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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0022; Special Conditions No. 25–676–SC]

Special Conditions: Garmin International, Learjet, Inc., Model 35 and 36 Airplanes; Airplane Electronic-System Security Protection From Unauthorized External Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Garmin International (Garmin) for modifications to Learjet, Inc., (Learjet) Model 35 and 36 airplanes. These airplanes, as modified by Garmin, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature incorporates the Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system into the airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Garmin on May 23, 2017. We must receive your comments by July 7, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0022 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

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

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

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flightcrew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the design approval, and thus delivery, of the affected airplane.

In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds it unnecessary to delay the effective date and finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

Comments Invited

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

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On October 26, 2015, Garmin applied for a supplemental type certificate to install the Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system in Learjet Model 35 and 36 airplanes. These airplanes, which are currently approved under Type Certificate No. A10CE, are twin-engine corporate turbojet airplanes with a maximum takeoff weight of 18,301 lbs., and seating for 8 passengers and 2 crew members.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.101, Garmin must show that the Learjet Model 35 and 36 airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. A10CE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Learjet Model 35 and 36 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the

same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Learjet Model 35 and 36 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Learjet Model 35, 35A, 36, and 36A airplanes, as modified by Garmin, will incorporate the following novel or unusual design feature:

Installation of the Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system into the airplanes.

Discussion

The Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system allows connection to airplane electronic systems and networks, and access from airplane external sources (*e.g.,* operator networks, wireless devices, Internet connectivity, service provider satellite communications, electronic flight bags, etc.) to the previously isolated airplane electronic assets. Airplane electronic assets include electronic equipment and systems, instruments, networks, servers, software and electronic components, field-loadable software and hardware applications, and databases. This system installation may result in network security vulnerabilities from intentional or unintentional corruption of data and systems required for the safety, operations, and maintenance of the airplane. The existing regulations and guidance material did not anticipate this type of system architecture, nor external wired and wireless electronic access to airplane electronic systems. Furthermore, regulations and current system-safety assessment policy and techniques do not address potential security vulnerabilities that could be caused by unauthorized access to airplane electronic systems and networks.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to Learjet Model 35 and 36 airplanes modified by Garmin. Should Garmin apply at a later date for a supplemental type certificate, to incorporate the same novel or unusual design feature for any other model included on the same type certificate, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on two models of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on the airplanes.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Learjet Model 35 and 36 airplanes modified by Garmin.

1. The applicant must ensure that the airplane electronic systems are protected from access by unauthorized sources external to the airplane, including those possibly caused by maintenance activity.

2. The applicant must ensure that electronic system-security threats are identified and assessed, and that effective electronic system-security protection strategies are implemented to protect the airplane from all adverse impacts on safety, functionality, and continued airworthiness.

3. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic system-security safeguards.

Issued in Renton, Washington, on May 17, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10478 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2017–0023; Special Conditions No. 25–677–SC]

Special Conditions: Garmin International, Learjet, Inc., Model 35 and 36 Airplanes; Isolation of Airplane Electronic-System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for Garmin International (Garmin) for modifications to Learjet, Inc., (Learjet) Model 35 and 36 airplanes. These airplanes, as modified by Garmin, will have a novel or unusual design feature when compared to the state of technology envisioned in the airworthiness standards for transport-category airplanes. This design feature incorporates the Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system into the airplanes. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: This action is effective on Garmin on May 23, 2017. We must receive your comments by July 7, 2017.

ADDRESSES: Send comments identified by docket number FAA–2017–0023 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/*and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC, 20590–0001.
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Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,*

including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478).

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

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flightcrew Interface, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1320.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions is impracticable because these procedures would significantly delay issuance of the design approval, and thus delivery, of the affected airplane.

In addition, the substance of these special conditions has been subject to the public-comment process in several prior instances with no substantive comments received. The FAA therefore finds it unnecessary to delay the effective date and finds that good cause exists for making these special conditions effective upon publication in the **Federal Register**.

The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

Comments Invited

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

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On October 26, 2015, Garmin applied for a supplemental type certificate to install the Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system in Learjet Model 35 and 36 airplanes. These airplanes, which are currently approved under Type Certificate No. A10CE, are twin-engine corporate turbojet airplanes with a maximum takeoff weight of 18,301 lbs., and seating for 8 passengers and 2 crew members.

Type Certification Basis

Under the provisions of title 14, Code of Federal Regulations (14 CFR) 21.101, Garmin must show that the Learjet Model 35 and 36 airplanes, as changed, continue to meet the applicable provisions of the regulations listed in Type Certificate No. A10CE or the applicable regulations in effect on the date of application for the change, except for earlier amendments as agreed upon by the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 25) do not contain adequate or appropriate safety standards for the Learjet Model 35 and 36 airplanes because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, these special conditions would also apply to the other model under § 21.101.

In addition to the applicable airworthiness regulations and special conditions, the Learjet Model 35 and 36 airplanes must comply with the fuel-vent and exhaust-emission requirements of 14 CFR part 34, and the noise-certification requirements of 14 CFR part 36.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.101.

Novel or Unusual Design Features

The Learjet Model 35, 35A, 36, and 36A airplanes, as modified by Garmin, will incorporate the following novel or unusual design feature:

Installation of the Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system into the airplanes.

Discussion

The Garmin Flight Stream 210 and GTN 6XX/7XX Navigator system design, installed in Learjet Model 35 and 36 airplanes, introduces the potential for unauthorized persons, accessing the passenger-services domain, to access the airplane-control domain and airplane information-services domain; and further may introduce security vulnerabilities related to the introduction of viruses, worms, user errors, and intentional sabotage of airplane networks, systems, and databases.

The operating systems for current airplane systems usually are proprietary. Therefore, they are not as susceptible to corruption from worms, viruses, and other malicious actions as are more widely used commercial operating systems, such as Microsoft Windows, because access to the design details of these proprietary operating systems is limited to the system developer and airplane integrator. Some systems installed on the Learjet Model 35 and 36 airplanes will use operating systems that are widely used and commercially available from third-party software suppliers. The security vulnerabilities of these operating systems may be more widely known than proprietary operating systems currently used by avionics manufacturers.

These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

Applicability

As discussed above, these special conditions are applicable to Learjet Model 35 and 36 airplanes modified by Garmin. Should Garmin apply at a later date for a supplemental type certificate, to incorporate the same novel or unusual design feature for any other model included on the same type certificate, these special conditions would apply to that model as well.

Conclusion

This action affects only a certain novel or unusual design feature on two models of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of this feature on the airplanes.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

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

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Learjet Model 35 and 36 airplanes modified by Garmin.

1. The applicant must ensure that the design provides isolation from, or airplane electronic-system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to, and all adverse impacts upon, airplane equipment, systems, networks, or other assets required for safe flight and operations.

2. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the airplane is maintained, including all post-type-certification modifications that may have an impact on the approved electronic-system security safeguards.

Issued in Renton, Washington, on May 17, 2017.

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10479 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9430; Directorate Identifier 2016–NM–051–AD; Amendment 39–18874; AD 2017–09–12]

RIN 2120–AA64

Airworthiness Directives; ATR–GIE Avions de Transport Régional Airplanes

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

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes and Model ATR72–102, –202, –212, and –212A airplanes. This AD was prompted by reports of failure of emergency power supply units (EPSUs) in production and in service. This AD requires an inspection to determine the part number and serial number of each EPSU, and replacement if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 27, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of June 27, 2017.

ADDRESSES: For ATR service information identified in this final rule, contact ATR–GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.*

For COBHAM service information identified in this final rule, contact COBHAM Aerospace Communications, 174–178 Quai de Jemmapes, Paris, France, 75010; telephone +33 (0) 1 53 38 98 98; fax +33 (0) 1 42 00 67 83; Internet *www.cobham.com.*

You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9430.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9430; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes and Model ATR72–102, –202, –212, and –212A airplanes. The NPRM published in the **Federal Register** on December 1, 2016 (81 FR 86627). The NPRM was prompted by reports of failure of EPSUs in production and in service. The NPRM proposed to require an inspection to determine the part number and serial number of each EPSU, and replacement if necessary. We are issuing this AD to detect and correct defective internal electronic components, which could adversely affect the EPSU internal battery. This condition could result in a partial or total loss of emergency lighting, possibly affecting passenger evacuation during an emergency situation.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA AD 2016–0070, dated April 11, 2016; corrected April 12, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''); to correct an unsafe condition for certain ATR–GIE Avions de Transport Régional Model ATR42–500 airplanes and Model ATR72–102, –202, –212, and –212A airplanes. The MCAI states:

> Some failure cases have been reported of emergency power supply units (EPSU), Part Number (P/N) 301–3100 Amdt [Amendment] A, both on the production line and in service. The results of the technical investigations revealed that these failures could have been caused by a defective internal electronic component, which could affect the EPSU internal battery charge.
>
> This condition, if not detected and corrected, could result in a partial or total (depending on number of affected EPSUs installed) loss of emergency lighting, possibly affecting passenger evacuation during an emergency situation.
>
> To address this potential unsafe condition, ATR issued Service Bulletin (SB) ATR42–33–0050 and SB ATR72–33–1043 to provide instructions to inspect EPSUs.
>
> For the reason described above, this [EASA] AD requires identification and replacement of the affected EPSUs with serviceable units.
>
> This [EASA] AD was republished to correct two typographical errors in paragraph (3) of the [EASA] AD and to specify the correct Revision (3) of the Cobham SB 301–3100–33–002.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9430.

Comments

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

Request To Refer to Revised Service Information

Empire Airlines requested that the NPRM be revised to refer to the current revision levels of the applicable ATR service information, which were issued by ATR after the NPRM was published in the **Federal Register**. Empire Airlines noted that the revised service information does not include any additional actions for airplanes on which the previous service information was accomplished and the serial numbers of the parts to be inspected have not changed.

We agree with the commenter's request for the reasons provided by the commenter. In paragraph (g) of the proposed AD, we identified ATR Service Bulletin ATR42–33–0050, Revision 01, dated January 26, 2016; and ATR Service Bulletin ATR72–33–1043, Revision 01, dated January 26, 2016; as the appropriate sources of service information for doing the EPSU inspection and corrective actions. We have revised paragraph (g) of this AD to refer to ATR Service Bulletin ATR42–33–0050, Revision 03, dated May 25, 2016; and ATR Service Bulletin ATR72–33–1043, Revision 03, dated July 20, 2016; as the appropriate sources of service information for accomplishing the required actions.

We have also revised paragraph (k) of this AD to provide credit for the actions required by paragraph (g) of this AD if those actions were performed before the effective date of this AD using the service information identified in paragraphs (k)(1) through (k)(6) of this AD.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

ATR has issued Service Bulletin ATR42–33–0050, Revision 03, dated May 25, 2016; and ATR Service Bulletin ATR72–33–1043, Revision 03, dated July 20, 2016. This service information describes procedures for inspecting an EPSU to determine the part number, serial number, and amendment level, and replacing the EPSU. These documents are distinct since they apply to different airplane models.

Cobham Aerospace Communications has issued COBHAM Service Bulletin 301–3100–33–002, Revision 3, dated July 30, 2015, which describes procedures for modifying an EPSU by replacing the printed circuit board.

This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 11 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	1 work-hour × $85 per hour = $85 per EPSU.	$0	$85 per EPSU (4 EPSUs per airplane)	$3,740

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement	1 work-hour × $85 per hour = $85 per EPSU	Not available	$85

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–09–12 ATR–GIE Avions de Transport Régional: Amendment 39–18874; Docket No. FAA–2016–9430; Directorate Identifier 2016–NM–051–AD.

(a) Effective Date

This AD is effective June 27, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to the ATR–GIE Avions de Transport Régional airplanes, certificated in any category, identified in paragraphs (c)(1) and (c)(2) of this AD.

(1) Model ATR42–500 airplanes, all manufacturer serial numbers (MSNs), except those on which ATR Modification 6780 has been embodied in production.

(2) Model ATR72–102, –202, –212, and –212A airplanes, all MSNs on which ATR Modification 3715 has been embodied in production, except those on which ATR Modification 6780 has been embodied in production.

(d) Subject

Air Transport Association (ATA) of America Code 33, Lights.

(e) Reason

This AD was prompted by reports of failure of emergency power supply units (EPSUs) in production and in service. We are issuing this AD to detect and correct defective internal electronic components, which could adversely affect the EPSU internal battery. This condition could result in a partial or total loss of emergency lighting, possibly affecting passenger evacuation during an emergency situation.

(f) Compliance

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

(g) Inspection of EPSU and Corrective Action

Within 12 months after the effective date of this AD, inspect each EPSU on the airplane to determine the part number (P/N) and serial number. For any EPSU having P/N 301–3100 Amendment (Amdt) A and a serial number identified in figure 1 to paragraph (g) of this AD, and that does not have a control sticker marked with ''SIL 301–3100–33–001'': Except as provided by paragraph (i) of this AD, before further flight, replace the EPSU with a serviceable unit, as specified in paragraph (h) of this AD, in accordance with the Accomplishment Instructions of ATR Service Bulletin ATR42–33–0050, Revision 03, dated May 25, 2016; or Service Bulletin ATR72–33–1043, Revision 03, dated July 20, 2016; as applicable. A review of airplane maintenance records may be done in lieu of inspection of the EPSUs on the airplane if the part number and serial number of each EPSU can be positively determined from that review.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD—AFFECTED SERIAL NUMBERS OF EPSU P/N 301–3100 AMDT A

Affected Serial Numbers of EPSU P/N 301–3100 Amdt A							
2905	4929	4960	4994	5025	5077	5113	5156
2906	4930	4961	4995	5026	5079	5114	5157
3401	4931	4962	4996	5027	5080	5115	5158
3697	4932	4963	4997	5028	5081	5116	5159
3825	4933	4964	4998	5029	5082	5117	5160
4343	4934	4965	4999	5031	5083	5118	5161
4420	4935	4966	5000	5032	5084	5119	5162
4634	4936	4967	5001	5033	5085	5120	5163
4706	4937	4968	5002	5034	5086	5121	5164
4707	4938	4969	5003	5038	5087	5122	5166
4708	4939	4970	5004	5041	5088	5123	5171
4709	4940	4971	5005	5042	5089	5124	5172
4710	4941	4972	5006	5046	5090	5125	5173
4711	4942	4973	5007	5047	5091	5126	5174
4712	4943	4976	5008	5050	5092	5127	5175
4713	4944	4977	5009	5052	5096	5128	5176
4714	4945	4978	5010	5054	5097	5129	5177
4715	4946	4979	5011	5055	5098	5130	5178
4716	4947	4980	5012	5056	5099	5131	5179
4717	4948	4981	5013	5058	5100	5132	5180
4718	4949	4982	5014	5059	5101	5133	5181
4719	4950	4983	5015	5065	5103	5134	5182
4720	4951	4984	5016	5067	5104	5135	5183
4721	4952	4985	5017	5068	5105	5136	5184
4722	4953	4986	5018	5069	5106	5138	5185
4723	4954	4987	5019	5070	5107	5139	5186
4724	4955	4988	5020	5071	5108	5140	5187
4745	4956	4989	5021	5072	5109	5147	None
4926	4957	4990	5022	5073	5110	5153	None
4927	4958	4991	5023	5075	5111	5154	None
4928	4959	4993	5024	5076	5112	5155	None

(h) Definition of Serviceable EPSU

For the purpose of this AD, a serviceable EPSU is one that meets the criteria in paragraph (h)(1), (h)(2), or (h)(3) of this AD.

(1) Has P/N 301–3100 Amdt A and a serial number that is not included figure 1 to paragraph (g) of this AD.

(2) Has P/N 301–3100 Amdt A and a serial number that is included in figure 1 to paragraph (g) of this AD, but has a control sticker marked with ''SIL 301–3100–33–001.''

