonize their assignment provisions with the Exchange's proposal hereunder.

⁴¹ For example, see Sections 22 through 28 of the NSM LLC Agreement and Sections 22 through 28 of the Phlx LLC Agreement.

⁴² This provision is based in concept on Section 6-9 of the Phlx Bylaws, which requires Phlx to file any amendments to the Phlx Bylaws with the Commission. The Phlx LLC Agreement, however, does not have a similar requirement for amendments to the Phlx LLC Agreement. As well, neither BX nor NSM has filing requirements for amendments in their respective governing documents. Therefore, the Nasdaq Exchanges will each separately file proposed rule changes with the Commission to add this requirement in (as applicable): The Phlx LLC Agreement, the BX COI, the BX Bylaws, the NSM LLC Agreement and the NSM Bylaws.

⁴³ The proposed Bylaws are attached hereto as Exhibit 5C [sic].

Exchange's Current Constitution.⁴⁴ The Bylaws reflect the expectation that the Exchange will be operated with governance structures similar to those of the Nasdaq Exchanges. Accordingly, the Exchange proposes to adopt Bylaws that set forth the same corporate governance framework and related processes as those contained in the Bylaws of the Nasdaq Exchanges. Article I of the Bylaws, titled "Definitions," contains key definitions used in the Bylaws, and are based on the defined terms used in NSM Bylaw Article I.

Nomination and Election Process

Article II of the Bylaws, titled "Annual Election of Member Representative Directors and Other Actions by Exchange Members," mirrors the language in NSM Bylaw Article II,⁴⁵ and contains key provisions regarding the processes for the nomination and election of Member Representative Directors. As discussed in the LLC Agreement section above, the Exchange is proposing to replace the Exchange Directors with Member Representative Directors to harmonize its board structure with the Nasdaq Exchanges. The proposed nomination and election process for Member Representative Directors described in new Article II would replace the current processes for the Exchange Directors set forth in the Current Governing Documents.

Current Nomination and Election Process

Under the current nomination and election process, nominees for election of the Exchange Directors are selected each year by the Exchange Director Nominating Committee (which is not a Board committee but composed of three Exchange member representatives).⁴⁶ A petition process will also allow holders of the Exchange Rights to nominate alternate candidates for consideration as

⁴⁴ The Current Constitution is attached hereto as Exhibit 5D [sic].

⁴⁵ Phlx and BX also have the identical nomination and election processes for their Member Representative Directors. See Phlx Bylaw Article II and Section 4.4 of the BX Bylaws.

⁴⁶ See Current Constitution, Section 3.10(a). With respect to the Exchange Director Nominating Committee process, the Secretary of the Exchange, on behalf of the Exchange Director Nominating Committee, will circulate a memorandum to all holders of Exchange Rights soliciting interest in presenting Exchange Director candidates to the Exchange Director Nominating Committee. Shortly after the receipt of candidate submissions, the Exchange Director Nominating Committee will conduct a short interview with each candidate. Following all interviews, the Exchange Director Nominating Committee, by majority vote, will select its Exchange Director candidates and the Secretary of the Exchange will inform the holders of Exchange Rights of the Exchange Director Nominating Committee's selections.

Exchange Directors.⁴⁷ At an annual meeting of the holders of Exchange Rights, the Exchange Directors are elected by a plurality of the votes cast at the meeting by the holders of Exchange Rights entitled to vote thereon.⁴⁸ Following the full nomination, petition, and voting process, each Exchange Director holds office for a term of two years.⁴⁹

Specifically pursuant to Section 3.2(c) of the Current Constitution, the Exchange Directors are divided into two classes, designated as Class I and Class II directors. Each of Class I and Class II is comprised of half of the PMM Directors, CMM Directors and EAM Directors. The Exchange Directors of each class holds office until their successors are duly elected and qualified. At each annual meeting of the holders of Exchange Rights, the successors of the class of Exchange Directors whose term expires at that meeting will be elected by the Exchange Rights holders to hold office for a term expiring at the annual meeting held in the second year following the year of their election, and until their successors are elected and qualified.⁵⁰ No Exchange Director may serve more than three consecutive terms, and after a two-year hiatus, may be eligible to serve as an Exchange Director again.⁵¹

⁴⁷ See Current Constitution, Section 3.10(a). Specifically, in addition to the Exchange Director nominees named by the Nominating Committee, persons eligible to serve as such may be nominated for election to the Board by a petition, signed by the holders of not less than 5% of the outstanding Exchange Rights of the series entitled to elect such person if there are more than eighty (80) Exchange Rights in the series entitled to vote, ten percent (10%) of the outstanding rights of such series entitled to elect such person if there are between eighty (80) and forty (40) Exchange Rights in the series entitled to vote, and twenty-five percent (25%) of the outstanding Exchange Rights of such series entitled to elect such person if there are less than forty (40) Exchange Rights in the series entitled to vote. For purposes of determining whether a person has been nominated for election by petition by the requisite percentage, no Exchange member, alone or together with its affiliates, may account for more than fifty percent (50%) of the signatures of the holders of outstanding Exchange Rights of the series entitled to elect such person, and any such signatures by such Exchange members, alone or together with its affiliates, in excess of such fifty percent (50%) limitation shall be disregarded. *Id.*

⁴⁸ See Current Constitution, Sections 2.1 and 2.5. A holder of Exchange Rights, together with any affiliate, may not exercise the voting rights (including with respect to the election of Exchange Directors) associated with more than twenty percent (20%) of the PMM Rights, CMM Rights or EAM Rights. See Current LLC Agreement, Section 6.5(a).

⁴⁹ See Current Constitution, Section 3.2(c).

⁵⁰ *Id.*

⁵¹ See Current Constitution, Sections 3.2(e). The Exchange does not impose term limits on Non-Industry Directors.

Proposed Nomination and Election Process

The Exchange is proposing to adopt identical nomination and election processes as the Nasdaq Exchanges as set forth in proposed Bylaw Article II, Section 1 so that Member Representative Directors would be elected to the Board on an annual basis.⁵² For each annual election, the Board would select a Record Date⁵³ and an Election Date.⁵⁴ The Record Date would be at least 10 days but not more than 60 days prior to the Election Date. The Member Nominating Committee, consisting of representatives of the Exchange members, would create a list of one or more candidates for each Member Representative Director position (the "List of Candidates") on the Board to be elected on the Election Date. Promptly after selection of the Election Date, in a notice transmitted to the Exchange members and in a prominent location on a publicly accessible Web site, the Exchange (i) shall announce the Election Date and the List of Candidates, and (ii) shall describe the procedures for Exchange members to nominate candidates for election at the next annual meeting. In the event of a Contested Election, the Exchange shall also send its members the List of Candidates and a formal notice of the Election Date, which notice shall be sent by the Exchange at least 10 days but no more than 60 days prior to the Election Date to the Exchange members that were Exchange members on the Record Date, by any means, including electronic transmission, as determined by the Board or committee thereof.

An additional candidate may be added to the List of Candidates by any Exchange member that submits a timely and duly executed written nomination to the Secretary of the Exchange. To be timely, an Exchange member's notice

⁵² See Section 1 of NSM Bylaw Article II, Section 2-1 of the Phlx Bylaws and Section 4.4 of the BX Bylaws. Currently, the Exchange Directors are elected for two-year terms.

⁵³ "Record Date" will be defined as a date selected by the Board for the purpose of determining the Exchange members entitled to vote for the election of Member Representative Directors on an Election Date in the event of a Contested Election. See proposed Bylaw Article I(bb), which is based on NSM Bylaw Article I(aa). "Contested Election" will be defined as an election for one or more Member Representative Directors for which the number of candidates on the List of Candidates exceeds the number of positions to be elected. See proposed Bylaw Article I(g), which is based on NSM Bylaw Article I(ee).

⁵⁴ "Election Date" will be defined as a date selected by the Board on an annual basis, on which the Exchange members may vote with respect to Member Representative Directors in the event of a contested election. See proposed Bylaw Article I(k), which is based on NSM Bylaw Article I(f).

would have to be delivered to the Secretary at the principal executive offices of the Exchange not later than the close of business on the 90th day nor earlier than the close of business on the 120th day prior to the first anniversary of the preceding year's Election Date, provided however that in the event that the Election Date is more than 30 days before or more than 70 days after such anniversary date, notice by the Exchange member must be so delivered not earlier than the close of business on the 120th day prior to such Election Date and not later than the close of business on the later of the 90th day prior to such Voting Election or the tenth day following the day on which public announcement of such Election Date is first made by the Exchange. Such Exchange member's notice shall set forth: (i) As to the person whom the Exchange member proposes to nominate for election as a Member Representative Director, all information relating to that person that is required to be disclosed in solicitations of proxies for election of directors in an election contest, or is otherwise required, in each case pursuant to Regulation 14A under the Act and the rules thereunder (and such person's written consent to be named in the List of Candidates as a nominee and to serving as a Director if elected); (ii) a petition in support of the nomination duly executed by the Executive Representatives⁵⁵ of 10% or more of all Exchange members; and (iii) the name and address of the Exchange members making the nomination. The Exchange may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to

⁵⁵ "Executive Representative" will be defined as an individual appointed by an Exchange member to represent, vote, and act for the Exchange member in all the affairs of the Exchange; provided, however, that other representatives of an Exchange member may also serve on the Board or committees of the Exchange or otherwise take part in the affairs of the Exchange. If an Exchange member is also a member of FINRA, the Exchange executive representative shall be the same person appointed to serve as the FINRA executive representative. An Exchange member may change its executive representative or appoint a substitute for its executive representative upon giving notice thereof to the Exchange Secretary via electronic process or such other process as the Exchange may prescribe. An executive representative of an Exchange member or a substitute shall be a member of senior management and registered principal of the Exchange member. Each executive representative shall maintain an Internet electronic mail account for communication with the Exchange and shall update firm contact information as prescribed by the Exchange. Each member shall review and, if necessary, update its executive representative designation and contact information in the manner prescribed by the Exchange. See proposed Bylaw Article I(l), which is based on NSM Bylaw Article I(k) and NSM Rule 1150.

serve as a Member Representative Director.

If by the date on which an Exchange member may no longer submit a timely nomination, there is only one candidate for each Member Representative Director position to be elected on the Election Date, the Member Representative Directors will be elected by ISE Holdings as the Sole LLC Member from the List of Candidates. In the event of a Contested Election, the Exchange would conduct a vote to determine the candidates on the List of Candidates in accordance with proposed Section 2 of Bylaw Article II, which mirrors the language found in Section 2 of the NSM Bylaw Article II.

If there is a Contested Election, each Exchange member would have the right to cast one vote for each Member Representative Director position to be filled; provided, however, that any such vote must be cast for a person on the List of Candidates. However, an Exchange member, either alone or together with its affiliates, may not cast votes representing more than 20% of the votes cast for a candidate, and any votes cast by the Exchange member, either alone or together with its affiliates, in excess of such 20% limitation would be disregarded.⁵⁶ The votes would be cast by written ballot, electronic transmission or any other means as set forth in a notice to the Exchange members sent by the Exchange prior to the Election Date. Only votes received prior to 11:59 p.m. Eastern Time on the Election Date would count for the election of a Member Representative Director. The persons on the List of Candidates who receive the most votes would be elected to the Member Representative Director positions.

New Section 3 of Bylaw Article II proposes that if a Member Representative Director position becomes vacant prior to the expiration of such person's term, or it an increase in the size of the Board results in the creation of a new Member Representative Director position, the Sole LLC Member will elect a person from a list of candidates prepared by the Member Nominating Committee to fill such vacancy, except that if the remaining term of office for the vacant Director position is less than six months, no replacement will be required. The proposal would replace the current process for filling Exchange Director vacancies on the Board,⁵⁷ and mirrors Section 3 of NSM Bylaw Article

II. Finally, new Section 4 of Bylaw Article II, copied from Section 4 of NSM Bylaw Article II, proposes that the Exchange will not be required to hold meetings of the Exchange members.⁵⁸

Related to the proposed changes to the Exchange's nomination and election process described above, the Exchange also proposes to create a Member Nominating Committee, which would replace the current Exchange Director Nominating Committee in nominating candidates for director positions that meet the fair representation requirement. New Section 6(b) of Bylaw Article III, which is copied from Section 6(b) of NSM Bylaw Article III, proposes that the Member Nominating Committee would nominate candidates for each Member Representative Director position on the Board, and would also nominate candidates for appointment by the Board for positions on any committees with positions reserved for Member Representative members. The Member Nominating Committee would consist of no fewer than three and no more than six members. All members of the Member Nominating Committee would be a current associated person of a current Exchange member. The Board would appoint such individuals after appropriate consultation with the Exchange members. Member Nominating Committee members would be appointed annually by the Board and may be removed by a majority vote of the Board.

The Exchange believes that the proposed process for selecting Member Representative Directors, together with the requirement in the proposed LLC Agreement that the Board be comprised of at least 20% Member Representative Directors as discussed in the LLC Agreement section above, will continue to provide for a fair representation of its members on the Board. Similar to the nomination and election process currently in place, proposed Bylaw Article II includes a process by which members can directly petition and vote for representation on the Board. In addition, the proposed Member Nominating Committee would be composed solely of persons associated with Exchange members, similar to the current Exchange Director Nominating Committee, and is selected after consultation with representatives of Exchange members. The Commission

⁵⁸ In contrast, the Current Constitution requires that an annual meeting of the holders of Exchange Rights be held for the purpose of electing Exchange Directors to fill expiring terms. See Current Constitution, Section 2.1. As noted above for the proposed process, the Exchange members may vote in the event of a Contested Election, through a balloting process without a formal meeting.

has previously approved rule changes for substantially similar board nomination and election processes for the Nasdaq Exchanges.⁵⁹

Board Composition

The Exchange is proposing to adopt Article III of the Bylaws, titled "Board of Directors," which is based on NSM Bylaw Article III. Section 1 of Bylaw Article III proposes that if any Director position other than a Member Representative Director position becomes vacant, whether because of death, disability, disqualification, removal, or resignation, the Nominating Committee (discussed below) shall nominate, and the Sole LLC Member shall select, a person satisfying the classification (Industry, Non-Industry, or Public Director), if applicable, for the directorship to fill such vacancy.

Section 2(a) of Bylaw Article III sets forth the proposed Board composition requirements and provides that a Director may not be subject to a statutory disqualification. The Exchange is proposing to replace the current Board qualification requirements with the ones set forth in the new Section 2(a), which mirrors the qualifications language in Section 2(a) of NSM Bylaw Article III. This proposed change to the current Board composition is in addition to the proposal discussed in the LLC Agreement section above to give the Sole LLC Member discretion to determine the size of the Board from time to time.⁶⁰

Currently, the number of directors on the Board must be no less than fifteen and no more than sixteen,⁶¹ and includes: (i) Eight (8) directors who meet the qualifications of "non-industry representatives" set forth in the Current Constitution⁶² and elected by ISE

⁵⁹ See e.g. Securities Exchange Act Release No. 53128 (Jan. 13, 2006), see note 18 above; Securities Exchange Act Release No. 58324 (August 7, 2008), 73 FR 46936 (August 12, 2008) (SR-BSE-2008-02, -23, -25, SR-BSECC-2001-01) (Order Approving a Proposal by BX to Amend and Restate its COI and its Constitution to Reflect its Acquisition by the NASDAQ OMX Group); and Securities Exchange Act Release No. 59794 (April 20, 2009), 74 FR 18761 (April 24, 2009) (SR-Phlx-2009-17) (Order Approving Proposed Rule Change Relating to the Nomination and Election of Candidates for Governor and Independent Governor).

⁶⁰ See proposed Section 9(a) of the LLC Agreement.

⁶¹ See Current Constitution, Section 3.2(a). Currently, the Board is comprised of sixteen directors.

⁶² See Current Constitution, Section 3.2(b). The term "non-industry representative" means any person who would not be considered an "industry representative," as well as (i) a person affiliated with a broker or dealer that operates solely to assist the securities-related activities of the business of non-member affiliates, or (ii) an employee of an entity that is affiliated with a broker or dealer that

⁵⁶ This is the same as the 20% voting limitation included in Section 6.5(a) of the Exchange's Current LLC Agreement. See note 48 above.

⁵⁷ See Current Constitution, Sections 3.3.

Holdings as the Sole LLC Member, at least two (2) of whom must meet the qualifications of “Public Directors,”⁶³ (ii) one (1) director, who is the Chief Executive Officer of the Exchange (the “CEO Director”),⁶⁴ (iii) six (6) Exchange Directors, as described above, and (iv) one (1) Former Employee Director, who may be elected by the Sole LLC Member in its sole and absolute discretion.⁶⁵

The Exchange is proposing to replace the aforementioned Board composition with the board structure in place at the Nasdaq Exchanges. As is the case with the Nasdaq Exchanges, the proposed Board composition would be required to reflect a balance among “Industry Directors,” “Member Representative Directors,” and “Non-Industry Directors,” including “Public Directors.”⁶⁶ The new Board structure would be as follows:

- At least twenty percent (20%) of the directors on the Board would be “Member Representative Directors;”⁶⁷

does not account for a material portion of the revenues of the consolidated entity, and who is primarily engaged in the business of the non-member entity. *See* Current Constitution, Section 13.1(w). The term “industry representative” means a person who is an officer, director or employee of a broker or dealer or who has been employed in any such capacity at any time within the prior three (3) years, as well as a person who has a consulting or employment relationship with or has provided professional services to the Exchange and a person who had any such relationship or provided any such services to the Exchange at any time within the prior three (3) years. *See* Current Constitution, Section 13.1(t).

⁶³ “Public Director” means is a non-industry representative who has no material relationship with a broker or dealer or any affiliate of a broker or dealer or the Exchange or any affiliate of the Exchange. *See* Current Constitution, Section 3.2(b) and Sections 13.1(aa) and (bb).

⁶⁴ *See* Current Constitution, Section 3.2(b). The Chief Executive Officer of the Exchange is elected by the Board and will be nominated by the Board for a directorship by virtue of his or her office. *See* Current Constitution, Section 4.6(a). The Chief Executive Officer will only serve on the Board for so long as such person remains the Chief Executive Officer. *See* Current Constitution, Section 3.2(e).

⁶⁵ The Former Employee Director is a director who meets the requirements of a “non-industry representative,” except that such person was employed by the Exchange at any time during the three (3) year period prior to his or her initial election. The Exchange is not required under its Current Constitution to fill this director position. *See* Current Constitution, Section 3.2(b).

⁶⁶ *See* Section 2(a) of NSM Bylaw Article III, Section 3–2(a) of Phlx Bylaws and Section 4.3 of BX Bylaws.

⁶⁷ *See* proposed LLC Agreement, Section 9(a). “Member Representative Director” will be defined as a Director who has been elected or appointed after having been nominated by the Member Nominating Committee or by an ISE Member. A Member Representative Director may, but is not required to be, an officer, director, employee, or agent of an Exchange member. *See* proposed Bylaws, Article I(r), which is based on NSM Bylaw Article I(q).

- The number of “Non-Industry Directors”⁶⁸ would equal or exceed the sum of the number of “Industry Directors”⁶⁹ and “Member Representative Directors”⁷⁰

- The Board would include at least one “Public Director”⁷¹ and at least one issuer representative (or if the Board consists of ten or more Directors, at least two issuer representatives);

- Up to two officers of the Exchange (“Staff Directors”) may be elected to the Board.⁷²

Under proposed Section 2(b), which mirrors Section 2(b) of NSM Bylaw Article III, a Director would be disqualified and removed immediately upon a determination by the Board, by a majority vote of the remaining

⁶⁸ “Non-Industry Director” will be defined as a Director (excluding Staff Directors) who is (i) a Public Director; (ii) an officer, director, or employee of an issuer of securities listed on the Exchange; or (iii) any other individual who would not be an Industry Director. *See* proposed Bylaws, Article I(w), which is based on NSM Bylaw Article I(v).

⁶⁹ An “Industry Director” will be a person with direct ties to the securities industry as a result of connections to a broker-dealer, the Exchange or its affiliates, FINRA, or certain service providers to such entities. Specifically, an “Industry Director” will be defined as a Director (excluding Staff Directors), who (i) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (ii) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (iii) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (iv) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the Director or 20 percent or more of the gross revenues received by the Director’s firm or partnership; (v) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director’s, officer’s, or employee’s professional capacity and constitute 20 percent or more of the professional revenues received by the Director or member or 20 percent or more of the gross revenues received by the Director’s or member’s firm or partnership; or (vi) has a consulting or employment relationship with or provides professional services to the Exchange or any affiliate thereof or to FINRA (or any predecessor) or has had any such relationship or provided any such services at any time within the prior three years. *See* proposed Bylaws Article I(m), which is based on NSM Bylaw Article I(l).

⁷⁰ *See* proposed Section 2(a) of Bylaw Article III.

⁷¹ Id. “Public Director” will be defined as a Director who has no material business relationship with a broker or dealer, the Exchange or its affiliates, or FINRA. *See* proposed Bylaw Article I(z), which is based on NSM Bylaw Article I(y).

⁷² *See* proposed Bylaw Article I(m). Staff Directors will not be considered as either Industry or Non-Industry Directors.

Directors, (a) that the Director no longer satisfies the classification for which the Director was elected; and (b) that the Director’s continued service as such would violate the compositional requirements of the Board set forth in proposed Section 2(a). Thus, for example, if a Public Director became employed by a broker-dealer and the Board thereby had an inadequate number of Public Directors, the Director would be disqualified and removed. If a Director is disqualified and removed, and the remaining term of office of such Director at the time of termination is not more than 6 months, a replacement for the Director is not required until the next annual meeting. Analogous disqualification provisions exist for committee members.⁷³

Upon the Acquisition, there were a number of harmonizing changes to the Board so that the directors on the boards of the Nasdaq Exchanges also currently serve as directors on the Exchange Board.⁷⁴ As a result, there is a complete overlap of directors on the boards of the Exchange, NSM, Phlx and BX. Specifically, there are eight (8) directors meeting the qualifications of “non-industry representatives” under the Current Constitution and “Non-Industry Directors” under each of the Nasdaq Exchanges’ Bylaws.⁷⁵ Furthermore, two of these directors also meet the compositional requirements of “Public Directors” under the Current Constitution and under the Bylaws of each Nasdaq Exchange.⁷⁶ The Chief Executive Officer appointed upon the Acquisition by the Sole LLC Member became a Board member by virtue of his office under the current Constitution, and also meets the qualifications of “Staff Director” under each of the Nasdaq Exchange Bylaws. Five of the six Exchange Directors serving on the

⁷³ *See* proposed Section 4(b) of Bylaw Article III, which mirrors the language in Section 4(b) of NSM Bylaw Article III.

⁷⁴ These changes consisted of the resignations of all directors, other than the Exchange Directors, sitting on the Board immediately prior to the consummation of the Acquisition, and the appointments of Nasdaq designees to fill these vacancies on the Board. The changes were effected through a series of unanimous written consents by the Board, as well as unanimous written consents by the Exchange Director Nominating Committee and the Corporate Governance Committee. The Exchange represents that these changes were effected in accordance with the Current Governing Documents.

⁷⁵ These eight directors also sat on the three Nasdaq Exchange boards immediately prior to the Acquisition.

⁷⁶ In addition, the current Board also satisfies the requirement under the Nasdaq Exchange Bylaws that the board be composed of at least one Public Director and at least one (or two, if the board consists of ten or more directors) issuer representatives.

Board immediately prior to the Acquisition remained on the Board post-Acquisition. One Exchange Director was appointed by the Exchange Director Nominating Committee and elected to the Board upon the Acquisition due to his predecessor being term limited out under the Current Constitution. The six Exchange Directors also serve as "Member Representative Directors" on the Nasdaq Exchange boards, therefore satisfying the 20% Member Representative Director requirement under their Bylaws. Finally, one additional director was appointed to the "Former Employee Director" seat of the Board by the Sole LLC Member, meeting the qualifications for such directorship and also meeting the qualifications of "Staff Director" under each of the Nasdaq Exchange Bylaws. As such, the Exchange believes that the current Board also satisfies the composition requirements contained in the proposed Bylaws.

The terms of the current directors will end at the 2017 annual election of the Board, to be held on same date as the 2017 annual elections of the Nasdaq Exchange boards (currently expected to be held on June 19, 2017). As described in the following, the Exchange will hold its 2017 annual meeting to elect the Board (the "2017 Board") in accordance with the nomination, petition and voting processes set forth in the Current Governing Documents. Once the New Governing Documents become operative, no additional actions will be required under the LLC Act with respect to the 2017 Board. It is currently contemplated that the 2017 Board will consist of the existing directors serving on the current Board to the greatest extent possible and, similar to the current Board as described above, the Exchange fully expects that the 2017 Board will satisfy both board composition requirements in the Current Governing Documents as well as in the New Governing Documents.⁷⁷ Even though the 2017 Board will not have been nominated or voted upon in accordance with New Governing Documents, the Exchange believes that the 2017 Board will be consistent with the Act in that it will continue to provide for the fair representation of members and have one or more directors that would be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. First, six Exchange Directors, who will be officers, directors or partners of

Exchange members as required by Section 3.2(b) of the Current Constitution, will be nominated by the Exchange Director Nominating Committee and elected to the 2017 Board by a plurality of the holders of the Exchange Rights. These Exchange Directors will be subject to the full petition and voting process by membership in accordance with Articles II and III of the Current Constitution, which process the Commission has already found as satisfying the principles of fair representation as required by Section 6(b) of the Act.⁷⁸ Furthermore as noted above, the Exchange believes that the Exchange Directors serve the same function as the Member Representative Directors under the proposed board structure in that both directorships give Exchange members a voice in the Exchange's use of self-regulatory authority. The Exchange notes that only the corporate governance structure is changing under the Proposed Rule Change, and the Exchange currently expects that its membership will remain substantially the same both before and after the 2017 annual election.

Second, eight directors who meet the requirements of non-industry representatives under the Current Constitution as well as Non-Industry Directors under the proposed Bylaws will be nominated by the existing Corporate Governance Committee and elected by the Sole LLC Member to the 2017 Board. The Exchange will also ensure that at least three of these directors will be Public Directors or issuer representatives, consistent with the composition requirements under the Current Constitution and proposed Bylaws. As such, the 2017 Board will reflect a balance among the six Exchange Directors (*i.e.*, Member Representative Directors) and the eight non-industry representative directors (*i.e.*, Non-Industry Directors, including Public Directors or issuer representatives). The Exchange's Chief Executive Officer will also be elected to the 2017 Board by the Sole LLC Member, thereby satisfying the composition requirements of CEO Director and Staff Director under the Current Constitution and proposed Bylaws.

For the annual elections starting in 2018 and subject to approval by the Commission, the Exchange will hold its annual elections in accordance with the processes contemplated in the New

Governing Documents and as such, the 2017 Board will serve until the 2018 annual election. Specifically upon the Merger, the 2017 Board will appoint a Nominating Committee (as discussed in detail below) and a Member Nominating Committee, and such committees would nominate candidates for the 2018 annual election pursuant to the procedures set forth in proposed Bylaw Article I (for Member Representative Directors) and in proposed Section 9(a) of the LLC Agreement and proposed Bylaw Article III (for all other Directors).

Section 3 of Bylaw Article III, which is copied from Section 3 of NSM Bylaw Article III, contains standard provisions for a Delaware limited liability company governing the appropriateness of reliance by Directors upon the records of the Exchange. Section 3 also recognizes the Exchange's status as an SRO by providing that the Board, when evaluating any proposal, shall, to the fullest extent permitted by applicable law, take into account all factors that the Board deems relevant, including, without limitation, to the extent deemed relevant, (i) the potential impact thereof on the integrity, continuity and stability of the national securities exchange operated by the Exchange and the other operations of the Exchange, on the ability to prevent fraudulent and manipulative acts and practices and on investors and the public, and (ii) whether such would promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to and facilitating transactions in securities or assist in the removal of impediments to or perfection of the mechanisms for a free and open market and a national market system. Taken together, these provisions are designed to reinforce the notion that the Exchange is not solely a commercial enterprise but rather an SRO registered pursuant to the Act and subject to the obligations imposed by the Act.

Standing Committees

The proposed new Sections 4, 5 and 6 of Bylaw Article III, which is based on Sections 4, 5 and 6 of the NSM Bylaw Article III, would include provisions governing the composition and authority of various standing committees established by the Board. Proposed new Section 4 of Bylaw Article III would require prospective committee members, who are not Directors, to provide the Secretary of the Exchange with certain information to classify a committee member as an

⁷⁷ See Current Constitution, Section 3.2; proposed LLC Agreement, Section 9(a); and proposed Bylaw Article III, Section 2(a).

⁷⁸ See Securities Exchange Act Release No. 42455 (February 24, 2000), 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange).