(3) Has P/N 301–3100 Amdt B, or later amendment.

(i) Alternative Modification of Affected EPSU

In lieu of the replacement required by paragraph (g) of this AD, modification of an affected EPSU may be done in accordance with the Accomplishment Instructions of COBHAM Service Bulletin 301–3100–33–002, Revision 3, dated July 30, 2015.

(j) Parts Installation Prohibition

As of the effective date of this AD, no person may install on any airplane any EPSU having P/N 301–3100 Amdt A and a serial number identified in figure 1 to paragraph (g) of this AD, unless it has a control sticker marked with ''SIL 301–3100–33–001.''

(k) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using the applicable service information identified in paragraph (k)(1), (k)(2), (k)(3), (k)(4), (k)(5), or (k)(6) of this AD, provided it can be determined that no EPSU having a serial number listed in figure 1 to paragraph (g) of this AD has been installed on that airplane since the actions in the applicable service bulletin were completed.

(1) ATR Service Bulletin ATR42–33–0050, dated December 11, 2015.

(2) ATR Service Bulletin ATR42–33–0050, Revision 01, dated January 26, 2016.

(3) ATR Service Bulletin ATR42–33–0050, Revision 02, dated May 2, 2016.

(4) ATR Service Bulletin ATR72–33–1043, dated December 11, 2015.

(5) ATR Service Bulletin ATR72–33–1043, Revision 01, dated January 26, 2016.

(6) ATR Service Bulletin ATR72–33–1043, Revision 02, dated May 2, 2016.

(l) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(m) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA AD 2016–0070, dated April 11, 2016; corrected April 12, 2016; for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9430.

(2) For more information about this AD, contact Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1112; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(3) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (n)(3), (n)(4), and (n)(5) of this AD.

(n) Material Incorporated by Reference

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

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

(i) ATR Service Bulletin ATR42–33–0050, Revision 03, dated May 25, 2016.

(ii) ATR Service Bulletin ATR72–33–1043, Revision 03, dated July 20, 2016.

(iii) COBHAM Service Bulletin 301–3100–33–002, Revision 3, dated July 30, 2015.

(3) For ATR service information identified in this AD, contact ATR–GIE Avions de Transport Régional, 1, Allée Pierre Nadot, 31712 Blagnac Cedex, France; telephone +33 (0) 5 62 21 62 21; fax +33 (0) 5 62 21 67 18; email *continued.airworthiness@atr.fr;* Internet *http://www.aerochain.com.*

(4) For COBHAM service information identified in this AD, contact Cobham Aerospace Communications, 174–178 Quai de Jemmapes, Paris, France, 75010; telephone +33 (0) 1 53 38 98 98; fax +33 (0) 1 42 00 67 83.

(5) 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.

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

Issued in Renton, Washington, on April 27, 2017.

Paul Bernado,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10258 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0450; Directorate Identifier 2017–CE–013–AD; Amendment 39–18883; AD 2017–10–09]

RIN 2120–AA64

Airworthiness Directives; Textron Aviation Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Textron Aviation Inc. Models 402C and 414A airplanes (type certificate previously held by Cessna Aircraft Company). This AD requires inspecting the nacelle fittings for cracks, replacing if necessary, and reporting the results of the inspection to the FAA. This AD was prompted by reports of cracks found on certain nacelle fittings. We are issuing this AD to correct the unsafe condition on these products.

DATES: This AD is effective June 7, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 7, 2017.

We must receive comments on this AD by July 7, 2017.

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

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

30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this final rule, contact Textron Aviation Inc., Textron Aviation Customer Service, One Cessna Blvd., Wichita, Kansas 67215; telephone: (316) 517–5800; email: *corpcomm@txtav.com;* Internet: *www.txtav.com.* You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0450.

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–2017–0450; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Paul Chapman, Aerospace Engineer, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4152; fax: (316) 946–4107, email: *paul.chapman@faa.gov* or *Wichita-COS@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We received a report from an operator who discovered a failed nacelle fitting on a Textron Aviation Inc. Model 402C airplane. The nacelle fitting was completely cracked through and no longer functioned as intended.

Investigation revealed that the part was not manufactured in accordance with the design specification. We have determined that out-of-tolerance parts may lead to premature failure caused by metal fatigue.

The Textron Aviation Inc. Model 414A airplanes share a similar design in the affected area to that of the Model 402C airplanes.

This condition, if not corrected, could result in failure of the nacelle fitting, which could lead to engine nacelle separation and loss of control. We are issuing this AD to correct the unsafe condition on these products.

Related Service Information Under 1 CFR Part 51

We reviewed Textron Aviation Mandatory Multi-engine Service Letter MEL–54–02, Revision 2, dated March 29, 2017. The service letter describes procedures for inspecting the nacelle fittings for cracks and replacing if necessary. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES**.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

AD Requirements

This AD requires accomplishing the actions specified in the service information described previously. This AD also requires sending the inspection results to the FAA so that appropriate information can be evaluated for any possible change in future inspections.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because cracks in the nacelle fitting may cause the fitting to fail, which could lead to engine nacelle separation and loss of control. Therefore, we find that notice and opportunity for prior public comment are impracticable and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements affecting flight safety and was not preceded by notice and an opportunity for public comment. However, we invite you to send any written data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include the docket number FAA–2017–0450 and Directorate Identifier 2017–CE–013–AD at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD 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 AD.

Costs of Compliance

We estimate that this AD affects 555 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspect nacelle fittings	2 work-hours × $85 per hour = $170	N/A	$170	$94,350

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

Action	Labor cost	Parts cost	Cost per product
Replace nacelle fitting P/N 5292029–21 (this is the replacement part for P/N 5292029–9, which is no longer in production).	80 work-hours × $85 per hour = $6,800.	$4,084	$10,884

Action	Labor cost	Parts cost	Cost per product
Replace nacelle fitting P/N 5292029–22 (this is the replacement part for P/N 5292029–10, which is no longer in production).	80 work-hours × $85 per hour = $6,800.	3,985	10,785
Replace nacelle fitting P/N 5292029–23 (this is the replacement part for P/N 5292029–11, which is no longer in production).	80 work-hours × $85 per hour = $6,800.	5,373	12,173
Replace nacelle fitting P/N 5292029–24 (this is the replacement part for P/N 5292029–12, which is no longer in production).	80 work-hours × $85 per hour = $6,800.	5,373	12,173
Replace nacelle fitting P/N 5292029–21 and P/N 5292029–23 (both left-hand engine beam fittings).	128 work-hours × $85 per hour = $10,880.	4,084 5,373	20,337
Replace nacelle fitting P/N 5292029–22 and P/N 5292029–24 (both right-hand engine beam fittings).	128 work-hours × $85 per hour = $10,880.	3,985 5,373	20,238

Paperwork Reduction Act

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–10–09 Textron Aviation Inc.: Amendment 39–18883; Docket No. FAA–2017–0450; Directorate Identifier 2017–CE–013–AD.

(a) Effective Date

This AD is effective June 7, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Textron Aviation Inc. (type certificate previously held by Cessna Aircraft Company) Model 402C airplanes, serial numbers 402C0001 through 402C1020, and Model 414A airplanes, serial numbers 414A0001 through 414A1212, that are certificated in any category; and are equipped with either of the following:

(1) Cessna Multi-Engine Service Kit SK402–47, ''Lower Front Wing Spar Cap Inspection/Modification,'' Original Issue, Revision A, or Revision B; or

(2) Nacelle fittings part numbers (P/Ns) 5292029–9, 5292029–10, 5292029–11, 5292029–12, 5292029–21, 5292029–22, 5292029–23, or 5292029–24.

Note 1 to paragraph (c) of this AD: P/Ns 5292029–9, 5292029–10, 5292029–11, 5292029–12, 5292029–21, 5292029–22, 5292029–23, or 5292029–24 were installed when the Cessna Multi-Engine Service Kit SK402–47 was installed.

(d) Subject

Joint Aircraft System Component (JASC)/ Air Transport Association (ATA) of America Code 5415; Nacelles/Pylons.

(e) Unsafe Condition

This AD was prompted by reports of cracks found on certain nacelle fittings. We are issuing this AD to detect and correct cracks on the nacelle fitting, which could cause the nacelle fitting to fail. This failure could result in engine nacelle separation and loss of control. We are issuing this AD to correct the unsafe condition on these products.

(f) Compliance

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

(g) Inspection

Inspect the nacelle fitting following the Accomplishment Instructions (except for paragraph 6) in Textron Aviation Mandatory Multi-engine Service Letter MEL–54–02, Revision 2, dated March 29, 2017, at the applicable compliance times specified in paragraphs (g)(1) through (2) of this AD.

(1) *For airplanes with less than 7,400 hours time-in-service (TIS) on the affected nacelle fitting:* Before or upon accumulating 3,500 hours (TIS) on the nacelle fitting or within the next 100 hours TIS after June 7, 2017 (the

effective date of this AD), whichever occurs later. Repetitively thereafter inspect every 120 hours TIS until the nacelle fitting has reached 7,500 hours TIS. When the airplane reaches 7,500 hours TIS on the affected nacelle fitting, the repetitive inspection time must be changed to 60 hours TIS. A 10-hour TIS grace period is allowed for those airplanes between 51 and 110 hours TIS for the first repetitive inspection when the airplane reaches 7,500 hours TIS on the nacelle.

(2) *For airplanes with 7,400 hours TIS or more on the affected nacelle fitting:* Before or upon accumulating 7,500 hours TIS on the nacelle fitting or within the next 25 hours TIS after June 7, 2017 (the effective date of this AD), whichever occurs later. Repetitively thereafter inspect every 60 hours TIS.

(h) Replacement

(1) If cracks are found during any inspection required in paragraph (g) of this AD, before further flight, replace the cracked nacelle fitting.

(2) If a cracked nacelle fitting P/N 5292029–9, 5292029–10, 5292029–11, 5292029–12, 5292029–21, 5292029–22, 5292029–23, or 5292029–24, is replaced with a new nacelle fitting P/N 5292029–9, 5292029–10, 5292029–11, 5292029–12, 5292029–21, 5292029–22, 5292029–23, or 5292029–24, the new part is subject to the requirements of this AD.

(i) Reporting Requirement

Within 10 days after doing the initial inspection in paragraph (g) of this AD or within 10 days after June 7, 2017 (the effective date of this AD), whichever occurs later, using the Attachment to Textron Aviation Mandatory Multi-engine Service Letter MEL–54–02, Revision 2, dated March 29, 2017, ''Visual Inspection Results Form,'' complete the report and send a copy to the Wichita Aircraft Certification Office (ACO) at the address listed in paragraph (m) of this AD or by email to *Wichita-COS@faa.gov.*

(j) Credit for Actions Accomplished in Accordance With Previous Service Information

This AD allows credit for the inspections required in paragraph (g) of this AD if done before June 7, 2017 (the effective date of this AD), following Textron Aviation Mandatory Multi-engine Service Letter MEL–54–02, dated December 23, 2016, or Textron Aviation Mandatory Multi-engine Service Letter MEL–54–02, Revision 1, dated March 22, 2017.

(k) Paperwork Reduction Act Burden Statement

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

(l) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Wichita ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (m) of this AD.

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

(m) Related Information

For more information about this AD, contact Paul Chapman, Aerospace Engineer, Wichita ACO, 1801 Airport Road, Room 100, Wichita, Kansas 67209; telephone: (316) 946–4152; fax: (316) 946–4107; email: *paul.chapman@faa.gov* or *Wichita-COS@faa.gov.*

(n) Material Incorporated by Reference

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

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

(i) Textron Aviation Mandatory Multi-engine Service Letter MEL–54–02, Revision 2, dated March 29, 2017.

(ii) Reserved.

(3) For Textron Aviation Inc. service information identified in this AD, contact Textron Aviation Inc., Textron Aviation Customer Service, One Cessna Blvd., Wichita, KS 67215; telephone: (316) 517–5800; email: *corpcom@txtav.comm;* Internet: *www.txtav.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0450.

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

Issued in Kansas City, Missouri, on May 9, 2017.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10391 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7426; Directorate Identifier 2015–NM–199–AD; Amendment 39–18900; AD 2017–11–01]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–100, –200, and –200C series airplanes. This AD is intended to complete certain mandated programs to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. This AD requires various repetitive inspections for cracking of certain lugs on the rear spar and horizontal stabilizer, related investigative and corrective actions if necessary, and replacement of the center section rear spar upper chord as applicable. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 27, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 27, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for

and locating Docket No. FAA–2016–7426.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7426; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Garrido, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *George.Garrido@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–100, –200, and –200C series airplanes. The NPRM published in the **Federal Register** on July 12, 2016 (81 FR 45075) (''the NPRM''). The NPRM was prompted by the need to complete certain mandated programs intended to support the airplane reaching its LOV of the engineering data that support the established structural maintenance program. The NPRM proposed to require repetitive detailed, high frequency eddy current (HFEC), and ultrasonic inspections of the center section rear spar upper clevis lugs and horizontal stabilizer rear spar upper lugs, as applicable, for any cracking, and related investigative and corrective actions if necessary. For certain airplanes, the NPRM also proposed to require replacement of the center section rear spar upper chord with a new part or a serviceable center section assembly. The NPRM also proposed to require repetitive HFEC and fluorescent dye penetrant inspections of the center section for cracking of the front and rear spar upper clevis lugs or horizontal stabilizer front and rear spar upper lugs, and related investigative and corrective actions if necessary. We are issuing this AD to detect and correct cracking in the rear spar upper clevis lugs of the center section, and in the rear spar upper lugs of the horizontal stabilizer, which could result in the loss of structural integrity and controllability of the airplane.

Comments

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

Request To Remove the Compliance Time Difference

Boeing requested that we remove paragraph (o)(2) of the proposed AD, which specifies an exception to Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015—the service information specifies a compliance time or repeat interval as ''Horizontal Stabilizer Center Section flight cycles'' or ''Horizontal Stabilizer flight cycles,'' and the proposed AD requires compliance for the corresponding time or repeat interval in airplane flight cycles.

Boeing stated that the purpose of specifying horizontal stabilizer flight cycles and horizontal stabilizer center section flight cycles is to ensure that cycle accumulation is tracked to the component. Boeing also stated that the outboard horizontal stabilizer is contained in the ''replaceable'' structural components list and that it is possible to move the center section of the horizontal stabilizer to another airplane of the same type design without any rework to the component. Boeing commented that as the fleet ages and airplanes are transferred among operators, used components will be more prevalent, and it is therefore necessary to track the replaceable component flight cycles accumulated after the AD date.

Boeing also stated that the compliance times are subsequent to the later of the compliance time specified in Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, or the date of the spar chord replacement (horizontal stabilizer or center section as applicable) with a new spar chord. Boeing commented that for airplanes on which the age of parts is not known, the compliance time defaults to being subsequent to Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, and are therefore, enforceable as stated, and that likewise, the repetitive intervals must follow the component after transfer. Boeing stated that since the repetitive inspection interval is subsequent to the previous inspection specified in Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, there are no circumstances where the operator will be unable to identify those incremental cycles on the component.

We agree with the commenter's request. It is possible to replace the horizontal stabilizer and/or the horizontal stabilizer center section on one Model 737–100, –200, or –200C series airplane (''Model 737CL airplane'') with that from another airplane. The limited information available suggests that a center section has been replaced on at least one Model 737CL airplane, and numerous horizontal stabilizers have been replaced. If a major structural element such as the horizontal stabilizer or the horizontal stabilizer center section is moved from one airplane to a different airplane, the hours and cycles that the part has accumulated should be tracked separately from the airplane flight cycles and flight hours.