Industry member,⁷⁹ a Member Representative member,⁸⁰ a Non-Industry member,⁸¹ or a Public member.⁸² Analogous new provisions are also proposed for prospective Directors.⁸³

Sections 5 and 6 of proposed Bylaw Article III, titled “Committees Composed Solely of Directors” and “Committees Not Composed Solely of Directors,” establishes several standing committees and delineates their general duties and responsibilities. The proposed committee structure is modeled substantially on the committee

⁷⁹ “Industry member” will be defined as a member of any committee appointed by the Board who (i) is or has served in the prior three years as an officer, director, or employee of a broker or dealer, excluding an outside director or a director not engaged in the day-to-day management of a broker or dealer; (ii) is an officer, director (excluding an outside director), or employee of an entity that owns more than ten percent of the equity of a broker or dealer, and the broker or dealer accounts for more than five percent of the gross revenues received by the consolidated entity; (iii) owns more than five percent of the equity securities of any broker or dealer, whose investments in brokers or dealers exceed ten percent of his or her net worth, or whose ownership interest otherwise permits him or her to be engaged in the day-to-day management of a broker or dealer; (iv) provides professional services to brokers or dealers, and such services constitute 20 percent or more of the professional revenues received by the committee member or 20 percent or more of the gross revenues received by the committee member’s firm or partnership; (v) provides professional services to a director, officer, or employee of a broker, dealer, or corporation that owns 50 percent or more of the voting stock of a broker or dealer, and such services relate to the director’s, officer’s, or employee’s professional capacity and constitute 20 percent or more of the professional revenues received by the committee member or 20 percent or more of the gross revenues received by the committee member’s firm or partnership; or (vi) has a consulting or employment relationship with or provides professional services to the Exchange or any affiliate thereof or to FINRA (or any predecessor) or has had any such relationship or provided any such services at any time within the prior three years. See proposed Bylaw Article I(n), which is based on NSM Bylaw Article I(m).

⁸⁰ “Member Representative member” will be defined as a member of any committee appointed by the Board who has been elected or appointed after having been nominated by the Member Nominating Committee pursuant to the Bylaws. See proposed Bylaw Article I(s), which is based on NSM Bylaw Article I(r).

⁸¹ “Non-Industry member” will be defined as a member of any committee appointed by the Board who is (i) a Public member; (ii) an officer or employee of an issuer of securities listed on the national securities exchange operated by the Exchange; or (iii) any other individual who would not be an industry member. See proposed Bylaw Article I(x), which is based on NSM Bylaw Article I(w).

⁸² “Public member” will be defined as a member of any committee appointed by the Board who has no material business relationship with a broker or dealer, the Exchange or its affiliates, or FINRA. See proposed Bylaw Article I(aa), which is based on NSM Bylaw Article I(z).

⁸³ See proposed Section 6(b)(v) of Bylaw Article III, which is based on Section 6(b)(v) of NSM Bylaw Article III.

structures of the Nasdaq Exchanges, and are copied to the extent such committees are relevant to the Exchange.⁸⁴

Currently, the standing Board committees of the Exchange are: An Executive Committee, a Corporate Governance Committee, a Finance and Audit Committee, a Compensation Committee, and such other additional committees as may be established by Board resolution.⁸⁵ As discussed above, the Exchange also has an Exchange Director Nominating Committee, which is a committee of the Exchange and not the Board. All committee appointments are made by the Board, and each appointee serves for one year or until his or her successor is duly appointed.

Proposed Committees Composed Solely of Directors

New Section 5 of Bylaw Article III, which copies the language in Section 5 of NSM Bylaw Article III, provides for an Executive Committee, a Finance Committee, and a Regulatory Oversight Committee.

Creation of an Executive Committee

The Exchange proposes to adopt new Section 5(a), which provides that the Board may appoint an Executive Committee and delineates its composition and functions. In particular, the proposed Executive Committee may exercise all the powers and authority of the Board in the management of the business and affairs of the Exchange between meetings of the Board. The number of Non-Industry Directors on the Executive Committee must equal or exceed the number of Industry Directors on the Executive Committee. The percentage of Public Directors on the Executive Committee must be at least as great as the percentage of Public Directors on the whole Board, and the percentage of Member Representative Directors on the Executive Committee must be at least as great as the percentage of Member Representative Directors on the whole Board. Currently, the Executive Committee is a permanent standing

⁸⁴ For example, the Exchange does not propose to establish an Exchange Listing and Hearing Review Council because the Exchange does not offer any original listings. Similarly, the Exchange does not propose to establish an Arbitration and Mediation Committee as the Exchange’s arbitration and mediation program is operated by the Financial Industry Regulatory Authority (“FINRA”) in accordance with the FINRA rules pursuant to a regulatory services agreement dated June 10, 2013, as amended (“RSA”). Under the RSA, FINRA provides a comprehensive dispute resolution program for Exchange members.

⁸⁵ See Current Constitution, Article V.

committee of the Board.⁸⁶ Under the new Section 5(a), the Executive Committee would be an optional committee, to be appointed only if deemed necessary by the Board. The Exchange’s proposal is similar to all three Nasdaq Exchanges where the Exchange Committee is optional, at the discretion of the Board.⁸⁷

Elimination of the Current Finance and Audit Committee

The Exchange also proposes to adopt new Section 5(b), which provides that the Board may appoint a Finance Committee and delineates its composition and functions. In particular, the Finance Committee will advise the Board with respect to the oversight of the financial operations and conditions of the Exchange, including recommendations for the Exchange’s annual operating and capital budgets and proposed changes to the rates and fees charged by the Exchange. By adopting new Section 5, the Exchange is proposing to eliminate the current Finance and Audit Committee, and have all of its duties and functions performed at the Board level, assigned to other proposed Board committees or to the HoldCo audit committee (the “HoldCo Audit Committee”).⁸⁸

Pursuant to its current charter, the Finance and Audit Committee⁸⁹ is primarily charged with: (i) Oversight of financial operations of the Exchange; (ii) oversight of the Exchange’s financial reporting process; (iii) oversight of the systems of internal controls established by management and the Board, and for monitoring compliance with laws and regulations; (iv) evaluation of independent external auditors; and (v) direction and oversight of the internal audit function. Under the new Section 5(b), the Board would retain oversight of the financial operations of the Exchange instead of delegating these functions to

⁸⁶ The Executive Committee (consisting of six directors, and with the number of non-industry representatives equaling or exceeding the number of Exchange Directors) on behalf of the Board and subject to its control, has all of the powers of the Board except the power to approve any merger, consolidation, sale or dissolution of the Exchange. See Current Constitution, Section 5.2.

⁸⁷ See Section 5(a) of NSM Bylaw Article III, Section 4.13(a) of the BX Bylaws and Section 5–2(a) of the Phlx Bylaws.

⁸⁸ See Article IV, Section 4.13(g) of the HoldCo By-Laws. See also the HoldCo Audit Committee Charter (available at <http://ir.nasdaq.com/corporate-governance-document.cfm?DocumentID=195>).

⁸⁹ The current Finance and Audit Committee must be composed of at least three (3) and not more than five (5) directors, all of whom must be non-industry representatives. See Current Constitution, Section 5.5. In addition, committee members must be “financially literate” as determined by the Board.

standing committee, and would have to option to appoint a Finance Committee at the Board's discretion. The Exchange's proposal is similar to all three Nasdaq Exchanges where the Finance Committee is optional, at the discretion of the Board.⁹⁰

Furthermore, the HoldCo Audit Committee also covers the functions of the current Finance and Audit Committee. The HoldCo Audit Committee is composed of at least three directors, all of whom must satisfy the standards for independence set forth in Section 10A(m) of the Act⁹¹ and Rule 5605 of NSM's listing rules. All committee members must be able to read and understand financial statements, and at least one member must have past employment experience in finance or accounting, requisite professional certification in accounting or any other comparable experience or background that results in the individual's financial sophistication.

The HoldCo Audit Committee has broad authority to review the financial information that will be provided to shareholders of HoldCo and others, systems of internal controls, and audit, financial reporting and legal and compliance processes. Because HoldCo's financial statements are prepared on a consolidated basis that includes the financial results of HoldCo's subsidiaries, including the Exchange and the other Nasdaq Exchange subsidiaries, HoldCo's audit committee purview necessarily includes these subsidiaries. The Exchange notes that unconsolidated financial statements of the Exchange will still be prepared for each fiscal year in accordance with the requirements set forth in its application for registration as a national securities exchange.⁹² To the extent the current Finance and Audit Committee oversees the Exchange's financial reporting process, its activities are duplicative of the activities of the HoldCo Audit Committee, which is also charged with providing oversight over financial reporting and independent auditor selection for HoldCo and all of its subsidiaries, including the Exchange and the other Nasdaq Exchange subsidiaries. Similarly, the HoldCo Audit Committee has general responsibility for oversight over internal controls, and direction and oversight over the internal audit function for HoldCo and all of its subsidiaries. Thus, the responsibilities of the Exchange's

Finance and Audit Committee as it relates to the functions set forth in clauses (ii)–(v) above are fully duplicated by the responsibilities of the HoldCo Audit Committee. Accordingly, the Exchange is proposing to allow the elimination of its Finance and Audit Committee. The Commission has previously approved similar proposals by the Nasdaq Exchanges to eliminate their respective audit committees.⁹³

Creation of a Regulatory Oversight Committee

The Exchange believes, however, that even in light of the HoldCo Audit Committee's overall responsibilities for internal controls and the internal audit function, it is nevertheless important for the Board to maintain its own independent oversight over the Exchange's controls and internal audit matters relating to the Exchange's operations. Therefore, the Exchange is proposing to create a Regulatory Oversight Committee ("ROC") so that regulatory oversight functions formerly performed by the Finance and Audit Committee may be assumed by the new committee.⁹⁴ Like the ROCs of the Nasdaq Exchanges, the new committee will have broad authority to oversee the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities, and will therefore be able to maintain oversight over controls in tandem with the HoldCo Audit Committee's overall oversight responsibilities.

Similarly, it is already a formal practice of HoldCo's Internal Audit Department, which performs internal audit functions for all HoldCo subsidiaries, to report to the Nasdaq Exchange boards on all Nasdaq Exchange-related internal audit matters and to direct such reports to the ROCs of the Nasdaq Exchanges.⁹⁵ The Exchange proposes that the HoldCo Internal Audit Department would also similarly report to the Exchange Board and direct such reports to the new ROC.

⁹³ See Securities Exchange Act Release No. 60276 (July 9, 2009), 74 FR 34840 (July 17, 2009) (SR-NASDAQ-2009-042); Securities Exchange Act Release No. 60247 (July 6, 2009), 74 FR 33495 (July 13, 2009) (SR-BX-2009-021); and Securities Exchange Act Release No. 60687 (September 18, 2009), 74 FR 49060 (September 25, 2009) (SR-Phlx-2009-59).

⁹⁴ See proposed Section 5(c) of Bylaw Article III. The Nasdaq Exchanges also have Regulatory Oversight Committees, which have the same authority in all material respects to the proposed ROC. See Section 5(c) of NSM Bylaw Article III, Section 4.13(c) of the BX Bylaws and Section 5-2(c) of the Phlx Bylaws.

⁹⁵ See the Regulatory Oversight Committee Charter of NSM, Phlx and BX (available at <http://ir.nasdaq.com/corporate-governance-document.cfm?DocumentID=1097>).

In addition, to ensure that the Exchange Board retains authority to direct the Department's activities with respect to the Exchange, the Department's written procedures will stipulate that the Exchange's ROC may, at any time, direct the Department to conduct an audit of a matter of concern to it and report the results of the audit both to the Exchange ROC and the HoldCo Audit Committee. The Internal Audit Department is currently required to conduct such audits upon the request of the Nasdaq Exchange ROCs.

To effectuate this change, the Exchange proposes to adopt the new Section 5(c) providing for a ROC and delineating its composition and functions. In particular, the proposed ROC's responsibilities will be to: (i) Oversee the adequacy and effectiveness of the Exchange's regulatory and self-regulatory organization responsibilities; (ii) assess the Exchange's regulatory performance; and (iii) assist the Board and other committees of the Board in reviewing the regulatory plan and the overall effectiveness of the Exchange's regulatory functions. In furtherance of its functions, the ROC shall: (A) Review the Exchange's regulatory budget and specifically inquire into the adequacy of resources available in the budget for regulatory activities; (B) meet regularly with the Exchange's Chief Regulatory Officer in executive session; and (C) be informed about the compensation and promotion or termination of the Chief Regulatory Officer and the reasons therefor. The Exchange proposes that the ROC shall consist of three members, each of whom shall be a Public Director and an "independent director" as defined in Rule 5605 of the Rules of The NASDAQ Stock Market, LLC.

Given the expansive regulatory and internal oversight of the proposed ROC and HoldCo Audit Committee, coupled with the oversight and responsibilities of the full Board and HoldCo's Internal Audit Department, the Exchange believes that all of the duties and functions of the eliminated Finance and Audit Committee would continue to be performed in the new governance structure as proposed herein.

Elimination of the Current Compensation Committee

By adopting the new Board committees in Section 5, the Exchange also proposes to eliminate its current Compensation Committee, and to prescribe that its duties be performed by the HoldCo management compensation committee or the full Board when required. The Compensation

⁹⁰ See Section 5(b) of NSM Bylaw Article III, Section 4.13(b) of the BX Bylaws and Section 5-2(b) of the Phlx Bylaws.

⁹¹ See U.S.C. 78j-1(m).

⁹² See note 27 above.

Committee⁹⁶ is primarily charged with reviewing and approving compensation policies and plans for the Chief Executive Officer and other senior executive officers of the Exchange. Under the Nasdaq governance structure, this function is performed by the HoldCo management compensation committee or the full boards of the Nasdaq Exchanges. The HoldCo By-Laws provide that its management compensation committee (a committee consisting of at least two HoldCo board members meeting the independence and other eligibility standards in the listing rules of NSM) considers and recommends compensation policies, programs, and practices for employees of HoldCo. Because many employees performing work for the Exchange are also employees of HoldCo, its compensation committee already performs these functions for such employees. Moreover, certain of its senior officers are also officers of HoldCo and other HoldCo subsidiaries because their responsibilities relate to multiple entities within the HoldCo corporate structure. Accordingly, HoldCo pays these individuals and establishes compensation policy for them. Most notably, the current Chief Executive Officer of the Exchange is also an “executive officer” of HoldCo within the meaning of NSM Rule 5605. Under that rule, the compensation of executive officers of an issuer of securities, such as the common stock of HoldCo, that is listed on NSM, must be determined by, or recommended to the board of directors for determination by, a majority of independent directors or a compensation committee comprised solely of independent directors. Accordingly, the HoldCo board of directors and/or its compensation committee is legally required to establish the compensation for this individual.

To the extent that policies, programs, and practices must also be established for any Exchange officers or employees who are not also HoldCo officers or employees, the Board would perform such actions without the use of a compensation committee (but subject to the recusal of the Staff Directors).⁹⁷

⁹⁶ The committee must be composed of at least three and not more than five directors who must all meet the “Non-Industry Director” qualifications under the Current Constitution. See Current Constitution, Section 5.4.

⁹⁷ As discussed in the proposed Board composition section above, “Staff Directors” would be Exchange directors that are also serving as officers. Since the Board would not be responsible for setting the compensation of any Staff Directors who are also officers of HoldCo, they would be permitted to participate in discussions concerning compensation of Exchange employees, but would

Finally, it should be noted that under the new Section 5(c) of Bylaw Article III, the ROC of the Board would be informed about the compensation and promotion or termination of the Exchange’s Chief Regulatory Officer and the reasons therefor, to allow the ROC to provide oversight over decisions affecting this key officer. Therefore, the Exchange believes that the duties and functions of the eliminated Compensation Committee would continue to be performed and covered in the new corporate governance structure proposed by the New Governing Documents. The Commission has previously approved proposals by the Nasdaq Exchanges to eliminate their respective compensation committees.⁹⁸

Elimination of the Current Corporate Governance Committee

Finally, the Exchange also proposes to eliminate the current Corporate Governance Committee, and to prescribe that its duties be performed by the new Nominating Committee (as discussed below), the new ROC or by the full Board when required. The Corporate Governance Committee⁹⁹ is primarily charged with: (i) Nominating candidates for all vacant or new non-industry representative positions on the Board, (ii) overseeing the Exchange’s regulatory activities and program, and (iii) overseeing and evaluating the governance of the Exchange. As discussed below, the Exchange is proposing to establish a new Nominating Committee that would nominate candidates for all vacant or new non-Member Representative Director positions on the Board, and therefore would perform the Non-Industry Director nominating functions of the current Corporate Governance Committee.¹⁰⁰ Furthermore, the new ROC would have carry out the regulatory oversight tasks currently within purview of the Corporate Governance Committee. In particular, the new ROC would (i) oversee the adequacy and effectiveness of the Exchange’s regulatory and self-regulatory organization responsibilities; (ii) assess the Exchange’s regulatory

recuse themselves from a vote on the subject to allow the determination to be made by directors that are not officers or employees of the Exchange. If a Staff Director was an officer or employee of the Exchange but not of HoldCo, that Staff Director would also absent himself or herself from any deliberations regarding his or her compensation.

⁹⁸ See note 93 above.

⁹⁹ The committee must consist of at least three directors, all of whom are required to meet the “Non-Industry Director” standards under the Current Constitution. See Current Constitution, Section 5.4.

¹⁰⁰ See proposed Section 6(b) of Bylaw Article III.

performance; and (iii) assist the Board and other committees of the Board in reviewing the regulatory plan and the overall effectiveness of the Exchange’s regulatory functions. Its duties would include reviewing the Exchange’s regulatory budget and inquiring into the adequacy of resources available in the budget for regulatory activities; meeting regularly with the Exchange’s Chief Regulatory Officer in executive session; and having oversight over compensation, hiring and termination decisions affecting this key officer as discussed above.

As it relates to the general supervision over the corporate governance of the Exchange, the full Board would perform such functions without the use of a corporate governance committee, similar to the boards of the Nasdaq Exchanges.¹⁰¹ In particular, the full Board, led by the Chair of the Board,¹⁰² would perform annual self-assessments, oversee annual formal director and Chair evaluations, and periodically review the allocations of powers between management and the Board. Therefore, the Exchange believes that the duties and functions of the eliminated Corporate Governance Committee would continue to be performed and covered in the new corporate governance structure proposed by the New Governing Documents.

Proposed Committees Not Composed Solely of Directors

In addition to the proposed Board committees discussed above, new Section 6 of Bylaw Article III provides for the appointment by the Board of certain standing committees, not composed solely of Directors, to administer various provisions of the rules that the Exchange expects to propose with respect to governance, options trading and member discipline. By adopting Section 6, the Exchange proposes to eliminate certain standing committees and have their relevant functions performed by the new committees, each as described below.

Creation of a Member Nominating Committee

The new Member Nominating Committee, responsible for the nomination of Member Representative

¹⁰¹ See the Corporate Governance Guidelines of NSM, Phlx and BX (available at <http://ir.nasdaq.com/corporate-governance-document.cfm?DocumentID=6027>).

¹⁰² The Board Chair will be an “independent director” (*i.e.*, person other than an officer or employee of HoldCo or its subsidiaries, including the Exchange) as provided under the listing rules of NSM and SEC requirements.

Directors or Member Representative members, would replace the Exchange Director Nominating Committee. The composition requirements of the Member Nominating Committee are discussed in the Nomination and Election Process section above.

Creation of a Nominating Committee

The new Nominating Committee will nominate candidates for all other vacant or new Director positions on the Board, and therefore, would perform the non-industry representative nomination function currently assigned to the Corporate Governance Committee. The Nominating Committee will consist of no fewer than six and no more than nine members, and the number of Non-Industry members (*i.e.*, committee members not associated with broker-dealers) shall equal or exceed the number of Industry members on the Nominating Committee. If the Nominating Committee consists of six members, at least two shall be Public members. If the Nominating Committee consists of seven or more members, at least three shall be Public members. No officer or employee of the Exchange shall serve as a member of the Nominating Committee in any voting or non-voting capacity. No more than three of the Nominating Committee members and no more than two of the Industry members shall be current Directors. A Nominating Committee member may not simultaneously serve on the Nominating Committee and the Board, unless such member is in his or her final year of service on the Board, and following that year, that member may not stand for election to the Board until such time as he or she is no longer a member of the Nominating Committee. Nominating Committee members will be appointed annually by the Board and may be removed by a majority vote of the Board.¹⁰³

Creation of a Quality of Markets Committee

The new Quality of Markets Committee (the "QMC"), which is modeled off of the QMCs of the Nasdaq Exchanges,¹⁰⁴ will have the following functions: (i) To provide advice and guidance to the Board on issues relating to the fairness, integrity, efficiency, and competitiveness of the information, order handling, and execution mechanisms of the Exchange from the

¹⁰³ See Section 6(b) of NSM Bylaw Article III, Section 4.14(b) of the BX Bylaws and Section 5–3(a) of the Phlx Bylaws for similar provisions related to the Nominating Committee.

¹⁰⁴ See Section 6(c) of NSM Bylaw Article III, Section 4.14(c) of the BX Bylaws and Section 5–3(c) of the Phlx Bylaws.

perspective of investors, both individual and institutional, retail firms, market making firms and other market participants; and (ii) to advise the Board with respect to national market system plans and linkages between the facilities of the Exchange and other markets. The QMC shall include broad representation of participants in the Exchange, including investors, market makers, retail firms, and order entry firms. The QMC shall include a number of Member Representative members that is equal to at least 20% of the total number of members of the QMC. The number of Non-Industry members on the proposed QMC shall equal or exceed the sum of the number of Industry members and Member Representative members. A quorum of the QMC will consist of a majority of its members, including not less than 50% of its Non-Industry members, unless this requirement is waived pursuant to proposed Section 6(c)(iii) of Bylaw Article III.

Other Proposed Bylaw Provisions

Proposed Section 7 of Bylaw Article III contains standard provisions for a Delaware limited liability company requiring recusal by Directors or committee members subject to a conflict of interest, and providing for the enforceability of contracts in which a Director has an interest if appropriately approved or ratified by disinterested Directors. This language is based on Section 7 of NSM Bylaw Article III. Proposed Section 8 of Bylaw Article III allows for reasonable compensation of the Board and committee members, and mirrors Section 8 of NSM Bylaw Article III.

Bylaw Article IV, titled "Officers, Agents, and Employees," contains provisions governing the Exchange's officers, agents and employees, and is based on Article IV of the NSM Bylaws. Proposed Section 1 of Bylaw Article IV provides that the Board may delegate the duties and powers of any officer of the Exchange to any other officer or to any Director for a specified period of time and for any reason that the Board may deem sufficient. Proposed Section 2 discusses how an officer of the Exchange may resign or may be removed. Proposed Sections 3 through 11 each specifically provides for the appointment of a Chair of the Board,¹⁰⁵ a Chief Executive Officer, a President, Vice Presidents, a Chief Regulatory Officer, a Secretary, an Assistant Secretary, a Treasurer, and an Assistant

¹⁰⁵ The Chair of the Board would be an independent Director as defined in Rule 5605 of the listing rules of The NASDAQ Stock Market, LLC.

Treasurer.¹⁰⁶ The Exchange notes that proposed Section 7 of Bylaw Article IV specifically provides for a Chief Regulatory Officer, a position that is not expressly provided for in the Current Governing Documents, who would have general supervision of the regulatory operations of the Exchange, including responsibility for overseeing the Exchange's surveillance, examination, and enforcement functions and for administering any regulatory services agreements with another SRO to which the Exchange is a party. The Chief Regulatory Officer shall meet with the Regulatory Oversight Committee of the Exchange in executive session at regularly scheduled meetings of such committee, and at any time upon request of the Chief Regulatory Officer or any member of the Regulatory Oversight Committee. The Chief Regulatory Officer may also serve as the General Counsel of the Exchange. The Exchange notes that while the position of chief regulatory officer has long existed at the Exchange, this position is not expressly in the Current Governing Documents and now proposes to codify this position in the new Bylaws.

Bylaw Article VII, titled "Miscellaneous Provisions," contains standard limited liability company provisions relating to waiver of notice of meetings and the Exchange's contracting ability. Article VIII, titled "Amendments; Emergency By-Laws," authorizes amendments to the By-Laws by either the Sole LLC Member or the vote of a majority of the whole Board,¹⁰⁷ as well as the adoption of emergency by-laws by the Board. Other than as noted above, Articles VII and VIII mirror the language in Articles VII and VIII of the NSM Bylaws.

Article IX, titled "Exchange Authorities," which mirrors NSM Bylaw Article IX, contains specific authorization for the Board to adopt rules needed to effect the Exchange's obligations as an SRO, to establish disciplinary procedures and impose sanctions on its members, to establish standards for membership, to impose dues, fees, assessments, and other charges and to take action under

¹⁰⁶ See NSM Bylaw Article IV for substantially similar provisions.

¹⁰⁷ As proposed, all such changes must be filed with the Commission under Section 19(b) of the Act, 15 U.S.C. 78s(b), and become effective thereunder before being implemented. See proposed Bylaw Article VIII, Section 1. The BX Bylaws and the NSM Bylaws do not have a similar requirement, but Phlx has a similar requirement in Section 6–9 of the Phlx Bylaws. BX and NSM will each separately file proposed rule changes with the Commission to add this requirement in their respective governing documents. See note 42 above.

emergency or extraordinary market conditions.

D. Rules

The Exchange proposes to amend its current Rules to reflect the changes to its constituent documents through the adoption of the New Governing Documents to replace the Current Governing Documents.¹⁰⁸ Most proposed changes are non-substantive, and primarily reflect the changing terminology from “Constitution” to “By-Laws.” Furthermore, a number of defined terms used in the Rules refer back to the Current LLC Agreement or the Current Constitution for their meanings. As discussed below, the Exchange proposes to add these defined terms originally contained in the Current Governing Documents as new Rules. In addition, the Exchange proposes to amend the Rules to add certain provisions relating to the Market Maker Rights, primarily to import language originally found in the Current Governing Documents as further described below. Finally, the Exchange proposes to make a number of technical amendments to renumber the Rules, which is a result of adding the new definitions as further discussed below.

In Rule 100, titled “Definitions,” the Exchange proposes to make the following changes:

- Rule 100(a) currently refers to Article XIV of the Current Constitution as containing certain defined terms that are also used in the Exchange’s rulebook.¹⁰⁹ The proposed change would replace the reference to Article XIV of the Current Constitution with references to the proposed LLC Agreement and By-Laws.
- Rule 100(a)(11) “CMM Rights” currently refers to Article VI of the Current LLC Agreement. The proposed change would relocate the concept of CMM Rights from the Current LLC Agreement to this Rule, and would state that the term CMM Rights means the transferable rights held by a Competitive Market Maker or a “non-member owner” (as that term is defined in Rule 300(a)).¹¹⁰ The

¹⁰⁸ The amended Rules are attached hereto as Exhibit 5E [sic].

¹⁰⁹ The reference to Article XIV of the Current Constitution in Rule 100(a) should instead refer to Article XIII because there is no Article XIV in the Current Constitution. The Exchange previously filed a proposed rule change with the Commission (SR-ISE-2006-26) that inadvertently changed the reference in Rule 100(a) from Article XIII to Article XIV in the rule filing’s Exhibit 5.

¹¹⁰ CMM Rights are transferable rights in that the holders of CMM Rights may lease or sell these rights in accordance with the Exchange’s rules and Current Governing Documents. As discussed in the LLC Agreement section above, all Exchange Rights (*i.e.*, PMM, CMM and EAM Rights) convey voting rights and trading privileges on the Exchange. From ISE’s inception, however, only the holders of the PMM Rights and CMM Rights could transfer the voting rights and trading privileges associated with such Market Maker Rights, while the voting rights

number of authorized CMM Rights as set forth in Section 6.1(a) of the Current LLC Agreement would also be relocated to Rule 100(a)(11) as amended, so that the Rule would further provide that the number of authorized CMM Rights will be 160 CMM Rights.

- New Rule 100(a)(12) “Competitive Market Maker” would be relocated from Section 13.1(g) of the Current Constitution. Currently, this term is used throughout the Exchange’s rulebook, but the definition is only found in the Current Constitution.
- Rules 100(a)(12)–(13) “covered short position” and “discretion,” respectively, would be renumbered as Rules 100(a)(13)–(14).
- Rule 100(a)(14) “EAM Rights” currently refers to Article VI of the Current LLC Agreement. The proposed change would relocate the concept of EAM Rights from the Current LLC Agreement to this Rule, and would state that EAM Rights means the non-transferable rights held by an Electronic Access Member.¹¹¹ The Rule would also be renumbered as Rule 100(a)(15).
- New Rule 100(a)(16) “Electronic Access Member” would be relocated from Section 13.1(l) of the Current Constitution. Currently, this term is used throughout the Exchange’s rulebook, but the definition is only found in the Current Constitution.
- Rules 100(a)(15)–(17) “European-style option,” “Exchange Act” and “Exchange Rights,” respectively, would be renumbered as Rules 100(a)(17)–(19).
- New Rule 100(a)(20) “Exchange Transaction” would be relocated from Section 13.1(r) of the Current Constitution. Currently, this term is used throughout the Exchange’s rulebook, but the definition is only found in the Current Constitution.
- Rules 100(a)(18), (18A) and (19) “exercise price,” “expiration date” and “Federal Reserve Board,” respectively, would be renumbered as Rules 100(a)(21), (21A) and (22).
- New Rule 100(a)(23) “good standing” would be relocated from Section 13.1(s) of the Current Constitution. Currently, this term is used throughout the Exchange’s rulebook, but the definition is only found in the Current Constitution.
- Rules 100(a)(20) and (21) “he,” “him” or “his” and “long position,” respectively, would be renumbered as Rules 100(a)(24) and (25).
- Rule 100(a)(22) “LLC Agreement” would be deleted as that term would no longer be used in the Rules, as amended by this rule change.
- Rules 100(a)(23)–(35) “Member,” “Membership,” “market makers,” “Market Maker Rights,” “Non-Customer,” “Non-Customer Order,” “offer,” “opening purchase transaction,” “opening writing transaction,” “Voluntary Professional,” “options contract,” “OPRA,” “order” and “outstanding,”

and trading privileges associated with the EAM Rights have never been transferable. *See* note 27 above.