Boeing has published Service Letter 737–SL–05–019, dated November 23, 2016, which lists Removable Structural Components (RSC) for Model 737–200, 737–200C, 737–300, 737–400, and 737–500 series airplanes in accordance with Air Transport Association (ATA) Specification 120. That list does include some parts from the horizontal stabilizer and the horizontal stabilizer center section. In order to make sure that cycle accumulation is tracked to the component, we have removed paragraph (o)(2) of the proposed AD from this AD. We have also redesignated paragraph (o)(1) of the proposed AD as paragraph (o) of this AD.

Clarification of Terminating Actions

We have revised paragraph (q)(1) of this AD to clarify that accomplishing the initial inspections specified in paragraph (g) of this AD terminates all requirements of AD 84–23–05, Amendment 39–4949 (Docket No. 84–NM–37–AD; 49 FR 45744, November 20, 1984).

We have revised paragraph (q)(2) of this AD to clarify that accomplishing the initial inspections specified in paragraphs (m) and (n) of this AD terminates all requirements of AD 86–12–05, Amendment 39–5321 (Docket No. 85–NM–162–AD; 51 FR 18771, May 22, 1986).

Conclusion

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

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015. The service information describes procedures for repetitive detailed, HFEC, and ultrasonic inspections for cracking of the center section rear spar upper clevis lugs and rear spar upper lugs of the horizontal stabilizer; repetitive HFEC and fluorescent dye penetrant inspections for cracking in the front and rear spar upper clevis lugs of the center section and the front and rear spar upper lugs of the horizontal stabilizer; and related investigative and corrective actions. For certain airplanes, the service information describes procedures for replacement of the center section rear spar upper chord with a new part and replacing the center section with a serviceable center section assembly, or installing bushings and sleeves, as applicable. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 84 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Repetitive detailed, HFEC, and ultrasonic inspections.	9 work-hours × $85 per hour = $765 per inspection cycle.	$0	$765 per inspection cycle.	$64,260 per inspection cycle.
Repetitive HFEC and fluorescent dye penetrant inspections.	118 work-hours × $85 per hour = $10,030 per inspection cycle.	0	$10,030 per inspection cycle.	$842,520 per inspection cycle.
Replacement	Up to 252 work-hours × $85 per hour = $21,420 per inspection cycle.	25,000	Up to $46,420 per inspection cycle.	Up to $3,899,280 per inspection cycle.

We estimate the following costs to do any necessary inspections, repairs, and replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these inspections, repairs, and replacements:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Bolt and Bushing Removal/Inspection, Fabrication, and Installation.	101 work-hours × $85 per hour = $8,585	$0	$8,585.
Repair and replacement	Up to 252 work-hours × $85 per hour = $21,420	25,000	Up to $46,420.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–11–01 The Boeing Company: Amendment 39–18900; Docket No.

FAA–2016–7426; Directorate Identifier 2015–NM–199–AD.

(a) Effective Date

This AD is effective June 27, 2017.

(b) Affected ADs

This AD affects AD 84–23–05, Amendment 39–4949 (Docket No. 84–NM–37–AD; 49 FR 45744, November 20, 1984); and AD 86–12–05, Amendment 39–5321 (Docket No. 85–NM–162–AD; 51 FR 18771, May 22, 1986).

(c) Applicability

This AD applies to The Boeing Company Model 737–100, –200, and –200C series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD is intended to complete certain mandated programs intended to support the airplane reaching its limit of validity (LOV) of the engineering data that support the established structural maintenance program. We are issuing this AD to detect and correct cracking in the rear spar upper clevis lugs of the center section, and in the rear spar upper lugs of the horizontal stabilizer, which could result in the loss of structural integrity and controllability of the airplane.

(f) Compliance

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

(g) Inspections, Related Investigative and Corrective Actions (Service Information Tables 1 and 3)

At the applicable time specified in table 1 or table 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD: Do detailed, high frequency eddy current (HFEC), and ultrasonic inspections of the center section rear spar upper clevis lugs for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 1 or table 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(h) Replacement (Service Information Table 1)

For airplanes identified as Group 1, Configuration 1, in Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015: At the applicable time specified in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, replace the center section rear upper chord with a new part or replace the center section with a serviceable center section assembly, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(i) Repetitive Post-Replacement Inspections, Related Investigative and Corrective Actions (Service Information Table 2)

For airplanes identified as Group 1, Configuration 1, in Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, with a new or serviceable 0.932-inch-thick center section rear spar upper chord: At the applicable time specified in table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, do detailed, HFEC, and ultrasonic inspections of the center section rear spar upper chord clevis lugs for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(j) Post-Replacement Inspections, Related Investigative and Corrective Actions (Service Information Table 4)

For airplanes on which the center section rear spar upper chord was last replaced with a new part or serviceable part: Within the applicable times specified in table 4 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, do detailed, HFEC, and ultrasonic inspections of the center section rear spar upper chord clevis lugs for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 4 of 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(k) Repetitive Inspections, Related Investigative and Corrective Actions of the Horizontal Stabilizer (Service Information Table 5)

Within the applicable time specified in table 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD, do detailed, HFEC, and ultrasonic inspections of the rear spar upper lugs of the horizontal stabilizer for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 5 of 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(l) Post Replacement Inspections, Related Investigative and Corrective Actions (Service Information Table 6)

For airplanes with a replaced horizontal stabilizer with a new part or serviceable assembly, within the applicable times specified in table 6 of 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD: Do a detailed, HFEC, and ultrasonic inspection of the rear spar upper lugs of the horizontal stabilizer for any cracking, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 6 of 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(m) Scheduled Inspections, Related Investigative and Corrective Actions (Service Information Table 7)

Within the applicable times specified in table 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD: Do HFEC and fluorescent dye penetrant inspections for cracking in the front and rear spar upper clevis lugs of the center section and front and rear spar upper lugs of the horizontal stabilizer, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(n) Post Scheduled Inspections, Related Investigative and Corrective Actions (Service Information Table 8)

For airplanes on which the center section rear spar upper chord or horizontal stabilizer rear spar upper chord has been replaced: Within the applicable time specified in table 8 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, except as specified in paragraph (o) of this AD; do HFEC and fluorescent dye penetrant

inspections for cracking in the front and rear spar upper clevis lugs of the center section or front and rear spar upper lugs of the horizontal stabilizer, as applicable, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015; except as specified in paragraph (p) of this AD. Do all related investigative and corrective actions before further flight. Repeat the inspections thereafter at the applicable times specified in table 8 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(o) Exceptions to the Service Information: Compliance Times

Where Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, specifies a compliance time ''after the Revision 2 date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(p) Exception to the Service Information: Repair Compliance Method

If any cracking of the lug is found during any inspection required by this AD, and Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015, specifies to contact Boeing for appropriate action: Before further flight, repair the lug using a method approved in accordance with the procedures specified in paragraph (r) of this AD.

(q) Terminating Actions

(1) For Model 737–100, –200, and –200C series airplanes: Accomplishment of the initial inspections specified in paragraph (g) of this AD terminates all requirements of AD 84–23–05, Amendment 39–4949 (Docket No. 84–NM–37–AD; 49 FR 45744, November 20, 1984).

(2) For Model 737–200 and –200C series airplanes: Accomplishment of the initial inspections specified in paragraph (m) and (n) of this AD terminates all requirements of AD 86–12–05, Amendment 39–5321 (Docket No. 85–NM–162–AD; 51 FR 18771, May 22, 1986).

(r) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Los Angeles Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (s) of this AD.

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

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

(s) Related Information

For more information about this AD, contact George Garrido, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5232; fax: 562–627–5210; email: *George.Garrido@faa.gov.*

(t) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–55A1033, Revision 2, dated August 7, 2015.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on May 12, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10259 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9433; Directorate Identifier 2016–NM–159–AD; Amendment 39–18901; AD 2017–11–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model MD–90–30 airplanes. This AD was prompted by a report of cracking in a horizontal stabilizer rear spar cap. This AD requires repetitive inspections for any crack in the left and right side horizontal stabilizer rear spar upper caps, and repair or replacement if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 27, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 27, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9433.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9433; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: James Guo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *james.guo@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model MD–90–30 airplanes. The NPRM published in the **Federal Register** on December 5, 2016 (81 FR 87499). The NPRM was prompted by a report of cracking in an MD–90 horizontal stabilizer rear spar cap at station XE ± 5.931. The NPRM proposed to require repetitive open hole eddy current high frequency (ETHF) or surface eddy current low frequency (ETLF) inspections for any crack in the left and right side horizontal stabilizer rear spar upper caps, and repair or replacement if necessary. We are issuing this AD to detect and correct fatigue cracking of the horizontal stabilizer rear spar upper cap, which could adversely affect the structural integrity of the airplane.

Comments

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

Support for the NPRM

Boeing stated that it supports the NPRM.

Request To Allow Installation of a Serviceable Spare as a Corrective Action

Delta Airlines requested that we allow installation of a qualified serviceable spare horizontal stabilizer as a corrective action in lieu of repairing or replacing the horizontal stabilizer. Delta noted that this type of corrective action has been approved as an alternative method of compliance (AMOC) for other ADs affecting the horizontal stabilizer.

We disagree with the request. While an AMOC has been previously granted to allow applicants to replace an unserviceable stabilizer with a serviceable stabilizer, each such AMOC approval required the applicant to demonstrate that they had a sufficient program in place to trace, document, inspect, and install the serviceable horizontal stabilizers. The details of such a program cannot be prescribed and documented within an AD. However, we will consider requests for approval of an AMOC under the provisions of paragraph (j) of this AD.

Explanation of Change to NPRM

We revised paragraph (g) of the proposed AD to refer to the compliance times of both table 1 and table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016. The reference to table 2 had been inadvertently omitted from the proposed AD. Table 2 specifies the same compliance times as table 1, but table 2 applies to the right side horizontal rear spar upper cap, while table 1 applies to the left side.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016. The service information describes procedures for repetitive open hole ETHF or surface ETLF inspections for any crack in the left and right side horizontal stabilizer rear spar upper caps common to the elevator hinge fitting at station XE = ± 5.931, and repair or replacement. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 105 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	8 work-hours × $85 per hour = $680 per inspection cycle.	$0	$680 per inspection cycle.	$71,400 per inspection cycle.

We estimate the following costs to do any necessary repairs or replacements that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per roduct
Upper cap splice repair or replacement (each side)	368 work-hours × $85 per hour = $31,280	$64,306	$95,586

Authority for This Rulemaking

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

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

products identified in this rulemaking action.

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–11–02 The Boeing Company: Amendment 39–18901; Docket No. FAA–2016–9433; Directorate Identifier 2016–NM–159–AD.

(a) Effective Date

This AD is effective June 27, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model MD–90–30 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 55, Stabilizers.

(e) Unsafe Condition

This AD was prompted by a report of cracking in a horizontal stabilizer rear spar cap at station XE = ± 5.931. We are issuing this AD to detect and correct fatigue cracking of the horizontal stabilizer rear spar upper cap, which could adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Repetitive Open Hole Eddy Current High Frequency or Surface Eddy Current Low Frequency Inspections

Except as required by paragraph (i) of this AD, at the applicable times specified in table 1 or table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016: Do either an open hole eddy current high frequency (ETHF) or a surface eddy current low frequency (ETLF) inspection for any crack in the left and right side horizontal stabilizer rear spar upper caps common to the elevator hinge fitting at station XE = ± 5.931, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016. Repeat the inspection thereafter at the time specified in tables 1 through 4, as applicable, of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016.

(h) Horizontal Rear Spar Upper Cap Splice Repair or Replacement

If any crack is found during any inspection required by paragraph (g) of this AD, repair or replace before further flight in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016.

(i) Service Information Exception

Where Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016, specifies a compliance time ''after the original issue date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) For service information that contains steps that are labeled as Required for Compliance (RC), the provisions of paragraphs (j)(4)(i) and (j)(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.

(k) Related Information

For more information about this AD, contact James Guo, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5357; fax: 562–627–5210; email: *james.guo@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin MD90–55A018, dated June 29, 2016.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA.

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

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

www.archives.gov/federal-register/cfr/ibr-locations.html.

Issued in Renton, Washington, on May 12, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10252 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9434; Directorate Identifier 2016–NM–136–AD; Amendment 39–18896; AD 2017–10–22]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the web lap splices in the aft pressure bulkhead are subject to widespread fatigue damage (WFD). This AD requires repetitive inspections of the web lap splices in the aft pressure bulkhead for cracking of the fastener holes, and repair if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 27, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 27, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740; telephone: 562–797–1717; Internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9434.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9434; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes. The NPRM published in the **Federal Register** on December 5, 2016 (81 FR 87496) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that the web lap splices in the aft pressure bulkhead are subject to WFD. The NPRM proposed to require repetitive inspections of the web lap splices in the aft pressure bulkhead for cracking of the fastener holes, and repair if necessary. We are issuing this AD to detect and correct cracks of the web lap splices in the aft pressure bulkhead, which could result in possible rapid decompression and loss of structural integrity of the airplane.

Comments

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

Support for the NPRM

Boeing, United Airlines, and commenter Razia Khan concurred with the content of the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that installation of winglets, as provided in Supplemental Type Certificate (STC) ST00830SE, does not affect the ability to accomplish the actions proposed in the NPRM.

We agree with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) of this AD and added paragraph (c)(2) to this AD to state that installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request To Omit Inspections of Existing Repairs

Southwest Airlines (SWA) asked that we include provisions for airplanes on which repairs have been accomplished previously per the structural repair manual or per an Organization Designation Authorization (ODA) signed FAA Form 8100–9 to omit the inspections at the repair locations. SWA noted that these existing repairs would inhibit the inspections specified in paragraph (g) of the proposed AD. SWA added that including follow-on actions as an alternative to the actions specified in Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016, when an existing repair inhibits the inspections required by paragraph (g) of the proposed AD, would also be acceptable.

We do not agree with the commenter's request. We acknowledge that SWA is requesting relief from additional approval for actions for existing repaired locations. However, SWA did not identify any specific structural repair manual (SRM) repairs or provide a general repair description of repairs previously approved by the Boeing ODA per an FAA Form 8100–9. These criteria have been published by Boeing in related service information for similar issues, but not for this particular issue. Under the provisions of paragraph (i) of this AD, we will consider requests for approval of an AMOC if appropriate data are submitted to substantiate that the method would provide an acceptable level of safety. We have made no change to this AD in this regard.

Conclusion

We reviewed the relevant data, considered the comments received, and determined that air safety and the

public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016. The service information describes procedures for a low frequency eddy current inspection to detect cracking of each web lap splice of the aft pressure bulkhead at the fastener row common to the stiffener, and a high frequency eddy current inspection to detect cracking of each web lap splice of the aft pressure bulkhead at the fastener row not common to the stiffener. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 693 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Cost per product	Cost on U.S. operators
Inspections	26 work-hours × $85 per hour = $2,210 per inspection cycle.	$2,210 per inspection cycle	$1,531,530 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–10–22 The Boeing Company: Amendment 39–18896; Docket No. FAA–2016–9434; Directorate Identifier 2016–NM–136–AD.

(a) Effective Date

This AD is effective June 27, 2017.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to The Boeing Company Model 737–600, –700, –700C, –800, and –900 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016.

(2) Installation of Supplemental Type Certificate (STC) ST00830SE [*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/184DE9A71EC3FA5586257EAE00707DA6?OpenDocument&Highlight=st00830se*] does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST00830SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the web lap splices in the aft pressure bulkhead are subject to widespread fatigue damage (WFD). We are issuing this AD to detect and correct cracks of the web lap splices in the aft pressure bulkhead, which could result in possible 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) Repetitive Inspections

Except as provided by paragraph (h) of this AD, at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016: Do a low frequency eddy current (LFEC) inspection to detect cracking of each web lap splice of the aft pressure bulkhead at the fastener row common to the stiffener, and a high frequency eddy current (HFEC) inspection to detect cracking of each web lap splice of the aft pressure bulkhead at the fastener row not common to the stiffener, in accordance with the

Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016.