¹¹¹ EAM Rights are non-transferable in that the holders of EAM Rights may not lease or sell these rights (unlike PMM and CMM Rights, which are transferable). *See* note 110 above.

respectively, would be renumbered as Rules 100(a)(26)–(38).

- Rule 100(a)(36) “PMM Rights” currently refers to Article VI of the Current LLC Agreement. The proposed change would relocate the concept of PMM Rights from the Current LLC Agreement to this Rule, and would state that PMM Rights means the transferable rights held by a Primary Market Maker or a “non-member owner” (as that term is defined in Rule 300(a)).¹¹² The number of authorized PMM Rights as set forth in Section 6.1(a) of the Current LLC Agreement would also be relocated to this Rule, so that the amended Rule would further provide that the number of authorized PMM Rights will be 10 PMM Rights. Finally, the Rule would also be renumbered as Rule 100(a)(39).

• New Rule 100(a)(40) “Primary Market Maker” would be relocated from Section 13.1(bb) of the Current Constitution. Currently, this term is used throughout the Exchange’s rulebook, but the definition is only found in the Current Constitution.

- Rules 100(a)(37), (37A), (37B), (37C), (38)–(48) “primary market,” “Priority Customer,” “Priority Customer Order,” “Professional Order,” “Public Customer,” “Public Customer Order,” “put,” “Quarterly Options Series,” “quote” or “quotation,” “Rules of the Clearing Corporation,” “SEC,” “series of options,” “short position,” “Short Term Option Series” and “SRO,” respectively, would be renumbered as Rules 100(a)(41), (41A), (41B), (41C), (42)–(52).
- New Rule 100(a)(53) “System” would be relocated from Section 13.1(gg) of the Current Constitution. Currently, this term is used throughout the Exchange’s rulebook, but the definition is only found in the Current Constitution.
- Rules 100(a)(49)–(51) “type of option,” “uncovered” and “underlying security,” respectively, would be renumbered as Rules 100(a)(54)–(56).

The Exchange proposes to add as new paragraphs (d) and (e) in Rule 300 certain protections in the Current Governing Documents that relate to the Market Maker Rights. First, new paragraph (d) preserves the concept of Core Rights from the Current Governing Documents, and would state that any increase in the number of authorized PMM Rights or authorized CMM Rights must be approved by the affirmative vote of the holders of at least a majority of the then outstanding PMM Rights, voting as a class, and the affirmative vote of the holders of at least a majority of the then outstanding CMM Rights, voting as a class.¹¹³ Second, new paragraph (e) would state that any amendments to the LLC Agreement or the Bylaws that would alter or change the powers, preferences or special rights of one or more series of PMM Rights or CMM Rights must also be approved by the holders of a majority of such PMM

¹¹² *See* note 110 above.

¹¹³ *See* note 25 above.

Rights or CMM Rights, as applicable. As such, paragraph (e) would preserve the existing amendment rights from the Current Governing Documents to the extent they relate to the Market Maker Rights holders.¹¹⁴

The Exchange is proposing in .02 of Supplementary Material to Rule 303, which sets forth concentration limits for owning multiple PMM Rights, to clarify that a Primary Market Maker, together with any affiliate, is prohibited from gaining ownership rights or voting rights in excess of 20% of the outstanding PMM Rights. The current Rule contains the same limitation, but refers back to the Exchange's Current LLC Agreement and Current Constitution instead of explicitly providing for the 20% ownership and voting limitation on the Primary Market Maker and its affiliates.¹¹⁵ The proposed change would delete the references to the Current Governing Documents and replace it with the explicit 20% limitation. The Exchange also proposes to relocate the same explicit 20% limitation on CMM Rights from Section 6.5(a) of the Current LLC Agreement into .02 of Supplementary Material to Rule 303 to clarify that this restriction applies to both Primary Market Makers and Competitive Market Makers. The proposed language as it relates to CMM Rights would therefore provide that, for the avoidance of doubt, no Competitive Market Maker, together with any affiliate, may gain ownership or voting rights in excess of 20% of the then outstanding CMM Rights.

The Exchange is proposing to delete references to "LLC Agreement" in Rule 307(b)(4) "Sale and Transfer of Market Maker Rights" and .01 of Supplementary Material to Rule 307. These provisions refer to the concentration limits. As noted in the LLC Agreement section above, all provisions related to the trading privileges associated with the Exchange Rights located in the Current Governing Documents, including the concentration limits, would be set forth solely in the Rules as the Current LLC Agreement would be replaced by the proposed LLC Agreement.

In the introductory paragraph of Rule 308, the Exchange proposes to add a

¹¹⁴ See Current LLC Agreement, Section 8.1 and Current Constitution, Section 10.1. The Exchange notes that the proposed amendment rights for the Market Maker Rights holders in Rule 300(e) are broader than the ones contained in the Current Governing Documents because they will apply for all amendments that affect the powers, preferences or special rights of one or more series of PMM Rights or CMM Rights, rather than solely to the amendments that adversely affect these Market Maker Rights.

¹¹⁵ See Current LLC Agreement, Section 6.5(a).

requirement that, in the context of a lease of Market Maker Rights, the holder of Market Maker Rights must retain the Core Rights associated with such Market Maker Rights and not transfer such voting rights to the lessee. This requirement is imported from Section 12.4(b) of the Current Constitution, which requires that the Core Rights remain with the lessor in the context of a lease. Section 12.4(b) further provides that under a lease agreement, the lessor may retain the voting rights with respect to the PMM Rights and CMM Rights or may transfer such voting rights to the lessee. Today, the voting rights associated with the PMM Rights and CMM Rights are with respect to the election of Exchange Directors and the Core Rights.¹¹⁶ As discussed in the LLC Agreement section above, the voting rights with respect to the election of Exchange Directors will be eliminated under the Proposed Rule Change, so the only voting rights that will remain are with respect to the Core Rights, which voting rights are not transferable under a lease agreement. As such, the Exchange also proposes to amend Rule 308(b)(4), which currently requires Market Maker Right lease agreements to include provisions covering, as between the parties, which party shall exercise the voting rights of the Exchange membership. In particular, the Exchange proposes to delete in Rule 308(b)(4) the clause "which party shall exercise the voting rights of the Membership and" to reflect that there will no longer be any transferable voting rights associated with the Exchange membership given that the only voting rights that will remain are with respect to the Core Rights.

In Rule 312 "Limitation on Affiliation between the Exchange and Members," the Exchange proposes to replace references to "Exchange Director" and "Constitution" with "Member Representative Director" and "By-Laws," respectively, for the reasons discussed above. The proposed changes in Rule 713(a), Rule 720(a)(1), and .01 and .02 of Supplementary Material to Rule 1901 reflect the renumbering of the defined terms "offer," "quotations," "Priority Customer Orders," "Professional Orders," "Priority Customer" and "Non-Customer Orders."

Finally, the Exchange proposes to amend Rule 802(b) to add a new subparagraph (2), which would provide that if a Primary Market Maker fulfills its obligations as a Primary Market Maker under the Rules, the Exchange will not reallocate the options classes to which such Primary Market Maker is

appointed, unless otherwise requested by the Primary Market Maker. The foregoing, however, would not limit or affect the Exchange's responsibility under Rule 802(d) to reallocate any options classes in the interests of a fair and orderly market. This proposal is consistent with the manner in which products are allocated to PMMs on the Exchange today. Currently, when ISE lists new options classes, it allocates them to one of its PMMs under Rule 802. Pursuant to delegated authority by the Board, an Allocation Committee, which consists of employees of the Exchange, makes allocation decisions according to the guidelines contained in Rule 802. The Allocation Committee has not reallocated the products appointed to a PMM since the Exchange's inception for reasons other than as provided in the proposed rule. As such, the proposed changes are simply to memorialize a longstanding practice on the Exchange.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹¹⁷ in general, and furthers the objectives of Section 6(b)(1) of the Act¹¹⁸ 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 Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Act, the rules and regulations thereunder, and the rules of the Exchange. The Exchange also believes that this proposal furthers the objectives of Section 6(b)(3) and (b)(5) of the Act¹¹⁹ in particular, in that it is designed to assure a fair representation of Exchange members in the selection of its directors and administration of its affairs and provide that one or more directors would be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer; and 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.

The Exchange believes that its proposal to adopt the Board and committee structure and related nomination and election processes set forth in New Governing Documents are consistent with the Act, including

¹¹⁷ 15 U.S.C. 78f(b).

¹¹⁸ 15 U.S.C. 78f(b)(1).

¹¹⁹ 15 U.S.C. 78f(b)(3) and (b)(5).

¹¹⁶ See Current LLC Agreement, Section 6.3.

Section 6(b)(1) of the Act, which requires, among other things, that a national securities exchange be organized to carry out the purposes of the Act and comply with the requirements of the Act. In general, the proposed changes would make the Exchange's Board and committee composition requirements, and related nomination and election processes, more consistent with those of its affiliates, BX, NSM and Phlx. The Exchange therefore believes that the proposed changes would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply with the provisions of the Act by its members and persons associated with members.

Additionally, the Exchange believes that the New Governing Documents support a corporate governance framework that is designed to insulate the Exchange's regulatory functions from its market and other commercial interests so that the Exchange can carry out its regulatory obligations in furtherance of Section 6(b)(1) of the Act. Specifically, the Exchange believes that creation of a ROC, modeled on the approved ROCs of other Nasdaq Exchanges, and the inclusion of the Chief Regulatory Officer in the proposed Bylaws, would underscore the importance of the Exchange's regulatory function and specifically empower an independent committee of the Board to oversee regulation and meet regularly with the Chief Regulatory Officer. Furthermore, proposed language in the New Governing Documents specifically providing that the Exchange's business and the Board's evaluations would include actions and evaluations that support and take into account its regulatory responsibilities under the Act, reinforce the notion that the Exchange is not solely a commercial enterprise, but an SRO subject to the obligations imposed by the Act. The restriction on using Regulatory Funds to pay dividends to the Sole LLC Member further underscores the independence of the Exchange's regulatory function. Finally, the Exchange believes that the proposed requirements to include Public Directors on the Board (at least two Directors) and that on the ROC (all three Directors) would help to ensure that no single group of market participants will have the ability to systematically disadvantage other market participants through the exchange governance process, and would foster the integrity of the Exchange by providing unique,

unbiased perspectives. Accordingly, the Exchange believes that the new board and committee structure contemplated by the proposed New Governing Documents is designed to insulate the Exchange's regulatory functions from its market and other commercial interests so that the Exchange can carry out its regulatory obligations in furtherance of Section 6(b)(1) of the Act.

The Exchange also believes that the proposed 20% requirement for Member Representative Directors and the proposed method for selecting Member Representative Directors would ensure fair representation of Exchange members on the Board and allow members to have a voice in the Exchange's use of its self-regulatory authority. In particular, the Exchange notes that the Member Nominating Committee would be composed solely of persons associated with Exchange members and is selected after consultation with representatives of Exchange members. In addition, the new Bylaws include a process by which Exchange members can directly petition and vote for representation on the Board. For the foregoing reasons, the Exchange believes that the proposed change to remove the Exchange Director positions and related concepts from its organizational documents is consistent with fair representation requirement under the Act. Specifically, Exchange members will continue to be represented on the Board and on key standing committees, and will have a voice in the selection of Member Representative Directors through the Member Nominating Committee and through their ability to petition and vote on alternate candidates. As noted above, the trading privileges associated with the Exchange Rights, as well as the Market Maker Rights, which are currently located in the Exchange's organizational documents, are already substantively in the Exchange's rulebook, and the Rules would be clarified to the extent such Rules refer back to the Current Governing Documents.

The Exchange also believes that the proposed Board and composition requirements set forth in the New Governing Documents is consistent with the requirements of Section 6(b)(3) of the Act, because the Public Director positions on the Board and on the ROC would include the representatives of issuers and investors with no material business relationship with a broker dealer or the Exchange. Further, the Exchange believes that the proposed compositional balance of the proposed committees continues to provide for the fair representation of members in the

administration of the affairs of the Exchange. In particular, all members of the new Member Nominating Committee must be associated persons of an Exchange member. In addition, at least 20% of the new QMC must be composed of Member Representative members. Moreover, the proposed compositional requirements provide that the Nominating Committee and the QMC must be compositionally balanced between Industry members and Non-Industry members. The proposed compositional requirements are designed to ensure that members are protected from unfair, unfettered actions by an exchange pursuant to its rules, and that, in general, an exchange is administered in a way that is equitable to all those who trade on its market or through its facilities.

Moreover, the Exchange believes that the new corporate governance framework and related processes proposed by the New Governing Documents are consistent with Section 6(b)(5) of the Act because they are identical to the framework and processes used by the Nasdaq Exchanges, which have been well-established as fair and designed to protect investors and the public interest. The Exchange believes that adopting the New Governing Documents based on the NSM model would streamline the Nasdaq Exchanges' governance process, create equivalent governing standards among HoldCo's SROs and also provide clarity to its members, which is beneficial to both investors and the public interest.

Finally, the proposed amendments to the Rules as discussed above are non-substantive changes to clarify the rule text where the Rule referred only to the Current LLC Agreement or to the Current Constitution, and also the technical amendments to renumber certain Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

Because the Proposed Rule Change relates to the corporate governance of the Exchange and not to the operations of the Exchange, 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.

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 (i) as the Commission may designate up to 90 days of such date 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 shall: (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-ISE-2017-32 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549-1090. All submissions should refer to File Number SR-ISE-2017-32. 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-2017-32 and should be submitted on or before May 23, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²⁰

Eduardo A. Aleman,
Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-80534; File No. SR-NYSEArca-2017-41]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Reflect Changes in the Name of, the Investment Objective for, and the Means of Achieving the Investment Objective Applicable to the PIMCO Total Return Active Exchange-Traded Fund

April 26, 2017.

Pursuant to Section 19(b)(1)¹ of the Securities Exchange Act of 1934 ("Act")² and Rule 19b-4 thereunder,³ notice is hereby given that, on April 17, 2017, NYSE Arca, Inc. ("Exchange" or "NYSE Arca") 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 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 reflect changes in the name of, the investment objective for, and the means of achieving the investment objective applicable to, the PIMCO Total Return Active Exchange-Traded Fund (the "Fund"). The Fund is currently listed and traded on the Exchange under NYSE Arca Equities Rule 8.600. 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 Commission has approved the listing and trading on the Exchange of shares ("Shares") of the Fund,⁴ under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares.⁵ The Shares are

⁴ See Securities Exchange Act Release Nos. 65988 (December 16, 2011), 76 FR 79741 (December 22, 2011) (SR-NYSEArca-2011-95) (notice of filing of proposed rule change relating to listing and trading of Shares of the Fund on the Exchange) ("First Prior Notice"); 66321 (February 3, 2012), 77 FR 6850 (February 9, 2012) (SR-NYSEArca-2011-95) (order approving listing and trading of Shares of the Fund on the Exchange) ("First Prior Order"). See also Securities Exchange Act Release Nos. 70905 (November 20, 2013) (SR-NYSEArca-2013-122) (notice of filing of proposed rule change relating to use of derivative instruments by the Fund) ("Second Prior Notice"); 72666 (July 24, 2014), 79 FR 44224 (July 30, 2014) (SR-NYSEArca-2013-122) (order approving proposed rule change as modified by Amendment No. 2 thereto relating to use of derivative instruments by the Fund) ("Second Prior Order"); 73331 (October 9, 2014), 79 FR 62213 (October 16, 2014) (SR-NYSEArca-2014-104) (notice of filing and immediate effectiveness of proposed rule change relating to use of derivatives by certain PIMCO exchange traded funds); 75475 (July 16, 2015), 80 FR 43507 (July 22, 2015) (SR-NYSEArca-2015-63) (notice of filing and immediate effectiveness of proposed rule change relating to a change in the size of a Creation Unit applicable to Shares of the Fund) (collectively, the "Prior Releases").

⁵ A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1) ("1940 Act") organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield

¹²⁰ 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.

offered by PIMCO ETF Trust (the "Trust"), a statutory trust organized under the laws of the State of Delaware and registered with the Commission as an open-end management investment company.⁶ The investment manager to the Fund is Pacific Investment Management Company LLC ("PIMCO" or the "Adviser"). The Fund's Shares are currently listed and traded on the Exchange under NYSE Arca Equities Rule 8.600.

In this proposed rule change, the Exchange proposes to reflect changes in the name of the Fund, the Fund's investment objective, and the means of seeking the Fund's investment objective, as described below.⁷

Name of the Fund

The Adviser proposes that the name of the Fund be changed from that stated in the Prior Releases to the PIMCO Active Bond Exchange-Traded Fund. The Adviser represents that the Fund's name is changing to better reflect the Fund's revised investment objective and the Fund's revised investment strategy.

Investment Objective

The Prior Releases stated that the Fund would seek maximum total return, consistent with preservation of capital and prudent investment management. The Adviser proposes revise [sic] the investment objective of the Fund to state that the Fund will seek current income and long-term capital appreciation, consistent with prudent investment management.

Investment Strategies

The First Prior Notice stated that the Fund will invest primarily (under normal market circumstances, at least 65% of its total assets) in investment-

performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

⁶ The Trust is registered under the 1940 Act. On October 31, 2016 the Trust filed with the Commission the most recent post-effective amendment to its registration statement under the Securities Act of 1933 (15 U.S.C. 77a) ("1933 Act") and under the 1940 Act relating to the Fund (File Nos. 333-155395 and 811-22250) (the "Registration Statement"). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. See Investment Company Act Release No. 28993 (November 10, 2009) (File No. 812-13571) ("Exemptive Order").

⁷ The changes described herein have been filed with the Commission in a supplement, dated March 7, 2017, to the Trust's Registration Statement. See note 5 [sic], *supra*. The Adviser represents that it will manage the Fund in the manner described in the Prior Releases, and will not implement the changes described herein until the proposed rule change is operative.

grade Fixed Income Instruments,⁸ but may invest up to 10% of its total assets in high yield Fixed Income Instruments rated B3 through Ba1 by Moody's Investors Service, Inc. ("Moody's"), or equivalently rated by Standard & Poor's Ratings Services ("S&P") or Fitch, Inc. ("Fitch"), or, if unrated, determined by PIMCO to be of comparable quality. In the Second Prior Order, the Commission approved a revision to this statement to provide that the Fund will invest under normal market circumstances at least 65% of its total assets in a diversified portfolio of Fixed Income Instruments of varying maturities, which may be represented by derivatives related to Fixed Income Instruments. The Adviser proposes to revise the descriptions to state that the Fund will primarily (under normal market circumstances, at least 65% of its total assets) invest in a diversified portfolio of Fixed Income Instruments of varying maturities, which may be represented by derivatives related to Fixed Income Instruments, but may invest up to 30% of its total assets in high yield Fixed Income Instruments (which may be represented by derivatives related to Fixed Income Instruments) rated B3 through Ba1 by [sic] Moody's, or equivalently rated by S&P or Fitch, or, if unrated, determined by PIMCO to be of comparable quality. The Adviser represents that the proposed change to the Fund's investment in such high yield Fixed Income Instruments is consistent with the Fund's proposed revised investment objective, and will further assist the Adviser to achieve such investment objective.

Also, the First Prior Notice stated the average portfolio duration of the Fund normally will vary within two years (plus or minus) of the duration of the Bloomberg Barclays U.S. Aggregate Index (formerly, the Barclays Capital U.S. Aggregate Index). The Adviser proposes to change this representation to provide that the average portfolio duration of the Fund will no longer be measured against the duration of the Bloomberg Barclays U.S. Aggregate Index, but instead normally will vary from zero to eight years based on PIMCO's market forecasts. The Adviser represents that the proposed change to the average portfolio duration of the Fund is consistent with the Fund's proposed revised investment objective, and will further assist the Adviser to achieve such investment objective.

⁸ See First Prior Notice, note 9, and Second Prior Notice, note 10, for a description of Fixed Income Instruments.

Except for the changes noted above, all other representations made in the Prior Releases remain unchanged.

All terms referenced but not defined herein are defined in the Prior Releases.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)⁹ that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices, and is designed to promote just and equitable principles of trade and to protect investors and the public interest, in that the change in the Fund's investment objective will specify that the Fund will seek current income and long-term capital appreciation, consistent with prudent investment management. The Adviser believes such change will enable investors to better understand the Fund's expected investment activities and determine if and/or to what extent an investment in the Fund is appropriate for their portfolios. With respect to the proposed change to the Fund's name, the Adviser represents that the Fund's name is changing to better reflect the Fund's revised investment objective and the Fund's revised investment strategy.

The proposed rule change is designed to perfect the mechanism of a free and open market, and, in general, to promote just and equitable principles of trade and to protect investors and the public interest, in that the change in the Fund's ability to invest in high yield Fixed Income Instruments from up to 10% to up to 30% of its total assets will afford the Fund greater flexibility to invest in such high-yield instruments, and will further assist the Adviser to achieve the Fund's investment objective. In addition, the Exchange believes that the change to the average portfolio duration of the Fund will not adversely impact investors or Exchange trading. Such change would accommodate a duration that will provide the Fund with additional flexibility in managing the duration of the Fund's holdings using the average portfolio duration normally of zero to eight years based on PIMCO's market forecasts. Further, a more flexible duration bandwidth will allow the Fund to respond more effectively to

⁹ 15 U.S.C. 78f(b)(5).

changing market conditions. Except for the changes noted above, all other representations in the Prior Releases remain unchanged.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition among issues of exchange-traded funds that invest in fixed income securities to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

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, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act¹⁰ and Rule 19b-4(f)(6) thereunder.¹¹

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and

arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-NYSEArca-2017-41 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-2017-41. 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-NYSEArca-2017-41 and should be submitted on or before May 23, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹²

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-08815 Filed 5-1-17; 8:45 am]

BILLING CODE 8011-01-P

¹² 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, Public Law 94-409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, May 4, 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 her designee, has certified that, in her 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 matter at the closed meeting.

Acting Chairman Piwowar, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Formal orders of investigation; 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: April 27, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017-08957 Filed 4-28-17; 4:15 pm]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 9955]

60-Day Notice of Proposed Information Collection: Nonimmigrant Visa Application

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below.

¹⁰ 15 U.S.C. 78s(b)(3)(A).

¹¹ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and 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. The Exchange has satisfied this requirement.

In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to July 3, 2017.

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

- *Web:* Persons with access to the Internet may comment on this notice by going to www.Regulations.gov. You can search for the document by entering "Docket Number: DOS-2017-0015" in the Search field. Then click the "Comment Now" button and complete the comment form.

- *Email:* PRA_BurdenComments@state.gov.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents to PRA_BurdenComments@state.gov.

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:*

Nonimmigrant Visa Application.

- *OMB Control Number:* 1405-0018.

- *Type of Request:* Revision of a Currently Approved Collection.

- *Originating Office:* CA/VO/L/R.

- *Form Number:* DS-156.

- *Respondents:* Nonimmigrant Visa Applicants.

- *Estimated Number of Respondents:* 3,466.

- *Estimated Number of Responses:* 3,466.

- *Average Time per Response:* 75 minutes.

- *Total Estimated Burden Time:* 4,333.

- *Frequency:* Once per respondent.

- *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

- Enhance the quality, utility, and clarity of the information to be collected.

- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Form DS-156 is required by regulation of all nonimmigrant visa applicants who do not use the Online Application for Nonimmigrant Visa (Form DS-160). Posts will use the DS-156 in limited circumstances when use of the DS-160 unavailable as outlined below, to elicit information necessary to determine an applicant's visa eligibility.

Methodology

This form will only be used if in the following limited circumstances when applicants cannot access the DS-160, Online Application for Nonimmigrant Visa:

- An applicant has an urgent medical or humanitarian travel need and the consular officer has received explicit permission from the Visa Office to accept form DS-156;

- The applicant is a student exchange visitor who must leave immediately in order to arrive on time for his/her course and the consular officer has explicit permission from the Visa Office to accept form DS-156;

- The applicant is a diplomatic or official traveler with urgent government business and form DS-160 has been unavailable for more than four hours; or
- Form DS-160 has been unavailable for more than three days and the officer receives explicit permission from the Visa Office.

In order to obtain a copy of form an applicant must contact the Embassy or consulate at which he or she is applying and request a copy.

Karin King,

Acting Deputy Assistant Secretary, Bureau of Consular Affairs, Department of State.

[FR Doc. 2017-08803 Filed 5-1-17; 8:45 am]

BILLING CODE 4710-06-P

DEPARTMENT OF STATE

[Public Notice: 9983]

U.S. Department of State Advisory Committee on Private International Law (ACPIL): Public Meeting on Security Interests

The Office of the Assistant Legal Adviser for Private International Law, Department of State, hereby gives notice that the Security Interests Study Group of the Advisory Committee on Private International Law (ACPIL) will hold a public meeting. The Security Interests Study Group will hold the meeting to discuss several matters relating to security interests that will be addressed at the upcoming annual meeting of the United Nations Commission on International Trade Law ("UNCITRAL" or "Commission") scheduled for July 3 through 21 in Vienna. This is not a meeting of the full Advisory Committee.

At its upcoming session the Commission will consider several items relating to security interests. First, the Commission will consider finalization and adoption of a Guide to Enactment of the UNCITRAL Model Law on Secured Transactions (A/CN.9/885 and Add.1-4). Second, the Commission will consider possible future work in the area of secured transactions. The Commission has placed on its security interests future work program: (a) The question whether the UNCITRAL Model Law on Secured Transactions and its guide to enactment might need to be expanded to address matters related to secured finance to Micro, Small, and Medium-Sized Enterprises (MSMEs); (b) the question whether any future work on a contractual guide on secured transactions should discuss contractual issues of concern to MSMEs (*e.g.* transparency issues); (c) any question that might not have already been addressed in the area of warehouse receipt financing (*e.g.* the negotiability of warehouse receipts); and (d) the question whether disputes arising from security agreements could be resolved through alternative dispute resolution mechanisms. These and other possible future work topics relating to security interests were considered at a Fourth International Colloquium on Secured Transactions in March. The Commission will have before it a Note by the Secretariat summarizing the results of the colloquium (A/CN.9/913). Finally, the Commission will have before it the question of the endorsement of the ICC Uniform Rules for Forfeiting (URF 800) (A/CN.9/919). The Commission documents will be available at <http://www.uncitral.org/uncitral/commission/sessions/50th.html>.

Time and Place: The meeting of the ACPIIL Security Interest Study Group will take place on June 6, 2017 from 9 a.m. to 12:30 p.m. EDT at 2430 E Street NW., South Building (SA-4A) (Navy Hill), Room 240. Participants should arrive at Navy Hill before 8:45 a.m. for visitor screening. Participants will be met at the Navy Hill gate at 23rd and D Streets NW., and will be escorted to the South Building. Persons arriving later will need to make arrangements for entry using the contact information provided below. If you are unable to attend the public meeting and would like to participate from a remote location, teleconferencing will be available.

Public Participation: This meeting is open to the public, subject to the capacity of the meeting room. Access to Navy Hill is strictly controlled. For preclearance purposes, those planning to attend in person are requested to email at PII@state.gov providing full name, address, date of birth, citizenship, driver's license or passport number, affiliation, and email address. This will greatly facilitate entry. A member of the public needing reasonable accommodation should provide an email requesting such accommodation to pil@state.gov no later than May 30, 2017. Requests made after that date will be considered, but might not be able to be fulfilled. If you would like to participate by telephone, please email PII@state.gov to obtain the call-in number and other information. Data from the public is requested pursuant to Public Law 99-399 (Omnibus Diplomatic Security and Antiterrorism Act of 1986), as amended; Public Law 107-56 (USA PATRIOT Act); and Executive Order 13356. The purpose of the collection is to validate the identity of individuals who enter Department facilities. The data will be entered into the Visitor Access Control System (VACS-D) database. Please see the Security Records System of Records Notice (State-36) at https://foia.state.gov/_docs/SORN/State-36.pdf for additional information.

Michael J. Dennis,

Attorney-Adviser, Office of Private International Law, Office of the Legal Adviser, Department of State.

[FR Doc. 2017-08804 Filed 5-1-17; 8:45 am]

BILLING CODE 4710-08-P

SURFACE TRANSPORTATION BOARD

[Docket No. FD 36103]

Hussey Terminal Railroad Company—Acquisition and Operation Exemption—2nd & Main, LLC

Hussey Terminal Railroad Company (HTRC), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire from 2nd & Main, LLC (2ML), and operate approximately 540 feet of rail line in North Chicago, in Lake County, Ill. (the Line).¹ According to HTRC, there are no milepost designations on the Line.

The Line extends between a point of connection on its north end to a main line of Elgin, Joliet & Eastern Railway Company (presently, Canadian National Railway Company (CN)), and a point of connection on its southwest end to a main line of Chicago & North Western Railway Company (presently, Union Pacific Railroad Company (UP)).

In an agreement dated January 4, 1916, Michael H. Hussey and Margaret Hussey conveyed to North Chicago Lumber and Coal Co. (NCLC) and North Chicago Foundry Company (NCFC) the right, easement, and privilege to use the Line for any purpose and in any manner necessary or convenient to their businesses.

2ML is a successor-in-interest of NCLC. 2ML's shipping facility is located near the Line's point of connection to UP. According to HTRC, a portion of the Line north and east of 2ML's facility has been removed and/or blocked by a building constructed by a third party, and is not possible at this time for HTRC to operate to the point of connection with CN. It is the intention of 2ML and HTRC to take steps to restore rail operations to the CN connection. HTRC indicates that sufficient trackage is in place between 2ML's facility and the point of connection with UP to enable rail shipments to travel over the trackage. 2ML and HTRC state it is their intention to rehabilitate the trackage as necessary and interchange shipments with UP.