(1) If no crack is found: Repeat the inspections thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016.

(2) If any crack is found: Do the actions specified in paragraphs (g)(2)(i) and (g)(2)(ii) of this AD.

(i) Repair the crack before further flight using a method approved in accordance with the procedures specified in paragraph (i) of this AD. Although Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016, specifies to contact Boeing for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair as specified in this paragraph.

(ii) On areas that are not repaired, repeat the inspections thereafter at the applicable times specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016.

(h) Service Information Exception

Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016, specifies a compliance time ''after the Original Issue date of this Service Bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

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

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

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

(j) Related Information

For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6450; fax: 425–917–6590; email: *alan.pohl@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–53A1353, dated July 21, 2016.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on May 10, 2017.

Jeffrey E. Duven,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10263 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9394; Directorate Identifier 2016–NM–162–AD; Amendment 39–18872; AD 2017–09–10]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 747–400, 747–400D, and 747–400F airplanes. This AD was prompted by a report of a crack in the left wing front spar web, found following a fuel leak. This AD requires repetitive inspections for cracking of the front spar web, and repairs if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 27, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 27, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9394.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9394; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket

Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov*.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 747–400, 747–400D, and 747–400F airplanes. The NPRM published in the **Federal Register** on December 2, 2016 (81 FR 86977) (''the NPRM''). The NPRM was prompted by a report indicating that a fuel leak in one airplane led to the discovery of a 13.4-inch crack in the left wing front spar web inboard of pylon number 2 between front spar station inboard (FSSI) 655.75 and FSSI 660. The NPRM proposed to require repetitive detailed, ultrasonic, and high frequency eddy current inspections for cracking of the front spar web between FSSI 628 and FSSI 713, and repairs if necessary. We are issuing this AD to detect and correct cracking in the front spar web, which could lead to fuel leaks and a consequent fire.

Comments

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

Support for the NPRM

Boeing and commenter Melanie Smith stated that they support the NPRM.

Request To Update the Labor Costs

British Airways (BA), Cargolux Airlines (CLX), and KLM Royal Dutch Airlines (KLM) all stated that the actual work-hours required to do the mandated inspections are higher than the estimate listed in the NPRM. They estimated the inspections actually take between 137 and 159 work-hours, not the 55 work-hours stated in the NPRM.

We agree that the estimated work-hours should be increased. When issuing a service bulletin, Boeing estimates work-hours under expected conditions. As operators implement the service bulletin, they may find the actual work-hours are higher or lower than estimated. We have updated the Costs of Compliance section of this AD to reflect a conservative estimate of 159 work-hours per inspection cycle.

Request To Change the Initial and Repetitive Compliance Times

BA, CLX, and KLM all requested that we change the initial and/or repetitive compliance times to align with scheduled maintenance checks. BA proposed to do time-limited alternative inspections in the most critical web locations and to defer the majority of the web inspections to coincide with longer planned maintenance checks. CLX requested that we change the initial compliance time from 6 months to 24 months, and that we change the repetitive inspection interval from 1,200 flight cycles to 2,000 flight cycles. KLM requested that we extend the repetitive inspection intervals for Model 747 freighters from 1,200 flight cycles to 1,800 flight cycles. Each of the commenters noted that the actual work-hours are higher than estimated in the NPRM, and the inspections would require additional downtime and costs if not done at the same time as regularly scheduled maintenance. None of the commenters provided engineering analyses to support their proposed extended compliance times.

We disagree with the requests. In developing an appropriate compliance time for this action, we considered the urgency associated with the subject unsafe condition and the practical aspect of accomplishing the required modification within a period of time that corresponds to the normal scheduled maintenance for most affected operators. Boeing is aware of the discrepancy in work-hours and is developing a request for a global alternative method of compliance (AMOC) to provide operators an alternative for both the areas of inspection and the compliance times. In addition, operators have the option of proposing an adjustment to the compliance times, supported by appropriate engineering analyses, in accordance with the provisions of paragraph (j) of this AD. We have not changed this final rule regarding this issue.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 747–57A2357, dated September 12, 2016. The service information describes procedures for repetitive detailed, ultrasonic, and high frequency eddy current inspections, and repairs of cracking of the front spar web between FSSI 628 and FSSI 713. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 137 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	159 work-hours × $85 per hour = $13,515 per inspection cycle.	$0	$13,515 per inspection cycle	$1,851,555 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–09–10 The Boeing Company: Amendment 39–18872; Docket No. FAA–2016–9394; Directorate Identifier 2016–NM–162–AD.

(a) Effective Date

This AD is effective June 27, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all The Boeing Company Model 747–400, 747–400D, and 747–400F airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 57, Wings.

(e) Unsafe Condition

This AD was prompted by a report of a 13.4-inch crack in the left wing front spar web inboard of pylon number 2 between front spar station inboard (FSSI) 655.75 and FSSI 660, found following a fuel leak. We are issuing this AD to detect and correct cracking in the front spar web, which could lead to fuel leaks and a consequent fire.

(f) Compliance

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

(g) Repetitive Detailed, Ultrasonic, and High Frequency Eddy Current Inspections

At the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–57A2357, dated September 12, 2016, except as provided by paragraph (i) of this AD, do detailed, ultrasonic, and high frequency eddy current inspections for any cracking in the front spar web, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 747–57A2357, dated September 12, 2016. Repeat the inspections thereafter at the applicable time specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–57A2357, dated September 12, 2016.

(h) Repair of Any Cracking

If any crack is found during any inspection required by paragraph (g) of this AD, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD. Thereafter, repeat the inspections specified in paragraph (g) of this AD at all unrepaired areas.

(i) Service Information Exceptions

Where paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 747–57A2357, dated September 12, 2016, specifies a compliance time ''after the original date of this service bulletin,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

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

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

(k) Related Information

For more information about this AD, contact Bill Ashforth, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6432; fax: 425–917–6590; email: *bill.ashforth@faa.gov*.

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 747–57A2357, dated September 12, 2016.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on April 27, 2017.

Paul Bernado,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10257 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9439; Directorate Identifier 2016–NM–170–AD; Amendment 39–18870; AD 2017–09–08]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 787–8 airplanes. This AD was prompted by a report indicating that during an airplane inspection in production, the variable frequency starter generator (VFSG) power feeder cables were found to contain terminal lugs incorrectly installed common to terminal blocks located in the wing front spar. This AD requires a general visual inspection of the wings, section 16, terminal lugs at the terminal power block of the VFSG power feeder cable for correct installation and applicable corrective actions. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective June 27, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of June 27, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; Internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9439.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9439; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Brendan Shanley, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6492; fax: 425–917–6590; email: *brendan.shanley@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 787–8 airplanes. The NPRM published in the **Federal Register** on December 16, 2016 (81 FR 91066) (''the NPRM''). The NPRM was prompted by a report indicating that during an airplane inspection in production, the VFSG power feeder cables were found to contain terminal lugs incorrectly installed common to terminal blocks located in the wing front spar. The NPRM proposed to require a general visual inspection of the wings, section 16, terminal lugs at the terminal power block of the VFSG power feeder cable for correct installation and applicable corrective actions. We are issuing this AD to detect and correct incorrectly installed terminal lugs which may contact adjacent structure and be damaged. Damaged terminal lugs could cause the potential loss of several functions essential for safe flight or electrical arcing in a flammable leakage zone, which could result in an electrical short and the possible introduction of energy into the main fuel tanks.

Comments

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

Support for the NPRM

The Air Line Pilots Association, International, expressed support for the NPRM.

Request To Revise Compliance Time

Boeing and All Nippon Airways (ANA) requested that we revise the compliance time specified in paragraph (g) of the proposed AD. Boeing stated that paragraph (g) of the proposed AD refers to paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin B787–81205–SB240027–00, Issue 002, dated September 6, 2016 (''ASB B787–81205–SB240027–00, Issue 002'') and requested that we instead refer to paragraph 5., ''Compliance,'' of ASB B787–81205–SB240027–00, Issue 002'' because that is the correct location for the applicable times. ANA stated that paragraph 1.E., ''Compliance,'' doesn't exist in ASB B787–81205–SB240027–00, Issue 002, and recommended a compliance time of ''within 12 months after the effective date of this AD.'' Boeing also recommended that the compliance time be tied to the effective date of the AD to allow operators a valid and acceptable time frame to perform the actions specified in ASB B787–81205–SB240027–00, Issue 002. Additionally, the commenters stated that the compliance time ''within 12 months after the original issue date of this service bulletin,'' as specified in ASB B787–81205–SB240027–00, Issue 002, would put operators out of compliance upon AD issuance.

We agree with the commenters. We have revised paragraph (g) of this AD to specify ''Within 12 months after the effective date of this AD'' and have removed reference to paragraph 1.E., ''Compliance,'' of ASB B787–81205–SB240027–00, Issue 002. We have determined that extending the compliance time from what was proposed will provide an acceptable level of safety.

Request To Clarify the Unsafe Condition Statement

Boeing requested that we revise the ''Discussion'' section of the NPRM and paragraph (e) of the proposed AD to remove information about the potential to introduce energy into the main fuel tanks and include information about

potential loss of systems. Boeing stated that ''introduction of energy into the fuel tank'' is possible but doesn't fully describe the unsafe condition. Boeing noted that the ''BACKGROUND'' and ''REASON'' statements of ASB B787–81205–SB240027–00, Issue 002, specifically include information that the unsafe condition is due to the ''potential loss of several functions essential for safe flight.''

We agree that clarification of the unsafe condition statement is necessary. We have revised the ''Discussion'' section of this final rule, and paragraph (e) of this AD to state that the unsafe condition is due to the ''potential loss of several functions essential for safe flight.'' However, we have not removed information about the potential to introduce energy into the main fuel tanks, because that information also describes the potential unsafe condition.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed ASB B787–81205–SB240027–00, Issue 002. The service information describes procedures for a general visual inspection of the right and left wing, section 16, VFSG power feeder cable terminal lugs for correct installation and corrective actions. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 6 airplanes of U.S. registry. We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	8 work-hours × $85 per hour = $680	$0	$680	$4,080

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Rework wing terminal lugs	9 work-hours × $85 per hour = $765 [1]	$0	$765

[1] Labor costs are specific to each wing (left or right.)

According to the manufacturer, some of the costs of this AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–09–08 The Boeing Company: Amendment 39–18870; Docket No. FAA–2016–9439; Directorate Identifier 2016–NM–170–AD.

(a) Effective Date

This AD is effective June 27, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 787–8 airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin B787–81205–SB240027–00, Issue 002, dated September 6, 2016 (''ASB B787–81205–SB240027–00, Issue 002'').

(d) Subject

Air Transport Association (ATA) of America Code 24, Electrical power.

(e) Unsafe Condition

This AD was prompted by a report indicating that during an airplane inspection in production, the variable frequency starter generator (VFSG) power feeder cables were found to contain terminal lugs incorrectly installed common to terminal blocks located in the wing front spar; the lugs were close to the structure causing the lug sleeve to come in contact with adjacent fasteners. We are issuing this AD to detect and correct incorrectly installed terminal lugs which may contact adjacent structure and be damaged. Damaged terminal lugs could cause the potential loss of several functions essential for safe flight or electrical arcing in a flammable leakage zone, which could result in an electrical short and the possible introduction of energy into the main fuel tanks.

(f) Compliance

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

(g) Inspection of Terminal Lugs and Corrective Actions

Within 12 months after the effective date of this AD, do a general visual inspection of the right and left wing, section 16, VFSG power feeder cable terminal lugs at the terminal block for correct installation and do all applicable corrective actions, in accordance with ASB B787–81205–SB240027–00, Issue 002. Do all applicable corrective actions before further flight.

(h) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin B787–81205–SB240027–00, Issue 001, dated January 21, 2014.

(i) Alternative Methods of Compliance (AMOCs)

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

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

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

(j) Related Information

(1) For more information about this AD, contact Brendan Shanley, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6492; fax: 425–917–6590; email: *brendan.shanley@faa.gov.*

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

(k) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin B787–81205–SB240027–00, Issue 002, dated September 6, 2016.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on April 27, 2017.

Paul Bernado,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–10255 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2015–0492]

RIN 1625–AA00

Safety Zone; Lower Niagara River at Niagara Falls, New York

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing a permanent safety zone within the Captain of the Port Zone Buffalo on the Lower Niagara River, Niagara Falls, NY. This rule is intended to restrict vessels from a portion of the Lower Niagara River considered not navigable as listed in the United States Coast Pilot Book 6—Great Lakes: Lake Ontario, Erie, Huron, Michigan, and Superior and St. Lawrence River and more specifically as described below. The safety zone to be established by this rule is necessary to protect the public and vessels from the hazards associated with the heavy rapids in the narrow waterway of the Lower Niagara River.

DATES: This rule is effective June 22, 2017.

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2015–0492 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 LT Michael Collet, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9322, email *SectorBuffaloMarineSafety@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On June 21, 2016, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Lower Niagara River at Niagara Falls, New York'' (81 FR 40226). There we issued the NPRM and invited comments on our proposed regulatory action related to this permanent safety zone. During the 90 day comment period that ended September 19, 2016, we received five comments.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The Coast Guard has already established a permanent safety zone in the Upper Niagara River per 33 CFR 165.902(a) in order to protect the boating public from the dangers of the waters above and at the Niagara Falls. These waters include the United States waters of the Niagara River from the crest of the American and Horseshoe Falls, New York to a line drawn across the Niagara River from the downstream side of the mouth of Gill Creek to the upstream end of the breakwater at the mouth of the Welland River.

The heavy rapids in the section of the Lower Niagara River downstream of Niagara Falls have not historically been regularly navigated by vessels. In early 2014, the Captain of the Port Zone Buffalo received reports of vessels transiting this section of the Niagara River. These reports prompted further evaluation of the safety of the entire waterway by federal, state, and local agencies. The purpose of the evaluation was to determine what, if any, rescue capability exists that would be able to respond to vessels and/or passengers in distress in the heavy rapids of the river south of the whirlpool rapids to the International Railroad Bridge.

The Captain of the Port Buffalo (COTP) has determined that no feasible rescue capability exists for vessels in distress or persons in the water in the heavy rapids south of the whirlpool rapids to the International Railroad Bridge.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received five comments on our NPRM published June 21, 2016. All five comments were generally supportive of the proposed safety zone with no objections or recommendations. There are no changes in the regulatory text of this rule from the language proposed in the NPRM.

This rule establishes a permanent safety zone to include the following waters: All United States waters of the Lower Niagara River, Niagara Falls, NY from a straight line drawn from position 43°07′10.70″ N., 079°04′02.32″ W. (NAD 83) and 43°07′09.41″ N., 079°4′05.41″ W. (NAD 83) just south of the whirlpool rapids from the east side of the river to the international border of the United States, to a straight line drawn from position 43°06′34.01″ N., 079°03′28.04″ W. (NAD 83) and 43°06′33.52″ N., 079°03′30.42″ W. (NAD 83) at the International Railroad Bridge. Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Zone Buffalo or a designated representative.

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.

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.

We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and is designed to minimize its impact on navigable waters.

B. Impact on Small Entities

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

This rule may affect the following entities, most of which are small entities: The owners or operators of vessels intending to transit in the portion of American waters at the whirlpool rapids. This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: There have not been a substantial number of small entities attempting to transit this section of the river.

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

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

C. Collection of Information

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

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism

principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

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

F. Environment

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

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. In § 165.902, revise the section heading and add paragraph (b) to read as follows:

§ 165.902 Safety Zone; Lower Niagara River at Niagara Falls, New York.

* * * * *

(b) The following is a safety zone—The United States waters of the Lower Niagara River, Niagara Falls, NY from a straight line drawn from position 43°07′10.70″ N., 079°04′02.32″ W. (NAD 83) and 43°07′09.41″ N., 079°04′05.41″ W. (NAD 83) just south of the whirlpool rapids from the east side of the river to the international border of the United States, to a straight line drawn from position 43°06′34.01″ N., 079°03′28.04″ W. (NAD 83) and 43°06′33.52″ N., 079°03′30.42″ W. (NAD 83) at the International Railroad Bridge.

Dated: April 20, 2017.

J.S. Dufresne,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2017–10469 Filed 5–22–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Parts 380, 383, and 384

[FMCSA–2007–27748]

RIN 2126–AB66

Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Final rule; further delay of effective date.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' this action temporarily delays, until June 5, 2017, the effective date of the final rule titled ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators,'' initially effective on February 6, 2017.

DATES: The effective date of the final rule published on December 8, 2016 (81 FR 88732), delayed to March 21, 2017 at 82 FR 8903 and then further delayed to May 22, 2017 at 82 FR 14476, is further delayed until June 5, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, Driver and Carrier Operations (MC–PSD) Division, FMCSA, 1200 New Jersey Ave. SE., Washington, DC 20590–0001, by telephone at 202–366–4325, or by email at *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION: FMCSA bases this action on the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review'' (the January 20, 2017, memorandum). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of certain regulations that had been published in the **Federal Register**, but had not yet taken effect. Because the original effective date of the final rule published on December 8, 2016, fell within that 60-day window, the effective date of the rule was extended to March 21, 2017, in a final rule published on February 1, 2017 (82 FR 8903). Consistent with the memorandum of the Assistant to the President and Chief of Staff, and as stated in the February 1, 2017, final rule delaying the effective date, the Agency further delayed the effective date of this regulation until May 22, 2017 (82 FR 14476, March 21, 2017). The Agency now delays the effective date until June 5, 2017.

The Agency's implementation of this action without opportunity for public comment is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3), in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The delay in the effective date until June 5, 2017, is necessary to provide the opportunity for further review and consideration of this new regulation, consistent with the January 20, 2017,

memorandum. Given the imminence of the effective date of the ''Minimum Training Requirements for Entry-Level Commercial Motor Vehicle Operators'' final rule, seeking prior public comment on this temporary delay would be impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

Issued under the authority of delegation in 49 CFR 1.87 on: May 18, 2017.

John Van Steenburg,

Assistant Administrator.

[FR Doc. 2017–10556 Filed 5–19–17; 4:15 pm]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF449

Fisheries of the Exclusive Economic Zone Off Alaska; Sablefish in the Bering Sea Subarea of the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for sablefish by vessels using trawl gear in the Bering Sea subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2017 sablefish initial total allowable catch (ITAC) in the Bering Sea subarea of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), May 18, 2017, through 2400 hrs, A.l.t., December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

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

The 2017 sablefish trawl ITAC in the Bering Sea subarea of the BSAI is 541 metric tons (mt) as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826; February 27, 2017). In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2017 sablefish trawl ITAC in the Bering Sea subarea of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 350 mt, and is setting aside the remaining 191 mt as incidental catch. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed trawl fishing for sablefish in the Bering Sea subarea of the BSAI.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such a requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure for sablefish by vessels using trawl gear in the Bering Sea subarea of the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of May 17, 2017.

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

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

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

May 18, 2017.

Margo B. Schulze-Haugen,

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

[FR Doc. 2017–10528 Filed 5–18–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 98
Tuesday, May 23, 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 THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R4–ES–2017–0006; FF04E00000 178 FXES11130400000]

RIN 1018–BB98

Endangered and Threatened Wildlife and Plants; Nonessential Experimental Population of Red Wolves (Canis rufus) in North Carolina

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Advance notice of proposed rulemaking; notice of intent to prepare a National Environmental Policy Act document.

SUMMARY: This notice advises the public that we, the U.S. Fish and Wildlife Service (Service), intend to gather information necessary to develop a proposed rule to revise the existing nonessential experimental population designation of red wolves (*Canis rufus*) in North Carolina under section 10(j) of the Endangered Species Act of 1973, as amended, and prepare a draft environmental review pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended. The Service is furnishing this notice to advise other agencies and the public of our intentions; obtain suggestions and information on the scope of issues to include in the environmental review; and announce public scoping meetings to occur in June 2017.

DATES: *Comment submission:* Public scoping will begin with the publication of this document in the **Federal Register** and will continue through July 24, 2017. We will consider all comments on the scope of the draft environmental review that are received or postmarked by that date. Comments received or postmarked after that date will be considered to the extent practicable.

Public meetings: We will conduct two public scoping meetings during the scoping period. The scoping meetings will provide the public with an opportunity to ask questions, discuss issues with Service staff regarding the environmental reviews under NEPA, and provide written comments. The meetings will be held on the following dates:

- June 6, 2017, 6:30–8:30 p.m. in Swan Quarter, NC; and
- June 8, 2017, 6:30–8:30 p.m. in Manteo, NC.

ADDRESSES: *Comment submission:* You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* Search for FWS–R4–ES–2017–0006, which is the docket number for this action. You may submit a comment by clicking on ''Comment Now!''

(2) *By hard copy:* Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R4–ES–2017–0006; Division of Policy, Performance, and Management Programs; U.S. Fish and Wildlife Service Headquarters, MS: BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Information Requested below in **SUPPLEMENTARY INFORMATION**). To increase our efficiency in downloading comments, groups providing mass submissions should submit their comments in an Excel file.

Public meetings: We will hold two public scoping meetings on the dates specified above in **DATES** at the following locations:

- Mattamuskeet High School; 20392 US–264, Swan Quarter, NC 27885. The meeting will be held in the cafeteria.
- Alligator River National Wildlife Refuge; 100 Conservation Way, Manteo, NC 27954. The meeting will be held in the auditorium.

FOR FURTHER INFORMATION CONTACT: Pete Benjamin, U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office, 551F Pylon Drive, Raleigh, NC 27606, or by telephone 919–856–4520, extension 11. If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

The red wolf was originally listed as a species threatened with extinction under the Endangered Species Preservation Act of 1966 (32 FR 4001; March 11, 1967). This species is currently listed as an endangered species under the Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*). The demise of the red wolf was directly related to human activities, such as drainage of vast wetland areas for agricultural purposes; construction of dam projects that inundated prime habitat; and predator control efforts at the private, State, and Federal levels.

Historically, the red wolf range included Texas and Louisiana to the Ohio River Valley and up the Atlantic Coast into northern Pennsylvania or southern New York, and perhaps further north (Wildlife Management Institute 2014; for reference, see docket number FWS–R4–ES–2017–0006 in *www.regulations.gov*). However, by the mid-1970s, the only remaining population occurred in southeastern Texas and southwestern Louisiana (Wildlife Management Institute 2014).

In 1975, it became apparent that the only way to save the red wolf from extinction was to capture as many wild animals as possible and place them in a secured captive-breeding program. This decision was based on the critically low numbers of animals left in the wild, poor physical condition of those animals due to disease and internal and external parasites, the threat posed by an expanding coyote (*Canis latrans*) population, and consequent inbreeding problems. The Service removed the remaining red wolves from the wild and used them to establish a breeding program with the objective of restoring the species to a portion of its former range. Forty adult red wolves were captured from the wild and provided to the established Red Wolf Captive Breeding Program with the Point Defiance Zoo and Aquarium in Tacoma, Washington. By 1986, the captive-breeding program held 80 red wolves in 7 facilities and public and private zoos across the United States.

With the red wolf having been extirpated from its entire historic range, the Service took action to reestablish a wild population. In 1986, a final rule to introduce red wolves into Alligator River National Wildlife Refuge

(Alligator River), Dare County, North Carolina, was published in the **Federal Register** (51 FR 41790, November 19, 1986). Alligator River was chosen due to the absence of coyotes, lack of livestock operations, and availability of prey species. The red wolf population in Dare County (Alligator River) and adjacent Tyrrell, Hyde, and Washington Counties were determined to be a nonessential experimental population (NEP) under section 10(j) of the Act (a ''10(j) rule''). In 1991, a revision to the rule added Beaufort County to the counties where the experimental population designation would apply (56 FR 56325, November 4, 1991). From 1987 through 1992, recovery officials released 42 red wolves to establish this NEP. In 1993, the experimental population was expanded with reintroductions at Pocosin Lakes National Wildlife Refuge in North Carolina. The 10(j) rule was modified again in 1995 (60 FR 18940, April 13, 1995). Today, the only population of red wolves in the wild is the NEP established around Alligator River in North Carolina. All other individuals of this species are found in captive facilities around the country.

The NEP has been closely monitored and managed since the first introductions in 1986. Management of this population includes fitting animals with radio collars and vaccinating prior to release against diseases prevalent in canids. Some management actions involve take, as defined under section 3 of the Act, of red wolves including recapture of wolves to: Replace transmitter or capture collars; provide routine veterinary care; return to the refuge animals that move off Federal lands; or return to captivity animals that are a threat to human safety or property or severely injured or diseased. In the early 1990s, expansion of coyotes into the area of the NEP resulted in interbreeding and coyote gene introgression into the wolf population. To reduce hybridization, an adaptive management plan was developed that used sterilized coyotes as territorial ''placeholders.'' Placeholders do not interbreed with red wolves and exclude other coyotes from their territories. The placeholder coyotes were eventually replaced by red wolves via natural displacement or management actions (*i.e.,* removal).

Proposed Action and Possible Alternatives

In 2013, acknowledging growing concerns from private landowners regarding management of the NEP, the Service and North Carolina Resources Commission entered into a broad canid management agreement, recognizing steps were needed to improve management of the population. Subsequently, the Service contracted an independent evaluation of the NEP project in 2014 and of the entire red wolf recovery program in 2015. From these evaluations, it became clear that the current direction and management of the NEP project is unacceptable to the Service and all stakeholders.

As a result of the findings from the evaluations, the Service is considering a potential revision of the 1995 NEP final rule. Risks of continued hybridization, human-related mortality, continued loss of habitat due to sea level rise, and continued population decline are high and have led to poor prospects for the NEP. Further, the most recent PVA indicates that the viability of the captive population is below and declining from the original recovery plan diversity threshold of 90 percent and could be enhanced by breeding captive wolves with wolves from the NEP project area. Therefore, the Service is considering whether the NEP should be managed with the captive population as one meta-population, whereby individuals could be moved not only from captivity into the wild but also from the wild into captivity. Incorporating the NEP into a meta-population with the captive population will increase the size of the population and introduce the natural selection occurring in the NEP back into the captive population. Therefore, the Service is proposing to change the goal of the current NEP project from solely that of establishing a self-sustaining wild population to a goal of also supporting viability of the captive wolves of the red wolf breeding program (proposed action). Maintaining a wild population fully integrated with the captive wolves also will: (1) Allow for animals removed from the wild to support the necessary expansion of current and future wild reintroduced populations and to improve the genetic health of the captive-breeding program; (2) preserve red wolf natural instincts and behavior in the captive population gene pool; and (3) provide a population for continued research on wild behavior and management.

The proposed revision would recognize that the size, scope, and management of the NEP will be focused on maintaining a wild population on Federal lands within Dare County, North Carolina and on protecting the species by increasing the number and genetic diversity of wolves in captivity. These revisions will allow removal of isolated packs of animals from non-Federal lands at the landowners' request, incorporation of these animals into the wild/captive metapopulation, and better management of the remaining wild animals in accessible areas to minimize risks of hybridization. Management of wolves occupying Federal lands in Dare County will include population monitoring, animal husbandry, and control of coyotes and hybrids.

The proposed revision would authorize the movement of animals between the captive and wild populations in order to increase the number of wolves in the captive-breeding program and maintain genetic diversity for both captive and wild wolves. This means the captive wolves and the NEP will be managed as one single meta-population.

The draft environmental review under NEPA will consider consequences of a range of reasonable alternatives to the proposed action. We have identified several management alternatives for the NEP:

(1) Maintain the NEP project in its current state. In other words, we would make no revisions to the current 10(j) rule.

(2) Publish a rule eliminating the NEP project. Under this alternative, the red wolves found in the wild would retain their status as a federally listed ''endangered'' species under the Act.

(3) Revise the existing NEP. We may consider revisions to the current 10(j) rule that vary from the proposed action.

Information Requested

Issues Related to the Scope of the NEP

We seek comments or suggestions from the public, governmental agencies, Tribes, the scientific community, industry, or any other interested parties. To promulgate a proposed rule and prepare a draft environmental review pursuant to NEPA, we will take into consideration all comments and any additional information received. To ensure that any proposed rulemaking to revise the existing NEP effectively evaluates all potential issues and impacts, we are seeking comments and suggestions on the following for consideration in preparation of a proposed revision to the NEP final rule for the red wolf:

(a) Contribution of the NEP to recovery goals for the red wolf;

(b) Tools for population management;

(c) Management strategies to address hybridization with coyotes;

(d) Appropriate provisions for ''take'' of red wolves; and

(e) Protocols for red wolves that leave the NEP area, including, but not limited to, requests for removal of animals from private lands.

The Service will act as the lead Federal agency responsible for completion of the environmental review. Therefore, we are seeking comments on the identification of direct, indirect, beneficial, and adverse effects that might be caused by revising the 10(j) rule for red wolves. You may wish to consider the following issues when providing comments:

(a) Impacts on floodplains, wetlands, wild and scenic rivers, or ecologically sensitive areas;

(b) Impacts on park lands and cultural or historic resources;

(c) Impacts on human health and safety;

(d) Impacts on air, soil, and water;

(e) Impacts on prime agricultural lands;

(f) Impacts to other species of wildlife, including other endangered or threatened species;

(g) Disproportionately high and adverse impacts on minority and low-income populations;

(h) Any other potential or socioeconomic effects; and

(i) Any potential conflicts with other Federal, State, local, or Tribal environmental laws or requirements.

To promulgate a proposed rule and prepare a draft environmental review pursuant to NEPA, we will take into consideration all comments and any additional information received. Please note that submissions merely stating support for or opposition to the proposed action and alternatives under consideration, without providing supporting information, will be noted but not considered by the Service in making a determination. Please consider the following when preparing your comments:

- Be as succinct as possible.
- Be specific. Comments supported by logic, rationale, and citations are more useful than opinions.
- State suggestions and recommendations clearly with an expectation of what you would like the Service to do.
- If you propose an additional alternative for consideration, please provide supporting rationale and why you believe it to be a reasonable alternative that would meet the purpose and need for our proposed action.
- If you provide alternate interpretations of science, please support your analysis with appropriate citations.

The alternatives we develop will be analyzed in our draft a draft environmental review pursuant to NEPA. We will give separate notice of the availability of the draft environmental review for public comment when it is completed. We may hold public hearings and informational sessions so that interested and affected people may comment and provide input into the final decision.

You may submit your comments and materials by one of the methods listed in **ADDRESSES**. We request that you send comments only by the methods described in **ADDRESSES**.

If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the Web site. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

Comments and materials we receive, as well as supporting documentation we use in preparing the proposed rule and draft environmental review, will be available for public inspection on *http://www.regulations.gov,* at Docket No. FWS–R4–ES–2017–0006, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Raleigh Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Authors

The primary authors of this document are the staff members of the Red Wolf Recovery Program, U.S. Fish and Wildlife Service, Southeast Region (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*) and the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*).

Dated: February 2, 2017.

James W. Kurth,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 2017–10551 Filed 5–22–17; 8:45 am]

BILLING CODE 4333–15–P

Notices

Federal Register
Vol. 82, No. 98
Tuesday, May 23, 2017

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 18, 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 22, 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), *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.

Food and Nutrition Service

Title: Assessment of the Barriers that Constrain the Adequacy of Supplemental Nutrition Assistance Program (SNAP) Allotments.