HTRC certifies that its projected annual revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier and will not exceed \$5 million. HTRC further certifies that there are no interchange commitments.

¹ 2ML obtained an exemption to acquire the Line in *2nd & Main, LLC—Acquisition & Operation Exemption—Norland North Chicago, LLC*, FD 36106 (STB served March 22, 2017). HTRC's notice of exemption in this case was held in abeyance by a decision served on March 23, 2017, so that 2ML's exemption to acquire the Line in Docket No. FD 36106 could become effective first.

The transaction may be consummated on or after May 16, 2017, the effective date of the exemption. If the verified notice contains false or misleading information, the exemption is void ab initio. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the effectiveness of the exemption. Petitions to stay must be filed no later than May 9, 2017 (at least seven days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to Docket No. FD 36103, must be filed with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Thomas F. McFarland, 208 South LaSalle St., Suite 1666, Chicago, IL 60604-1228.

Board decisions and notices are available on our Web site at "WWW.STB.GOV."

Decided: April 27, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Raina S. Contee,

Clearance Clerk.

[FR Doc. 2017-08840 Filed 5-1-17; 8:45 am]

BILLING CODE 4915-01-P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highways in Colorado

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of limitation on claims for judicial review of actions by FHWA and other Federal agencies.

SUMMARY: This notice announces actions taken by FHWA and other Federal agencies that are final within the meaning of Section 1308 of the Moving Ahead for Progress in the 21st Century Act. The actions relate to the conversion of existing Elkhorn Avenue, Moraine Avenue, and Riverside Drive roadways from two-way to a 0.9 mile one-way loop through downtown Estes Park, Larimer County, Colorado. These improvements consist of "Phase 1" of the proposed action analyzed in the 2016 Environmental Assessment for the Downtown Estes Loop Project. Phase 1 includes pavement rehabilitation on Elkhorn and Moraine Avenues, realignment and reconstruction of Riverside Drive and reconstruction of the Ivy Street Bridge. Those actions grant approvals for the project.

DATES: By this notice, 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 highway project will be barred unless the claim is filed on or before September 29, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: James Herlyck, P.E., Project Manager, Federal Highway Administration, Central Federal Lands Highway Division, 12300 W. Dakota Avenue, Suite 380, Lakewood, Colorado 80228, Telephone (720) 963-3698, Email James.Herlyck@dot.gov. Regular office hours are 8:00 a.m. to 5:00 p.m. (Mountain Time).

SUPPLEMENTARY INFORMATION: Notice is hereby given that FHWA and other Federal agencies have taken final agency actions by issuing approvals for the following highway project in the State of Colorado: Downtown Estes Loop, Phase 1. Project Overview: The project includes the conversion of existing Elkhorn Avenue, Moraine Avenue, and Riverside Drive roadways from two-way to a 0.9 mile one-way loop through downtown Estes Park, Colorado. These improvements consist of "Phase 1" of the proposed action analyzed in the 2016 Environmental Assessment for the Downtown Estes Loop Project. Phase 1 includes pavement rehabilitation on Elkhorn and Moraine Avenues, realignment and reconstruction of Riverside Drive and reconstruction of the Ivy Street Bridge. The actions by the Federal agencies on the project, and the laws under which such actions were taken, are described in the Environmental Assessment (EA) signed on June 29, 2016, in the Finding of No Significant Impact (FONSI) signed April 19, 2017, and in other key project documents. The EA, FONSI, and other key documents for the project are available by contacting FHWA at the addresses provided above. The EA and FONSI documents can be viewed and downloaded from the project Web site at <http://downtownestesloop.com/>.

This notice applies to all Federal agency decisions, actions, approvals, licenses and permits on the project as of the issuance date of this notice, including but not limited to those arising under the following laws, as amended:

1. *General:* National Environmental Policy Act [42 U.S.C. 4321-4370h]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, as amended [42 U.S.C. 7401-7671(q)] (transportation conformity).

3. *Land:* Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531-1544]; Fish and Wildlife Coordination Act [16 U.S.C. 661-667(e)]; Migratory Bird Treaty Act [16 U.S.C. 703-712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966 [54 U.S.C. 306108]; Archaeological Resources Protection Act of 1977 [16 U.S.C. 470aa-470mm]; Archaeological and Historic Preservation Act [16 U.S.C. 469-469c-2]; Native American Grave Protection and Repatriation Act [25 U.S.C. 3001-3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)-2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 [42 U.S.C. 61].

7. *Wetlands and Water Resources:* Clean Water Act [33 U.S.C. 1251-1387] (Section 404, Section 401, Section 319); Land and Water Conservation Fund Act [16 U.S.C. 460l-4-460l-11]; Safe Drinking Water Act [42 U.S.C. 300f-300j-9.]; Rivers and Harbors Act of 1899 [33 U.S.C. 401-406]; Transportation Equity Act for the 21st Century (TEA-21) [23 U.S.C. 103(b)(6)(m), 133(b)(11)] (wetlands mitigation banking); Flood Disaster Protection Act of 1973 [42 U.S.C. 4001-4129].

8. *Hazardous Materials:* Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601-9675]; Superfund Amendments and Reauthorization Act of 1986 [PL 99-499]; Resource Conservation and Recovery Act [42 U.S.C. 6901-6992(k)].

9. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514 Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The 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: April 21, 2017.

Ricardo Suarez,

Division Director, Lakewood, Colorado.

[FR Doc. 2017-08707 Filed 5-1-17; 8:45 am]

BILLING CODE 4910-RY-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket No. FRA-2017-0002-N-12]

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: Under the Paperwork Reduction Act of 1995 (PRA) and its implementing regulations, FRA seeks approval of the proposed information collection activities listed below. Before submitting these information collection requests (ICR) to the Office of Management and Budget (OMB) for approval, FRA is soliciting public comment on specific aspects of the activities identified below.

DATES: Comments must be received no later than July 3, 2017.

ADDRESSES: Submit written comments on the information collection activities by mail to either: Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, RAD-20, Federal Railroad Administration, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590. Commenters requesting FRA to acknowledge receipt of their respective comments must include a self-addressed stamped postcard stating, "Comments on OMB Control Number 2130-XXXX," and should also include the title of the ICR. Alternatively, comments may be faxed to (202) 493-6216 or (202) 493-6497, or emailed to Ms. Toone at Kim.Toone@dot.gov. Please refer to the assigned OMB control number in any correspondence submitted. FRA will summarize comments received in response to this notice in a subsequent notice and include them in its information collection submission to OMB for approval.

FOR FURTHER INFORMATION CONTACT: Ms. Kim Toone, Information Collection Clearance Officer, Office of Information Technology, RAD-20, Federal Railroad

Administration, 1200 New Jersey Avenue SE., Mail Stop 35, Washington, DC 20590 (telephone: (202) 493-6132). (This telephone number is not toll free.)

SUPPLEMENTARY INFORMATION: The PRA, 44 U.S.C. 3501-3520, and its implementing regulations, 5 CFR part 1320, require Federal agencies to provide 60-days' notice to the public to allow comment on information collection activities before seeking OMB approval of the activities. See 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1), 1320.10(e)(1), 1320.12(a). Specifically, FRA invites interested parties to comment on the following summary of proposed information collection activities regarding: (1) Whether the information collection activities are necessary for FRA to properly execute its functions, including whether the activities will have practical utility; (2) the accuracy of FRA's estimates of the burden of the information collection activities, including the validity of the methodology and assumptions used to determine the estimates; (3) ways for FRA to enhance the quality, utility, and

clarity of the information being collected; and (4) ways for FRA to minimize the burden of information collection activities on the public by automated, electronic, mechanical, or other technological collection techniques and other forms of information technology (e.g., permitting electronic submission of responses). See 44 U.S.C. 3506(c)(2)(A); 5 CFR 1320.8(d)(1).

FRA believes that soliciting public comment will promote its efforts to reduce the administrative and paperwork burdens associated with the collection of information that Federal regulations mandate. In summary, FRA reasons that comments received will advance three objectives: (1) Reduce reporting burdens; (2) ensure that it organizes information collection requirements in a "user-friendly" format to improve the use of such information; and (3) accurately assess the resources expended to retrieve and produce information requested. See 44 U.S.C. 3501.

Below is a brief summary of information collection activities that

FRA will submit for OMB renewed or revised clearance as the PRA requires:

Title: Experimental Investigation of Automation-Induced Human Error in Locomotive Cab.

OMB Control Number: 2130-XXXX.

Abstract: The purpose of this collection is to identify and evaluate the potential for human error associated with the operation of systems and automation in the locomotive cab. This research addresses DOT's strategic goal of safety. Once the nature and risk of human error in locomotive cab systems and automation is better understood, error mitigating steps can be taken to provide safer systems and reduce the risk of accidents or incidents involving these systems. FRA will use the research's results to identify training, operational procedures, or automation design standards that will improve the safety of automated systems in locomotive cabs.

Affected Public: Railroad Engineers.

Respondent Universe: 30 Engineers.

Frequency of Submission: One Time.

Reporting Burden:

| | Respondent universe | Total annual responses | Average time per response (hours) | Total annual burden hours |
|----------------------------|---------------------|------------------------|-----------------------------------|---------------------------|
| Simulator Experience | 30 Engineers | 30 | 6.5 | 195 |

Total Estimated Annual Responses: 30.

Total Estimated Annual Burden: 195 hours.

Type of Request: New Information Collection Request.

Title: Design and Evaluation of a Robust Manual Locomotive Operating Mode.

OMB Control Number: 2130-XXXX.

Abstract: The purpose of this study is to design and evaluate a prototype locomotive operating mode that allows

an operator to "manually" control a train by providing a desired speed target while the control system determines the throttle notch changes required. This research addresses DOT's safety strategic goal. Information collected from this research will be used by researchers and equipment designers to evaluate the merit of a prototype display and control configuration maximizing the use of both automation and human capabilities. The information will also

assist the Federal government in recommending display design standards to the rail industry for future displays and the results may help design future displays and controls for locomotives.

Affected Public: Railroad Engineers, College Student Volunteers.

Respondent Universe: Railroad Engineers and College Student Volunteers.

Frequency of Submission: One time.

Reporting Burden:

| CFR section | Respondent universe | Total annual responses | Average time per response (hours) | Total annual burden hours |
|----------------------------|---|------------------------|-----------------------------------|---------------------------|
| Simulator Experience | 30 Engineers and college students | 30 | 9 | 270 |

Total Estimated Annual Responses: 30.

Total Estimated Annual Burden: 270 hours.

Type of Request: New Information Collection Request.

Under 44 U.S.C. 3507(a) and 5 CFR 1320.5(b), 1320.8(b)(3)(vi), FRA informs all interested parties that it may not conduct or sponsor, and a respondent is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Authority: 44 U.S.C. 3501-3520.

Sarah L. Inderbitzin,
Acting Chief Counsel.

[FR Doc. 2017-08792 Filed 5-1-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION**National Highway Traffic Safety Administration**

[Docket No. NHTSA–2015–0105; Notice 1]

Notice of Receipt of Petition for Decision That Nonconforming Model Year 2010 Lamborghini Murcielago Passenger Cars Are Eligible for Importation

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation (DOT).

ACTION: Receipt of petition.

SUMMARY: This document announces receipt by the National Highway Traffic Safety Administration (NHTSA) of a petition for a decision that model year (MY) 2010 Lamborghini Murcielago passenger cars (PC) that were not originally manufactured to comply with all applicable Federal motor vehicle safety standards (FMVSS), are eligible for importation into the United States because they are substantially similar to vehicles that were originally manufactured for sale in the United States and that were certified by their manufacturer as complying with the safety standards (the U.S.-certified version of the 2010 Lamborghini Murcielago PC) and they are capable of being readily altered to conform to the standards.

DATES: The closing date for comments on the petition is June 1, 2017.

ADDRESSES: Interested persons are invited to submit written data, views, and arguments on this petition. Comments must refer to the docket and notice number cited in the title of this notice and submitted by any of the following methods:

- *Mail:* Send comments by mail addressed to 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 comments by hand to U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. The Docket Section is open on weekdays from 10 a.m. to 5 p.m. except Federal Holidays.
- *Electronically:* Submit comments electronically by logging onto the Federal Docket Management System (FDMS) Web site at <https://www.regulations.gov/>. Follow the online instructions for submitting comments.
- Comments may also be faxed to (202) 493–2251.

Comments must be written in the English language, and be no greater than 15 pages in length, although there is no limit to the length of necessary attachments to the comments. If comments are submitted in hard copy form, please ensure that two copies are provided. If you wish to receive confirmation that comments you have submitted by mail were received, please enclose a stamped, self-addressed postcard with the comments. Note that all comments received will be posted without change to <https://www.regulations.gov/>, including any personal information provided.

All comments and supporting materials received before the close of business on the closing date indicated above will be filed in the docket and will be considered. All comments and supporting materials received after the closing date will also be filed and will be considered to the fullest extent possible.

When the petition is granted or denied, notice of the decision will also be published in the **Federal Register** pursuant to the authority indicated at the end of this notice.

All comments, background documentation, and supporting materials submitted to the docket may be viewed by anyone at the address and times given above. The documents may also be viewed on the Internet at <https://www.regulations.gov/> by following the online instructions for accessing the dockets. The docket ID number for this petition is shown in the heading of this notice.

DOT's complete Privacy Act Statement is available for review in a **Federal Register** notice published on April 11, 2000, (65 FR 19477–78).

FOR FURTHER INFORMATION CONTACT: George Stevens, Office of Vehicle Safety Compliance, NHTSA (202–366–5308).

SUPPLEMENTARY INFORMATION:**Background**

Under 49 U.S.C. 30141(a)(1)(A), a motor vehicle that was not originally manufactured to conform to all applicable FMVSS shall be refused admission into the United States unless NHTSA has decided that the motor vehicle is substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under 49 U.S.C. 30115, and of the same model year as the model of the motor vehicle to be compared, and is capable of being readily altered to conform to all applicable FMVSS.

Petitions for eligibility decisions may be submitted by either manufacturers or

importers who have registered with NHTSA pursuant to 49 CFR part 592. As specified in 49 CFR 593.7, NHTSA publishes notice in the **Federal Register** of each petition that it receives, and affords interested persons an opportunity to comment on the petition. At the close of the comment period, NHTSA decides, on the basis of the petition and any comments that it has received, whether the vehicle is eligible for importation. The agency then publishes this decision in the **Federal Register**.

G & K Automotive Conversion Inc., G & K of Santa Ana, California (Registered Importer R–90–007) has petitioned NHTSA to decide whether nonconforming 2010 Lamborghini Murcielago PCs are eligible for importation into the United States. The vehicles which G & K believes are substantially similar are MY 2010 Lamborghini Murcielago PCs sold in the United States and certified by their manufacturer as conforming to all applicable FMVSS.