OMB Control Number: 0584–NEW.

Summary of Collection: To determine the individual and household barriers faced by SNAP participants or any environmental barriers that prevent them from having access to a healthy diet throughout the month; understand the interaction between individual, household, and environmental barriers and determine how, if at all, the individual, household, and environmental barriers can be accounted for in determining SNAP allotments.

Need and Use of the Information: The findings will inform methods to design and shape the program to help meet participants' health and nutrition needs. Researchers will be able to further analyze the study data and contribute to the knowledge base regarding SNAP participants' barriers to purchasing and consuming healthy foods.

Description of Respondents: Individuals/Households.

Number of Respondents: 6,593.

Frequency of Responses: Reporting: Annually.

Total Burden Hours: 3,416.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–10480 Filed 5–22–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

May 18, 2017.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, Washington, DC; New Executive Office Building, 725 17th Street NW., Washington, DC 20503. 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.

Comments regarding these information collections are best assured of having their full effect if received by June 22, 2017. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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.

Agricultural Marketing Service

Title: Specified Commodities Imported into the United States Exempt from Import Requirements, 7 CFR part 944, 980, and 999.

OMB Control Number: 0581–0167.

Summary of Collection: Section 608e of the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), requires that whenever the Secretary of Agriculture issues grade, size, quality, or maturity regulations under domestic marketing orders, the same or comparable regulations must be used for imported commodities. Import regulations apply only during those periods when domestic marketing order regulations are in effect. No person may

import products for processing or other exempt purposes unless an executed Importers Exempt Commodity Form (SC–6) accompanies the shipment. Both the shipper and receiver are required to register in the Compliance and Enforcement Management System (CEMS) to electronically file an SC–6 certificate to notify the Marketing Order and Agreement Division (MOAD) of the exemption activity. MOAD provides information on its Web site about the commodities imported under section 8e of the Act and directions to the CEMS portal. The Civil Penalty Stipulation Agreement (SC–7) is a ''volunteer'' form that provides the Agricultural Marketing Service (AMS) with an additional tool to obtain resolution of certain cases without the cost of going to a hearing.

Need and Use of the Information: The importers wishing to import commodities will use the electronic or paper version of form SC–6, ''Importer's Exempt Commodity.'' The information collected includes information on the imported product (type of product and lot identification), the importer's contact information, the U.S. Customs entry number, inspection date, and intended use (processing, charity, livestock/animal feed). AMS utilizes the information to ensure that imported goods destined for exempt outlets are given no less favorable treatment than afforded to domestic goods destined for such exempt outlets.

Description of Respondents: Business or other for-profit; Not-for-profit institutions.

Number of Respondents: 79.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 581.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–10539 Filed 5–22–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability (NOFA) for the Organic Certification Cost Share Program

AGENCY: Commodity Credit Corporation and Farm Service Agency, USDA.

ACTION: Notice.

SUMMARY: The Farm Service Agency (FSA), on behalf of the Commodity Credit Corporation (CCC), is revising and clarifying its previous announcement of the availability of funding for fiscal years (FY) 2017 and 2018 under the Organic Certification Cost Share Program (OCCSP).

DATES: *Producer and Handler Applications:* The dates for FSA county offices to accept applications for OCCSP payments from producers and handlers for FY 2017 started on March 27, 2017, and ends on October 31, 2017, and for FY 2018, starts on October 1, 2017, and ends on October 31, 2018.

FOR FURTHER INFORMATION CONTACT: Steve Peterson, (202) 720–7641.

SUPPLEMENTARY INFORMATION:

Revision and Clarification

On December 22, 2016, USDA published a NOFA for OCCSP (81 FR 93884–93887). That NOFA announced that the purpose of OCCSP is to provide cost share assistance to producers and handlers of agricultural products in obtaining certification under the National Organic Program (NOP) established under the Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6501–6524) and the regulations in 7 CFR part 205. FSA administers OCCSP.

In the December NOFA, USDA announced that beginning in FY 2017, transitional certification and State organic program fees would be eligible for cost share reimbursement, and that for OCCSP purposes, they would be considered two additional, separate scopes. As stated in the NOFA, transitional certification is an optional certification offered by some certifiers for producers and handlers who are in the process of transitioning land to organic production.

Upon review of OCCSP authority, FSA determined that it had erroneously announced the availability of cost-share for transitional certification, because no transitional certification programs are currently established under OFPA. Accordingly, this notice clarifies that cost-share assistance will not be available for transitional certification.

Consistent with this clarification, this NOFA provides revised information about eligible scopes for the OCCSP, allowable and unallowable costs, eligibility requirements for producers and handlers, documentation to be provided in a producer or handler's application package, provisions for grant agreements with State agencies, and the definition of ''certified operation.''

In addition, this NOFA provides the corrected date when the producer and applications were made available, which changed from the date announced in the December NOFA of March 20, 2017, to the actual start date of March 27, 2017, once the forms were approved for use.

Background

The purpose of OCCSP is to provide cost share assistance to producers and handlers of agricultural products in obtaining certification under NOP established under the Organic Foods Production Act of 1990 (7 U.S.C. 6501–6524) and the regulations in 7 CFR part 205. The Agricultural Marketing Service (AMS) implemented OCCSP and has been running OCCSP through agreements with State agencies since FY 2008. USDA transferred authority to administer OCCSP from AMS to FSA beginning with FY 2017.

FSA accepted applications from States interested in overseeing reimbursements to their producers and handlers. In addition, all producers and handlers will have access to OCCSP through their local FSA offices. In States where State agencies provide cost share funds, producers and handlers can choose between the State agencies or the local FSA office. In addition to expanding to FSA local offices for FY 2017, OCCSP will now cover costs related to State organic program fees.

In order for a State agency to receive new fund allocations for FY 2017, it must establish a new agreement with FSA to administer OCCSP. FY 2017 agreements will include provisions allowing a State agency to request an extension of that new FY 2017 agreement to provide additional funds and allow the State agency to continue to administer OCCSP for FY 2018. FSA has not yet determined whether an additional application period will be announced for FY 2018 for State agencies that choose not to participate in FY 2017; State agencies that would like to administer OCCSP for FY 2018 are encouraged to establish an agreement for FY 2017 to ensure that they will be able to continue to participate. FSA does not anticipate substantive changes to the agreement process with the participating States. Agreements will continue to allow subgrants to other entities.

Certified operations will be subject to the same eligibility criteria and calculation of cost share payments regardless of whether they apply for OCCSP through an FSA local office or a participating State agency. Certified operations may only receive OCCSP payment for the same scope for the same year from one source: Either the State agency or FSA. FSA will coordinate with participating State agencies to ensure there are no duplicate payments. If a duplicate payment is inadvertently made, then FSA will inform the

participant and require that funds be returned to CCC.

Availability of Funds

Funding for OCCSP is provided through two authorizations: National Organic Certification Cost Share Program (National OCCSP) funds and Agricultural Management Assistance (AMA) funds. Section 10004 of the Agricultural Act of 2014 (the 2014 Farm Bill, Pub. L. 113–79) amended section 10606(d) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 6523(d)), authorizing $11.5 million from CCC to be used for National OCCSP funds for each of FYs 2014 through 2018, to remain available until expended. National OCCSP funds will be used for cost share payments to certified operations in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

The USDA organic regulations recognize four separate categories, or ''scopes,'' that must be individually inspected for organic certification: Crops, livestock, wild crops, and handling (that is, processing). A single operation may be certified under multiple scopes. For example, a certified organic vegetable farm that also has certified organic chickens and produces certified organic jams would be required to be certified for three scopes: Crops, livestock, and handling. Beginning in FY 2017, State organic program fees will also be eligible for cost share reimbursement and for OCCSP purposes will be considered an additional separate scope. State organic program fees may be required by States that have established a State organic program according to 7 CFR 205.620–205.622, and are in addition to the costs of organic certification under the four scopes of USDA organic certification.

National OCCSP funds can be used to provide cost share for all four scopes of USDA organic certification (that is, crops, wild crops, livestock, and handling) and the additional scope of State organic program fees.

In addition to the National OCCSP funds, Section 1609 of the 2014 Farm Bill made a minor technical correction to the AMA authorizing language codified at 7 U.S.C. 1524, but did not change the amount authorized, which is $1 million. The availability of the AMA funds for OCCSP is contingent upon appropriations; the AMA funds are available for FY 2017. AMA funds may be used only for cost share payments for organic certification for the three scopes of crops, wild crops, and livestock, and are specifically targeted to the following 16 States:

- Connecticut,
- Delaware,
- Hawaii,
- Maryland,
- Massachusetts,
- Maine,
- Nevada,
- New Hampshire,
- New Jersey,
- New York,
- Pennsylvania,
- Rhode Island,
- Utah,
- Vermont,
- West Virginia, and
- Wyoming.

Sequestration will apply to the total amount of funding available for OCCSP for FYs 2017 and 2018, if required by law.

Cost Share Payments

As required by law (7 U.S.C. 6523(b)), the cost share payments cannot exceed 75 percent of eligible costs incurred, up to a maximum of $750 for each producer or handler. FSA will calculate 75 percent of the allowable costs incurred by an eligible operation, not to exceed a maximum of $750 per certification scope. Cost share assistance will be provided for allowable costs paid by the eligible operation during the same FY for which the OCCSP payment is being requested. Cost share assistance will be provided on a first come, first served basis, until all available funds are obligated for each FY. Applications received after all funds are obligated will not be paid. Allowable costs include:

- Application fees;
- Inspection fees, including travel costs and per diem for organic inspectors;
- USDA organic certification costs, including fees necessary to access international markets with which AMS has equivalency agreements or arrangements;
- State organic program fees;
- User fees or sale assessments; and
- Postage.

Unallowable costs include:

- Inspections due to violations of USDA organic regulations or violations of State organic program requirements;
- Costs related to non-USDA organic certifications;
- Costs associated with or incidental to transitional certification;
- Costs related to any other labeling program;
- Materials, supplies, and equipment;
- Late fees;
- Membership fees; and
- Consultant fees.

Eligible Producers and Handlers

To be eligible for OCCSP payments, a producer or handler must both:

- Possess USDA organic certification at the time of application; and
- Have paid fees or expenses related to its initial certification or renewal of its certification from a certifying agent.

Operations with suspended, revoked, or withdrawn certifications at the time of application are ineligible for cost share reimbursement. OCCSP is open to producers and handlers in the 50 United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands.

How To Submit the Application

State Agencies

State agencies must have an agreement in place to participate in OCCSP. State agencies with funds remaining from an agreement from a previous FY may continue to administer OCCSP with those funds under the terms of their existing agreement. In the previous NOFA, State agencies were notified that they must complete an Application for Federal Assistance (Standard Form 424), and enter into a grant agreement with FSA to receive new fund allocations to provide cost share assistance for FY 2017. FSA accepted applications from State agencies between January 3, 2017, and February 17, 2017. Pending fund availability, applications received after February 17, 2017, may be considered.

State agencies that have submitted applications for FY 2017 do not need to resubmit their applications. All grant agreements between FSA and State agencies for FY 2017 will include revised terms and conditions consistent with the clarification in this NOFA that cost-share assistance will not be made available for transitional certification.

Agreements for FY 2017 will include provisions to allow modification of the agreement to also cover a period of performance for FY 2018. At this time, FSA has not determined whether an additional application period will be announced for FY 2018 for State agencies that do not establish an agreement to administer OCCSP for FY 2017.

Producers and Handlers

Certified operations may apply for OCCSP payments through FSA local offices or through a State agency (or authorized subgrantee) if their State has established an agreement to administer OCCSP. For a producer or handler to apply for OCCSP through FSA, each

applicant must submit a complete application, either in person or by mail, to any FSA county office. Additional options for producers or handlers to submit their application may be available at *https://www.fsa.usda.gov/programs-and-services/occsp.* A complete application includes the following documentation:

- Form CCC–884—Organic Certification Cost Share Program, available online at *https://www.fsa.usda.gov/programs-and-services/occsp* or at any FSA county office;
- Proof of USDA organic certification;
- Itemized invoice showing expenses paid to a third-party certifying agency for certification services during the FY in which the application is submitted; and
- An AD–2047, if not previously provided.

Producers or handlers may be required to provide additional documentation to FSA if necessary to verify eligibility or issue payment.

FSA's application period began on March 27, 2017, for FY 2017 and will begin on October 1, 2017, for FY 2018. Both application periods end on October 31 of their respective years, or when there is no more available funding, whichever comes first.

Participating State agencies will establish their own application process and deadlines for producers and handlers, as specified in their grant agreements, and eligible operations must submit an application package according to the instructions provided by the State agency. A list of participating States will be available at *https://www.fsa.usda.gov/programs-and-services/occsp* after their agreements with FSA to administer OCCSP are finalized.

Definitions

For this NOFA, new or revised definitions include the following:

''State agency'' means the agency, commission, or department of a State government, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the U.S. Virgin Islands, or the Commonwealth of the Northern Marian Islands, authorized by the State to administer OCCSP.

''USDA organic certification'' means a determination made by a certifying agent that a production or handling operation is in compliance with Organic Foods Production Act of 1990 (7 U.S.C. 6501–6522) and the regulations in 7 CFR part 205, which is documented by a certificate of organic operation.

The following definitions from the regulations of 7 CFR 205.2 also apply to this NOFA: ''certified operation,'' ''certifying agent,'' ''crop,'' ''handler,'' ''inspection,'' ''inspector,'' ''labeling,'' ''livestock,'' ''organic,'' ''organic production,'' ''processing,'' ''producer,'' ''State certifying agent,'' ''State organic program,'' and ''wild crop.''

Participating State Agency Reporting Requirements

Twice a year, each participating State agency must provide FSA with a Federal Financial Report (form SF–425) along with a spreadsheet of Operations Reimbursed, listing the producers and handlers receiving cost share payments within the reporting period. The semi-annual reports are due to FSA on May 30 and November 30 of each year. Once a year, each participating State agency will need to provide FSA with a narrative report to describe program activities and any sub-recipients. The annual reports are due to FSA on November 30 of each year.

Other Provisions

Persons and legal entities who file an application with FSA have the right to an administrative review of any FSA adverse decision with respect to the application under the appeals procedures at 7 CFR parts 780 and 11. FSA program requirements and determinations that are not in response to, or result from, an individual disputable set of facts in an individual participant's application for assistance are not matters that can be appealed.

A producer or handler may file an application with an FSA county office after the OCCSP application deadline, and in such case the application will be considered a request to waive the deadline. The Deputy Administrator has the discretion and authority to consider the case and waive or modify application deadlines and other requirements or program provisions not specified in law, in cases where the Deputy Administrator determines it is equitable to do so and where the Deputy Administrator finds that the lateness or failure to meet such other requirements or program provisions do not adversely affect the operation of OCCSP. Although applicants have a right to a decision on whether they filed applications by the deadline or not, applicants have no right to a decision in response to a request to waive or modify deadlines or program provisions. The Deputy Administrator's refusal to exercise discretion to consider the request will not be considered an adverse decision and is, by itself, not appealable.

Any person or legal entity who applies to a State agency is subject to review rights afforded by the State agency.

Participating State agencies that are dissatisfied with any FSA decision relative to a State agency agreement may seek review for programs governed by Federal contracting laws and regulations.

The regulations governing offsets and withholdings in 7 CFR part 1403 apply to OCCSP payments. Any participant entitled to an OCCSP payment may assign such payment(s) in accordance with the regulations in 7 CFR part 1404.

Awards to State agencies will be subject to 2 CFR part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.

Paperwork Reduction Act Requirements

The information collection request for OCCSP have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act. The OMB control number for the approval is 0560–0289. There were no public comments submitted for the information collection request.

Catalog of Federal Domestic Assistance

The title and number of the Federal assistance program in the Catalog of Federal Domestic Assistance to which this NOFA applies is 10.171, Organic Certification Cost share Program (OCCSP).

Environmental Review

The environmental impacts of this NOFA have been considered in a manner consistent with the provisions of the National Environmental Policy Act (NEPA, 42 U.S.C. 4321–4347), the regulations of the Council on Environmental Quality (40 CFR parts 1500–1508), and the FSA regulations for compliance with NEPA (7 CFR part 799). As previously stated, since FY 2008 USDA implemented OCCSP through AMS via agreements with State agencies. To make OCCSP more accessible by using FSA county offices as a sign-up option for applicants, USDA shifted jurisdiction of OCCSP from AMS to FSA. FSA is now administering and coordinating OCCSP through agreements with interested States, and also now provides cost share payments directly to eligible producers and handlers for eligible expenses. The general scope of OCCSP, as implemented previously by AMS, is unchanged.

The purpose of OCCSP is to provide cost share assistance to producers and handlers of agricultural products in obtaining USDA organic certification.

FSA's jurisdiction over OCCSP and the minor, discretionary changes to OCCSP (that is, two options for payment receipt: From a State, or from FSA) are administrative in nature. The discretionary aspects of OCCSP (for example, program eligibility, calculation of cost share payments, etc.) were effectively designed by AMS and are not proposed to be substantively changed. As such, the Categorical Exclusions in 7 CFR part 799.31 apply, specifically 7 CFR 799.31(b)(6)(iii) (that is, financial assistance to supplement income). No Extraordinary Circumstances (7 CFR 799.33) exist. As such, FSA has determined that this NOFA does not constitute a major Federal action that would significantly affect the quality of the human environment, individually or cumulatively. Therefore, FSA will not prepare an environmental assessment or environmental impact statement for this regulatory action.

Chris P. Beyerhelm,

Acting Administrator, Farm Service Agency, and Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 2017–10521 Filed 5–22–17; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Rural Housing Service

Notice of Solicitation of Applications for the Community Facilities Technical Assistance and Training Grant for Fiscal Year 2017

AGENCY: Rural Housing Service, USDA.

ACTION: Notice.

SUMMARY: This Notice announces that the Rural Housing Service (Agency) is accepting Fiscal Year (FY) 2017 applications for the Community Facilities Technical Assistance and Training (TAT) Grant program. This Notice is being issued prior to enactment of a full year appropriation act for FY 2017. Once funding for TAT has been appropriated, the Agency will publish the program funding level on the Rural Development Web site (*https://www.rd.usda.gov/programs-services/community-facilities-technical-assistance-and-training-grant*). Enactment of additional continuing resolutions or an appropriations act may affect the availability or level of funding for this program. The purpose of announcing the TAT program prior to the enactment of full year appropriations is to provide applicants sufficient time to prepare and submit their applications in response to this solicitation and to provide the Agency time to process applications within FY 2017. Grant funds not obligated by September 15 of this fiscal year will be used to fund Essential Community Facilities grant, loan, and/or loan guarantee programs.

DATES: To apply for funds, the Agency must receive the application by 5:00 Eastern Daylight Time on July 24, 2017. Electronic applications must be submitted via grants.gov by Midnight Eastern time on July 24, 2017.

ADDRESSES: Applications will be submitted to the USDA Rural Development State Office in the state where the applicant's headquarters is located. A listing of each State Office can be found at: *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* If you want to submit an electronic application, follow the instructions for the TAT funding announcement on *http://www.grants.gov.* For those applicants located in the District of Columbia, applications will be submitted to the National Office in care of Shirley Stevenson, 1400 Independence Ave. SW., STOP 0787, Room 0175–S, Washington, DC 20250. Electronic applications will be submitted via *http://www.grants.gov.* All applicants can access application materials at *http://www.grants.gov.*

FOR FURTHER INFORMATION CONTACT: The Rural Development office in which the applicant is located. A list of the Rural Development State Office contacts can be found at *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* Applicants located in Washington DC can contact Shirley Stevenson at (202) 205–9685 or via email at *Shirley.Stevenson@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION: The Rural Housing Service (RHS), an agency within the USDA Rural Development mission area herein referred to as the Agency, published a final rule with comment in the **Federal Register** on January 14, 2016 implementing Section 6006 of the Agriculture Act of 2014 (Pub. L. 113–79) which provides authority to make Community Facilities Technical Assistance and Training (TAT) Grants. The Final Rule became effective on March 14, 2016 and is found at 7 CFR 3570 subpart F. A correction amendment was published in the **Federal Register** on May 6, 2016. The purpose of this Notice is to solicit applications for the FY 2017 TAT Grant Program.

Paperwork Reduction Act

The paperwork burden has been cleared by the Office of Management and Budget (OMB) under OMB Control Number 0575–0198.

National Environmental Policy Act

All recipients under this Notice are subject to the requirements of 7 CFR part 1970. However, awards for technical assistance and training under this Notice are classified as a Categorical Exclusion according to 7 CFR 1970.53(b), and usually do not require any additional documentation. The Agency will review each grant application to determine its compliance with 7 CFR part 1970. The applicant may be asked to provide additional information or documentation to assist the Agency with this determination.

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Community Facilities Technical Assistance and Training Grant.

Announcement Type: Notice of Solicitation of Applications (NOSA).

Catalog of Federal Domestic Assistance Number: 10.766.

Dates: To apply for funds, the Agency must receive the application by 5:00 p.m. Eastern Daylight Time on July 24, 2017. Electronic applications must be submitted via grants.gov by Midnight Eastern time on July 24, 2017. The Agency will not consider any application received after this deadline.

Availability of Notice: This Notice is available through the USDA Rural Development site at: *https://www.rd.usda.gov/newsroom/notices-solicitation-applications-nosas.*

I. Funding Opportunity Description

A. Purpose

Congress authorized the Community Facilities Technical Assistance and Training Grant program in Title VI, Section 6006 of the Agricultural Act of 2014 (Pub. L. 113–79). Program regulations can be found at 7 CFR part 3570, subpart F, which are incorporated by reference in this Notice. The purpose of this Notice is to seek applications from entities that will provide technical assistance and/or training with respect to essential community facilities programs. It is the intent of this program to assist entities in rural areas in accessing funding under the Rural Housing Service's Community Facilities Programs in accordance with 7 CFR part 3570, subpart F. Funding priority will be made to private, nonprofit or public organizations that have experience in providing technical assistance and training to rural entities.

II. Award Information

Type of Awards: Grants will be made to eligible entities who will then provide technical assistance and/or training to eligible ultimate recipients.

Fiscal Year Funds: FY 2017 Technical Assistance Training (TAT) Grant funds.

Available Funds: This Notice is being issued prior to enactment of a full year appropriation act for Fiscal Year (FY) 2017. Once funding for TAT has been appropriated, the Agency will publish the program funding level on the Rural Development Web site (*https://www.rd.usda.gov/programs-services/community-facilities-technical-assistance-and-training-grant*).

Award Amounts: Grants will be made in amounts based upon the availability of grant funds but no grant award will exceed $150,000. The Agency reserves the right to reduce funding amounts based on the Agency's determination of available funding or other Agency funding priorities.

Award Dates: Awards will be made on or before September 15, 2017.

III. Eligibility Information

Both the applicant and the use of funds must meet eligibility requirements. The applicant eligibility requirements can be found at 7 CFR 3570.262. Eligible project purposes can be found at 7 CFR 3570.263. Ineligible project purposes can be found at 7 CFR 3570.264. Sections 743, 744, 745, and 746 of the Consolidated Appropriations Act, 2016 (Pub. L. 114–113) apply. Any corporation (i) that has been convicted of a felony criminal violation under any Federal law within the past 24 months or (ii) that has any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible for financial assistance provided with funds, unless a Federal agency has considered suspension or debarment of the corporation and has made a determination that this further action is not necessary to protect the interests of the Government. In addition, none of the funds appropriated or otherwise made available by this or any other Act may be available for a contract, grant, or cooperative agreement with an entity that requires employees or contractors of such entity seeking to report fraud, waste, or abuse to sign internal confidentiality agreements or statements prohibiting or otherwise restricting such employees or contractors from lawfully reporting such waste, fraud, or abuse to a designated investigative or law enforcement representative of a Federal department or agency authorized to receive such information. Additionally, no funds appropriated in this or any other Act may be used to implement or enforce the agreements in Standard Forms 312 and 4414 of the Government or any other nondisclosure policy, form, or agreement if such policy, form, or agreement does not contain the following provisions: ''These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection.''

IV. Application and Submission Information

The requirements for submitting an application can be found at 7 CFR 3570.267. All Applicants can access application materials at *http://www.grants.gov.* Applications must be received by the Agency by the due date listed in the **DATES** section of this Notice. Applications received after that due date will not be considered for funding. Paper copies of the applications will be submitted to the State Office in which the applicant is headquartered. Electronic submissions should be submitted at *http://www.grants.gov.* A listing of the Rural Development State Offices may be found at *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* For applicants whose headquarters are in the District of Columbia, they will submit their application to the National Office in care of Shirley Stevenson, 1400 Independence Ave. SW., STOP 0787, Room 0175–S, Washington, DC 20250. Both paper and electronic applications must be received by the Agency by the deadlines stated in the **DATES** section of this Notice. The use of a courier and package tracking for paper applications is strongly encouraged.

Application information for electronic submissions may be found at *http://www.grants.gov.*

Applications will not be accepted via FAX or electronic email.

V. Application Processing

Applications will be processed and scored in accordance with 7 CFR 3570.273. Those applications receiving the highest points using the scoring factors found at 7 CFR 3570.273 will be selected for funding.

Once the successful applicants are announced, the State Office will be responsible for obligating the grant funds, executing all obligation documents, and the grant agreement, as provided by the agency.

VI. Federal Award Administration Information

1. Federal Award Notice. Within the limit of funds available for such purpose, the awarding official of the Agency shall make grants in ranked order to eligible applicants under the procedures set forth in this Notice and the grant regulation 7 CFR 3570 subpart F.

Successful applicants will receive a letter in the mail containing instructions on requirements necessary to proceed with execution and performance of the award. This letter is not an authorization to begin performance. In addition, selected applicants will be requested to verify that components of the application have not changed at the time of selection and on the award date, if requested by the Agency.

The award is not approved until all information has been verified, and the awarding official of the Agency has signed Form RD 1940–1, ''Request for Obligation of Funds'' and the grant agreement.

Unsuccessful and ineligible applicants will receive written notification of their review and appeal rights.

2. Administrative and National Policy Requirements. Grantees will be required to do the following:

(a) Execute a Grant Agreement.

(b) Execute Form RD 1940–1.

(c) Use Form SF 270, ''Request for Advance or Reimbursement'' to request reimbursement. Provide receipts for expenditures, timesheets, and any other documentation to support the request for reimbursement.

(d) Provide financial status and project performance reports as set forth at 7 CFR 3570.276.

(e) Maintain a financial management system that is acceptable to the Agency.

(f) Ensure that records are maintained to document all activities and expenditures utilizing CF TAT grant funds and any matching funds, if applicable. Receipts for expenditures will be included in this documentation.

(g) Provide audits or financial information as set forth in 7 CFR 3570.277.

(h) Complete Form 400–4—Assurance Agreement. Each prospective recipient must sign Form RD 400–4, Assurance

Agreement, which assures USDA that the recipient is in compliance with Title VI of the Civil Rights Act of 1964, 7 CFR part 15 and other Agency regulations. It also assures that no person will be discriminated against based on race, color or national origin, in regard to any program or activity for which the re-lender receives Federal financial assistance. Finally, it assures that nondiscrimination statements are in the recipient's advertisements and brochures.

(i) Collect and maintain data provided by ultimate recipients on race, sex, and national origin and ensure Ultimate Recipients collect and maintain this data. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

(j) Provide a final performance report as set forth at 7 CFR 3570.276(a)(7).

(k) Identify and report any association or relationship with Rural Development employees.

(l) The applicant and the ultimate recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973, Age Discrimination Act of 1975, Executive Order 12250, Executive Order 13166 Limited English Proficiency (LEP), and 7 CFR part 1901, subpart E. The grantee must comply with policies, guidance, and requirements as described in the following applicable Code of Federal Regulations and any successor regulations:

(1) 2 CFR parts 200 and 400 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards).

(2) 2 CFR parts 417 and 180 (Government-wide Debarment and Suspension (Nonprocurement)).

(m) Form AD–3031, ''Assurance Regarding Felony Conviction or Tax Delinquent Status for Corporate Applicants'' must be signed by corporate applicants who receive an award under this Notice.

3. Reporting. Reporting requirements for this grant as set forth at 7 CFR 3570.276.

VII. Federal Awarding Agency Contact

Contact the Rural Development state office in the state where the applicant's headquarters is located. A list of Rural Development State Offices can be found at: *https://www.rd.usda.gov/files/CF_State_Office_Contacts.pdf.* For Applicants located in Washington, DC, please contact Shirley Stevenson at (202) 205–9685 or via email at *Shirley.Stevenson@wdc.usda.gov.*

VIII. Nondiscrimination Statement

In accordance with Federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, the USDA, its Agencies, offices, and employees, and institutions participating in or administering USDA programs are prohibited from discriminating based on race, color, national origin, religion, sex, gender identity (including gender expression), sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, political beliefs, or reprisal or retaliation for prior civil rights activity, in any program or activity conducted or funded by USDA (not all bases apply to all programs). Remedies and complaint filing deadlines vary by program or incident.

Persons with disabilities who require alternative means of communication for program information (*e.g.,* Braille, large print, audiotape, American Sign Language, etc.) should contact the responsible Agency or USDA's TARGET Center at (202) 720–2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877–8339. Additionally, program information may be made available in languages other than English.

To file a program discrimination complaint, complete the USDA Program Discrimination Complaint Form, AD–3027, found online at *http://www.ascr.usda.gov/complaint_filing_cust.html* and at any USDA office or write a letter addressed to USDA and provide in the letter all of the information requested in the form. To request a copy of the complaint form, call (866) 632–9992. Submit your completed form or letter to USDA by:

(1) By mail: U.S. Department of Agriculture, Office of the Assistant Secretary for Civil Rights, 1400 Independence Avenue SW., Washington, DC 20250–9410;

(2) Fax: (202) 690–7442; or

(3) Email: *program.intake@usda.gov.*

Dated: May 15, 2017.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017–10487 Filed 5–22–17; 8:45 am]

BILLING CODE 3410–XV–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Arkansas Advisory Committee To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Arkansas Advisory Committee (Committee) will hold a meeting on Monday, June 12, 2017, at 12:00 noon Central for the purpose of a discussion on civil rights topics affecting the state.

DATES: The meeting will be held on Monday, June 12, 2017, at 12:00 noon. CST.

PUBLIC CALL INFORMATION: Dial: 888–312–3051, Conference ID: 3424504.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–312–3051, conference ID: 3424504. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the

Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Arkansas Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=236*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Civil Rights Topics in Arkansas
Next Steps
Public Comment
Adjournment

Dated: May 18, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10529 Filed 5–22–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Maryland Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a meeting of the Maryland Advisory Committee to the Commission will convene by conference call at 12:00 p.m. (EDT) on: Tuesday, June 6, 2017. The purpose of the meeting is to review a draft advisory memorandum on bail reform and fines and fees and vote on the memorandum, discuss future actions for the bail reform/fines and fees project, and plan future activities.

DATES: Tuesday, June 6, 2017, at 12:00 p.m. EDT.

Public Call-In Information:

Conference call-in number: 1–877–874–1588 and conference call 4862480.

FOR FURTHER INFORMATION CONTACT: Evelyn Bohor at *ero@usccr.gov* or by phone at 202–376–7533.