The petitioner claims that it compared non-U.S. certified MY 2010 Lamborghini Murcielago PCs to their U.S.-certified counterparts, and found the vehicles to be substantially similar with respect to compliance with most FMVSS.

G & K submitted information with its petition intended to demonstrate that non-U.S. certified MY 2010 Lamborghini Murcielago PCs, as originally manufactured, conform to many applicable FMVSS in the same manner as their U.S.-certified counterparts, or are capable of being readily altered to conform to those standards.

Specifically, the petitioner claims that the non U.S.-certified MY 2010 Lamborghini Murcielago PCs, as originally manufactured, conform to: Standard Nos. 102 *Transmission Shift Lever Sequence, Starter Interlock, and Transmission Braking Effect*, 103 *Windshield Defrosting and Defogging Systems*, 104 *Windshield Wiping and Washing Systems*, 106 *Brake Hoses*, 113 *Hood Latch System*, 114 *Theft Protection*, 116 *Motor Vehicle Brake Fluids*, 118 *Power-Operated Window, Partition, and Roof Panel System*, 124 *Accelerator Control Systems*, 135 *Light Vehicle Brake Systems*, 139 *New Pneumatic Radial Tires for Light Vehicles*, 201 *Occupant Protection in Interior Impact*, 202a *Head Restraints*, 204 *Steering Control Rearward Displacement*, 205 *Glazing Materials*, 206 *Door Locks and Door Retention Components*, 207 *Seating Systems*, 209 *Seat Belt Assemblies*, 210 *Seat Belt Assembly Anchorages*, 212 *Windshield*

Mounting, 214 Side Impact Protection, 216 Roof Crush Resistance, 219 Windshield Zone Intrusion, and 302 Flammability of Interior Materials.

The petitioner also contends that the subject non-U.S. certified vehicles are capable of being readily altered to meet the following standards, in the manner indicated:

Standard No. 101 Controls and Displays: The speedometer must be reprogrammed to read in miles per hour (mph) and all other applicable control, telltale and indicator symbols will be inspected, and if necessary, modified to meet the requirements of the standard.

Standard No. 108 Lamps, Reflective Devices and Associated Equipment: Replacement of the front and rear side marker lamp, and headlamp assemblies with U.S.-conforming components.

Standard No. 110 Tire Selection and Rims: Installation of the required tire information placard.

Standard No. 111 Rearview Mirrors: Inscription of the required warning statement on the face of the passenger side rearview mirror.

Standard No. 138 Tire Pressure Monitoring Systems: Installation of U.S. model tire pressure monitoring system hardware and software components.

Standard No. 208 Occupant Crash Protection: Installation of U.S. model software to cause the advanced air bag functions to be identical to the U.S.-certified 2010 Lamborghini Murcielago PC.

Standard No. 225 Child Restraint Anchorage Systems: Installation of U.S. model child restraint anchorage components.

Standard No. 301 Fuel System Integrity: Fuel system components will be inspected and any non-U.S. model components will be replaced with U.S. model components.

Standard No. 401 Interior Trunk Release: Installation of U.S. model interior trunk release components.

The petitioner additionally states that a vehicle identification plate must be affixed to the vehicle near the left windshield pillar to meet the requirements of 49 CFR part 565.

Because the subject petition covers nonconforming vehicles that have been manufactured on or after September 1, 2006, compliance with the advanced air bag requirements of FMVSS No. 208 is of significant concern to the agency. NHTSA is therefore particularly interested in comments regarding the ability of a Registered Importer to readily alter the subject vehicles to fully meet the driver and front outboard passenger frontal crash protection and child passenger protection requirements of FMVSS No. 208. The following is a

partial listing of the components that may be affected:

- a. Driver's frontal air bag module
- b. Passenger frontal air bag module
- c. Passenger frontal air bag cover
- d. Knee air bags
- e. Knee bolsters
- f. Passenger outboard frontal seat belt system
- g. Driver and front outboard seat assemblies including seat tracks and internal seat components
- h. Steering wheel components, including the clock spring assembly, the steering column, and all connecting components
- i. Instrument panel
- j. Instrument panel support structure (*i.e.* cross beam)
- k. Occupant sensing and classification systems, including sensors and processors
- l. Restraint control modules
- m. Passenger air bag status indicator light system, including related display components and wiring
- n. Wiring harnesses between the restraint control module, occupant classification system and restraint system components
- o. Control system computer software and firmware.

All comments received before the close of business on the closing date indicated above will be considered, and will be available for examination in the docket at the above addresses both before and after that date. To the extent possible, comments filed after the closing date will also be considered. Notice of final action on the petition will be published in the **Federal Register** pursuant to the authority indicated below.

Authority: 49 U.S.C. 30141(a)(1)(A), (a)(1)(B), and (b)(1); 49 CFR 593.7; delegation of authority at 49 CFR 1.95 and 501.8.

Jeffrey M. Giuseppe,
Director, Office of Vehicle Safety Compliance.
[FR Doc. 2017-08845 Filed 5-1-17; 8:45 am]
BILLING CODE 4910-59-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for PTIN Supplemental Application for Foreign Persons Without a Social Security Number Form 8946

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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. Currently, the IRS is soliciting comments concerning the PTIN Supplemental Application For Foreign Persons Without a Social Security Number.

DATES: Written comments should be received on or before July 3, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Ralph Terry at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the internet, at Ralph.M.Terry@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: PTIN Supplemental Application For Foreign Persons Without a Social Security Number.

OMB Number: 1545-2189.

Form Number: 8946.

Abstract: Most individuals applying for a Preparer Tax Identification Number (PTIN) will have a social security number, which will be used to help establish their identity. However, paid preparers that are nonresident aliens and cannot get a social security number will need to establish their identity prior to getting a PTIN. Form 8946 is to assist that population in establishing their identity while applying for a PTIN.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profit organizations.

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 5 hrs., 16 min.

Estimated Total Annual Burden Hours: 105,400.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 26, 2017.

Laurie Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-08838 Filed 5-1-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, 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. Currently, the IRS is soliciting comments concerning Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

DATES: Written comments should be received on or before July 3, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Laurie E. Brimmer, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224. Requests for additional information or copies of the form and instructions should be directed to Martha R. Brinson, Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at Martha.R.Brinson@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Number: 1545-2208.

Abstract: Executive Order 12862 directs Federal agencies to provide service to the public that matches or exceeds the best service available in the private sector. In order to work continuously to ensure that our programs are effective and meet our customers' needs, The Internal Revenue Service (hereafter "the Agency") seeks to obtain OMB approval of a generic clearance to collect qualitative feedback on our service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study.

Current Actions: We will be conducting different opinion surveys, focus group sessions, think-aloud interviews, and usability studies regarding cognitive research surrounding forms submission or IRS system/product development.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and businesses or other for-profit organizations.

Estimated Number of Respondents: 150,000.

Estimated Time per Respondent: 1 hour.

Estimated Total Annual Burden Hours: 150,000.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will

be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: April 26, 2017.

Laurie E. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-08839 Filed 5-1-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Multiemployer Pension Plan Application To Reduce Benefits

AGENCY: Department of the Treasury.

ACTION: Notice of availability; request for comments.

SUMMARY: The Board of Trustees of the Southwest Ohio Regional Council of Carpenters Pension Plan (SWORCC Pension Plan), a multiemployer pension plan, has submitted an application to reduce benefits under the plan in accordance with the Multiemployer Pension Reform Act of 2014. The purpose of this notice is to announce that the application submitted by the Board of Trustees of the SWORCC Pension Plan has been published on the Treasury Web site, and to request public comments on the application from interested parties, including participants and beneficiaries, employee organizations, and contributing employers of the SWORCC Pension Plan.

DATES: Comments must be received by June 16, 2017.

ADDRESSES: You may submit comments electronically through the Federal eRulemaking Portal at <http://www.regulations.gov>, in accordance with the instructions on that site. Electronic submissions through www.regulations.gov are encouraged.

Comments may also be mailed to the Department of the Treasury, MPRA

Office, 1500 Pennsylvania Avenue NW., Room 1224, Washington, DC 20220. Attn: Eric Berger. Comments sent via facsimile and email will not be accepted.

Additional Instructions. All comments received, including attachments and other supporting materials, will be made available to the public. Do not include any personally identifiable information (such as Social Security number, name, address, or other contact information) or any other information in your comment or supporting materials that you do not want publicly disclosed. Treasury will make comments available for public inspection and copying on www.regulations.gov or upon request. Comments posted on the Internet can be retrieved by most Internet search engines.

FOR FURTHER INFORMATION CONTACT: For information regarding the application from the SWORCC Pension Plan, please contact Treasury at (202) 622-1534 (not a toll-free number).

SUPPLEMENTARY INFORMATION: The Multiemployer Pension Reform Act of 2014 (MPRA) amended the Internal Revenue Code to permit a multiemployer plan that is projected to have insufficient funds to reduce pension benefits payable to participants and beneficiaries if certain conditions are satisfied. In order to reduce benefits, the plan sponsor is required to submit an application to the Secretary of the Treasury, which Treasury, in consultation with the Pension Benefit Guaranty Corporation (PBGC) and the Department of Labor, is required to approve or deny.

On March 30, 2017, the Board of Trustees of the SWORCC Pension Plan submitted an application for approval to reduce benefits under the plan. As required by MPRA, that application has been published on Treasury's Web site at <https://auth.treasury.gov/services/Pages/Plan-Applications.aspx>. Treasury is publishing this notice in the **Federal Register**, in consultation with the PBGC and the Department of Labor, to solicit public comments on all aspects of the SWORCC Pension Plan application.

Comments are requested from interested parties, including participants and beneficiaries, employee organizations, and contributing employers of the SWORCC Pension Plan. Consideration will be given to any comments that are timely received by Treasury.

Dated: April 26, 2017.

Robert J. Neis,

Benefits Tax Counsel, Office of Tax Policy.

[FR Doc. 2017-08922 Filed 4-28-17; 11:15 am]

BILLING CODE 4810-25-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0770]

Agency Information Collection Activity: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: The Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before July 3, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at www.Regulations.gov or to Cynthia Harvey-Pryor (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to Cynthia.Harvey-Pryor@va.gov. Please refer to "OMB Control No. 2900-0770" in any correspondence. During the comment period, comments may be viewed online through FDMS.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor at (202) 461-5870.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995, Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VA's functions, including whether the

information will have practical utility; (2) the accuracy of VA'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 respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Authority: Public Law 104-13; 44 U.S.C. 3501-3501.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

OMB Control Number: 2900-0770.

Type of Review: Revision of a currently approved collection.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per

respondent) and are low-cost for both the respondents and the Federal Government;

- The collections are noncontroversial and do not raise issues of concern to other Federal agencies;

- Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

- Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

- Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;

- Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

- Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses

require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential nonresponse bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Estimated Annual Burden: 214,167 hours.

Customer Satisfaction Surveys: 66,667.

Focus Groups: 30,000.

Customer Comment Cards: 5,000.

Small Discussion Groups: 2,500.

Cognitive Laboratory Studies: 30,000.

Qualitative Customer Satisfaction Surveys: 37,500.

In-Person Observation Testing: 5,000.

Patient Surveys: 37,500.

Estimated Average Burden per Respondent:

Customer Satisfaction Surveys: 40 minutes.

Focus Groups: 60 minutes.

Customer Comment Cards: 30 minutes.

Small Discussion Groups: 30 minutes.

Cognitive Laboratory Studies: 60 minutes.

Qualitative Customer Satisfaction Surveys: 30 minutes.

In-Person Observation Testing: 30 minutes.

Patient Surveys: 30 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 335,000.

Customer Satisfaction Surveys: 100,000.

Focus Groups: 30,000.

Customer Comment Cards: 10,000.

Small Discussion Groups: 5,000.

Cognitive Laboratory Studies: 30,000.

Qualitative Customer Satisfaction Surveys: 75,000.

In-Person Observation Testing: 10,000.

Patient Surveys: 75,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Enterprise Records Service, Office of Quality and Compliance, Department of Veterans Affairs.

[FR Doc. 2017-08841 Filed 5-1-17; 8:45 am]

BILLING CODE 8320-01-P



FEDERAL REGISTER

Vol. 82

Tuesday,

No. 83

May 2, 2017

Part II

The President

Executive Order 13793—Improving Accountability and Whistleblower Protection at the Department of Veterans Affairs

Presidential Documents

Title 3—

Executive Order 13793 of April 27, 2017

The President

Improving Accountability and Whistleblower Protection at the Department of Veterans Affairs

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

Section 1. Purpose. This order is intended to improve accountability and whistleblower protection at the Department of Veterans Affairs (VA) by directing the Secretary of Veterans Affairs (Secretary) to establish within the VA an Office of Accountability and Whistleblower Protection and to appoint a Special Assistant to serve as Executive Director of the Office.

Sec. 2. Establishing a VA Office of Accountability and Whistleblower Protection. (a) Within 45 days of the date of this order, and to the extent permitted by law, the Secretary shall establish in the VA the Office of Accountability and Whistleblower Protection (Office), and shall appoint a Special Assistant, reporting directly to the Secretary, to serve as Executive Director of the Office. The VA shall provide funding and administrative support for the Office, consistent with applicable law and subject to the availability of appropriations.

(b) To the extent permitted by law, the Office shall:

(i) advise and assist the Secretary in using, as appropriate, all available authorities to discipline or terminate any VA manager or employee who has violated the public's trust and failed to carry out his or her duties on behalf of veterans, and to recruit, reward, and retain high-performing employees;

(ii) identify statutory barriers to the Secretary's authority to discipline or terminate any employee who has jeopardized the health, safety, or well-being of a veteran, and to recruit, reward, and retain high-performing employees; and report such barriers to the Secretary for consideration as to the need for legislative changes;

(iii) work closely with relevant VA components to ensure swift and effective resolution of veterans' complaints of wrongdoing at the VA; and

(iv) work closely with relevant VA components to ensure adequate investigation and correction of wrongdoing throughout the VA, and to protect employees who lawfully disclose wrongdoing from retaliation.

(c) In establishing the Office, the Secretary shall consider, in addition to any other relevant factors:

(i) whether some or all of the functions of the Office are currently performed by an existing VA office, component, or program;

(ii) whether certain administrative capabilities necessary for operating the Office are redundant with those of another VA office, component, or program; and

(iii) whether combining the Office with another VA office, component, or program may improve the VA's efficiency, effectiveness, or accountability.

Sec. 3. 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 the Office of Management and Budget 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.

A handwritten signature in black ink, appearing to be the signature of Donald Trump, located on the right side of the page.

THE WHITE HOUSE,
April 27, 2017.

Reader Aids

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at <http://bookstore.gpo.gov/>.

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. This list is also available online at <http://www.archives.gov/federal-register/laws>.

The text of laws is not published in the **Federal**

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H.J. Res. 99/P.L. 115-30
Making further continuing appropriations for fiscal year 2017, and for other purposes. (Apr. 28, 2017; 131 Stat. 134)
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