SUPPLEMENTARY INFORMATION: Interested members of the public may listen to the discussion by calling the following toll-free conference call-in number: 1–877–874–1588 and conference call 4862480. Please be advised that before placing them into the conference call, the conference call operator will ask callers to provide their names, their organizational affiliations (if any), and email addresses (so that callers may be notified of future meetings). 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 conference call-in number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service at 1–800–977–8339 and providing the operator with the toll-free conference call-in number: 1–877–874–1588 and conference call 4862480.

Members of the public are invited to make statements during the open comment period of the meeting or submit written comments. The comments must be received in the regional office approximately 30 days after each scheduled meeting. Written comments may be mailed to the Eastern Regional Office, U.S. Commission on Civil Rights, 1331 Pennsylvania Avenue, Suite 1150, Washington, DC 20425, faxed to (202) 376–7548, or emailed to Evelyn Bohor at *ero@usccr.gov.* Persons who desire additional information may contact the Eastern Regional Office at (202) 376–7533.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=253;* click the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Eastern Regional Office, as they become available, both before and after the meetings. 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 Eastern Regional Office at the above phone numbers, email or street address.

Agenda

Tuesday, June 6, 2017

- Rollcall
- Review and Vote on Advisory Memorandum
- Planning Meeting
- Other Business
- Open Comment
- Adjourn

Dated: May 18, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10527 Filed 5–22–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the Louisiana Advisory Committee To Discuss Civil Rights Topics in the State

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the Louisiana Advisory Committee (Committee) will hold a meeting on Thursday, June 8, 2017, at 1:00 p.m. Central for the purpose of a discussion on civil rights topics affecting the state.

DATES: The meeting will be held on Thursday, June 8, 2017, at 1:00 p.m. CDT.

ADDRESSES: Public call information: Dial: 888–452–4004, Conference ID: 8153251.

FOR FURTHER INFORMATION CONTACT: David Barreras, DFO, at *dbarreras@usccr.gov* or 312–353–8311.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–452–4004, conference ID: 8153251. Any interested member of the public may call this number and listen to the meeting. An open comment period will be provided to allow members of the public to make a statement as time allows. The conference call operator will ask callers to identify themselves, the organization they are affiliated with (if any), and an email address prior to placing callers into the conference room. Callers can expect to incur regular charges for calls they initiate over wireless lines, according to their wireless plan. The Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office within 30 days following the meeting. Written comments may be mailed to the Midwestern Regional Office, U.S. Commission on Civil Rights, 55 W. Monroe St., Suite 410, Chicago, IL 60615. They may also be faxed to the Commission at (312) 353–8324, or emailed to Carolyn Allen at *callen@usccr.gov.* Persons who desire additional information may contact the Midwestern Regional Office at (312) 353–8311.

Records generated from this meeting may be inspected and reproduced at the Midwestern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Louisiana Advisory Committee link (*https://database.faca.gov/committee/committee.aspx?cid=251&aid=17*). Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Midwestern Regional Office at the above email or street address.

Agenda

Welcome and Roll Call
Orientation
Civil Rights Topics in Louisiana
Next Steps
Public Comment
Adjournment

Dated: May 18, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–10530 Filed 5–22–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Notice on Procedures for Attending or Viewing Remotely the Public Hearing on Section 232 National Security Investigation of Imports of Steel

AGENCY: Bureau of Industry and Security, Office of Technology Evaluation, U.S. Department of Commerce.

ACTION: Notice on procedures for attending or viewing remotely the public hearing.

SUMMARY: On April 26, 2017, the Bureau of Industry and Security (BIS), published the *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel.* The April 26 notice specified that the Secretary of Commerce initiated an investigation to determine the effects on the national security of imports of steel. This investigation has been initiated under section 232 of the Trade Expansion Act of 1962, as amended. (*See* the April 26 notice for additional details on the investigation and the request for public comments.)

The April 26 notice also announced that the Department of Commerce will hold a public hearing on the investigation on May 24, 2017 in Washington, DC. Today's notice provides additional details on the procedures for attending the hearing and for viewing the hearing, via webcast.

DATES: The hearing will be held on May 24, 2017 at the U.S. Department of Commerce auditorium, 1401 Constitution Avenue NW., Washington, DC 20230. The hearing will begin at 10:00 a.m. local time and conclude at 1:00 p.m. local time.

FOR FURTHER INFORMATION CONTACT: Brad Botwin, Director, Industrial Studies, Office of Technology Evaluation, Bureau of Industry and Security, U.S. Department of Commerce (202) 482–4060, *brad.botwin@bis.doc.gov*. For more information about the section 232 program, including the regulations and the text of previous investigations, see *www.bis.doc.gov/232*.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 2017 (82 FR 19205), the Bureau of Industry and Security (BIS) published the *Notice Request for Public Comments and Public Hearing on Section 232 National Security Investigation of Imports of Steel*. The April 26 notice specified that on April 19, 2017, the Secretary of Commerce (''Secretary'') initiated an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of steel. (*See* the April 26 notice for additional details on the investigation and the request for public comments.)

The April 26 notice also announced that the Department of Commerce will hold a public hearing on the investigation. The hearing will be held on May 24, 2017 at the U.S. Department of Commerce auditorium, 1401 Constitution Avenue NW., Washington, DC 20230. The hearing will begin at 10:00 a.m. local time and conclude at 1:00 p.m. local time. The hearing will assist the Department in determining whether imports of steel threaten to impair the national security and in recommending remedies, if such a threat is found to exist.

The April 26 notice included the following information: (a) Procedures for requesting participation in the hearing, including procedures for submitting comments; (b) conduct of the hearing; and (c) special accommodations for the hearing. (*See* the April 26 notice for additional details on these aspects of the public hearing.)

Today's notice provides additional details on the procedures for attending the hearing and for viewing the hearing, via webcast.

Procedure for Attending the Hearing, or Viewing the Hearing Via Webcast

Registration: Individuals and entities who wish to attend the public hearing are required to pre-register for the meeting on-line at *www.bis.doc.gov/232SteelHearing* (preferred) or by emailing *Steel232@bis.doc.gov*. Anyone wishing to attend this public hearing must register by 5:00 p.m. (EST), Tuesday, May 23, 2017.

Webcast: The public hearing will be available live via webcast. Please visit: *www.bis.doc.gov/232SteelHearing*.

Visitor Access Requirement: For participants attending in person, please note that federal agencies can only accept a state-issued driver's license or identification card for access to federal facilities if such license or identification card is issued by a state that is compliant with the REAL ID Act of 2005 (Pub. L. 109–13), or by a state that has an extension for REAL ID compliance. The main entrance of the Department of Commerce is on 14th Street NW. between Pennsylvania Avenue and Constitution Avenue, across from the Ronald Reagan Building. Upon entering the building, please go through security and check in at the guard's desk. BIS staff will meet and escort visitors to the auditorium.

Non U.S. Citizens Please Note: All foreign national visitors who do not have permanent resident status and who wish to register for the above meeting must fax a copy of their passport to (202) 482–5361. Please also bring a copy of your passport on the day of the hearing to serve as identification. Failure to provide this information prior to arrival will result, at a minimum, in significant delays in entering the facility. Authority to gather this information is derived from United States Department of Commerce Department Administrative Order (DAO) number 207–12. Please visit *www.bis.doc.gov/232SteelHearing* to register and for more details regarding this requirement.

Dated: May 17, 2017.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 2017–10444 Filed 5–22–17; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–557–813]

Polyethylene Retail Carrier Bags From Malaysia: Final Results of Antidumping Duty Administrative Review; 2015–2016

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: On April 6, 2017, the Department of Commerce (Department) published in the **Federal Register** the preliminary results of the administrative review of the antidumping duty order on polyethylene retail carrier bags from Malaysia covering the period August 1, 2015 through July 31, 2016. The review covers one producer/exporter of subject merchandise, Euro SME Sdn Bhd (Euro SME). The Department preliminarily found that Euro SME did not have reviewable entries during the period of review (POR). The Department gave interested parties an opportunity to comment on the *Preliminary Results,* but we received no comments. Hence, the final results are unchanged from the *Preliminary Results,* and we continue to find that Euro SME did not have reviewable entries during the POR.

DATES: Effective May 23, 2017.

FOR FURTHER INFORMATION CONTACT: Alex Rosen or Brendan Quinn, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–7814 or (202) 482–5848, respectively.

SUPPLEMENTARY INFORMATION:

Background

On April 6, 2017, the Department published the *Preliminary Results.*[1] We invited interested parties to comment on the *Preliminary Results,*[2] but received no comments. The Department conducted this review in accordance with section 751(a)(1)(B) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise subject to this antidumping duty order is polyethylene retail carrier bags (PRCBs), which also may be referred to as t-shirt sacks, merchandise bags, grocery bags, or checkout bags. The subject merchandise is defined as non-sealable sacks and bags with handles (including drawstrings), without zippers or integral extruded closures, with or without gussets, with or without printing, of polyethylene film having a thickness no greater than 0.035 inch (0.889 mm) and no less than 0.00035 inch (0.00889 mm), and with no length or width shorter than 6 inches (15.24 cm) or longer than 40 inches (101.6 cm). The depth of the bag may be shorter than 6 inches (15.24 cm) but not longer than 40 inches (101.6 cm).

PRCBs are typically provided without any consumer packaging and free of charge by retail establishments, *e.g.,* grocery, drug, convenience, department, specialty retail, discount stores, and restaurants to their customers to package and carry their purchased products. The scope of this antidumping duty order excludes (1) PRCBs that are not printed with logos or store names and that are closeable with drawstrings made of polyethylene film and (2) PRCBs that are packed in consumer packaging with printing that refers to specific end-uses other than packaging and carrying merchandise from retail establishments, *e.g.,* garbage bags, lawn bags, trash-can liners.

Imports of merchandise included within the scope of this antidumping duty order are currently classifiable under statistical category 3923.21.0085 of the Harmonized Tariff Schedule of the United States (HTSUS). This subheading may also cover products that are outside the scope of this antidumping duty order. Although the HTSUS subheading is provided for convenience and customs purposes, the written description of the scope of this antidumping duty order is dispositive.

Final Determination of No Shipments

As noted above, the Department received no comments from interested parties concerning the *Preliminary Results* on the record of this segment of the proceeding. As there are no changes from, or comments on, the *Preliminary Results,* the Department finds that there is no reason to modify its analysis. Thus, we continue to find that Euro SME had no reviewable transactions during the POR.[3] Accordingly, no decision memorandum accompanies this **Federal Register** notice. For further details of the issues addressed in this proceeding, *see* the *Preliminary Results.*[4]

Assessment Rates

The Department determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries of subject merchandise, where applicable, in accordance with section 751(a)(2)(C) of the Act and 19 CFR 351.212(b). For entries of subject merchandise during the POR for which SME did not know its merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction.[5] The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

Cash Deposit Requirements

The following cash deposit requirements will be effective for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice of final results of the administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For Euro SME, which claimed no shipments, the cash deposit rate will remain unchanged from the rate assigned to Euro SME in the most recently completed review of the company; (2) for previously investigated or reviewed companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is a firm not covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters is 2.40 percent. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement

[1] *See Polyethylene Retail Carrier Bags From Malaysia: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,* 82 FR 16792 (April 6, 2017) (*Preliminary Results*).

[2] *Id.,* 82 FR at 16793.

[3] *See Preliminary Results,* 82 FR at 16792–93.

[4] *Id.*

[5] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

We are issuing and publishing these final results and this notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Dated: May 17, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–10522 Filed 5–22–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–893]

Certain Frozen Warmwater Shrimp From the People's Republic of China: Rescission of Antidumping Duty Administrative Review; 2016–2017

AGENCY: Enforcement and Compliance, International Trade Administration, Commerce.

SUMMARY: The Department of Commerce (the Department) is rescinding the administrative review of the antidumping duty order on certain frozen warmwater shrimp (shrimp) from the People's Republic of China (PRC) for the period February 1, 2016, through January 31, 2017.

DATES: Effective May 23, 2017.

FOR FURTHER INFORMATION CONTACT: Ian Hamilton, AD/CVD Operations, Office V, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4798.

SUPPLEMENTARY INFORMATION:

Background

On April 10, 2017, based on a timely request for review on behalf of the Ad Hoc Shrimp Trade Action Committee (the petitioner) [1] and the American Shrimp Processors Association (Domestic Processors),[2] the Department published in the **Federal Register** a notice of initiation of an administrative review of the antidumping duty order on shrimp from the PRC covering the period February 1, 2016, through January 31, 2017.[3] The review covers 84 companies. On May 2, 2017, and May 9, 2017, the petitioner and Domestic Processors withdrew their requests for an administrative review on all companies listed in the *Initiation Notice*.[4] No other party requested a review of these companies or any other exporters of subject merchandise.

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, the petitioner and Domestic Processors timely withdrew their request by the 90-day deadline, and no other party requested an administrative review of the antidumping duty order. As a result, pursuant to 19 CFR 351.213(d)(1), we are rescinding the administrative review of the antidumping order on shrimp from the PRC for the period February 1, 2016, through January 31, 2017, in its entirety.

Assessment

The Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries. Because the Department is rescinding this administrative review in its entirety, the entries to which this administrative review 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 in the **Federal Register**, if appropriate.

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 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(a)(3), which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the 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: May 17, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–10483 Filed 5–22–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See* Letter to the Secretary of Commerce from the Ad Hoc Shrimp Trade Action Committee ''Request for Administrative Reviews'' (February 22, 2017).

[2] *See* Letter to the Secretary of Commerce from the American Shrimp Processors Association ''American Shrimp Processors Association's Request for an Administrative Review'' (February 28, 2017).

[3] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 17188 (April 10, 2017) (*Initiation Notice*).

[4] *See* Letter to the Secretary of Commerce from the petitioner ''Domestic Producers' Withdrawal of Review Requests'' (May 2, 2017); Letter to the Secretary of Commerce from Domestic Processors ''Withdrawal of Review Requests on Behalf of the American Shrimp Processors Association'' (May 9, 2017).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF439

South Atlantic Fishery Management Council; Public Meeting

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

ACTION: Notice of public meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will

hold meetings of the: Scientific and Statistical Committee (SSC) Selection Committee (Closed Session); Advisory Panel Selection Committee (Partially Closed); Southeast Data, Assessment and Review (SEDAR) Committee (Partially Closed); Spiny Lobster Committee; Highly Migratory Species Committee, Law Enforcement Committee (Partially Closed); Habitat Protection and Ecosystem-Based Management Committee; Dolphin Wahoo Committee; Snapper Grouper Committee; Citizen Science Committee (Partially Closed); Mackerel Cobia Committee; Data Collection Committee; and Executive Finance Committee. There will also be a Workshop for Improving Survival of Released Fish during the meeting week and a meeting of the full Council. The Council will take action as necessary. The Council will also hold a formal public comment session.

DATES: The Council meeting will be held from 8:30 a.m. on Monday, June 12, 2017 until 1 p.m. on Friday, June 16, 2017.

ADDRESSES: *Meeting address:* The meetings will be held at the Sawgrass Marriott, 1000 PGA Tour Blvd., Ponte Vedra Beach, FL; phone: (800) 457–4653 or (904) 285–7777; fax: (904) 285–0906.

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

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.* Meeting information is available from the Council's Web site at: *http://safmc.net/meetings/council-meetings/.*

SUPPLEMENTARY INFORMATION: *Public comment:* Written comments may be directed to Gregg Waugh, Executive Director, South Atlantic Fishery Management Council (see *Council address*) or electronically via the Council's Web site at *http://safmc.net/meetings-documents/june-2017-meeting-details/.* The public comment form is open for use when the briefing book is posted to the Web site on the Friday, two weeks prior to the Council meeting (5/26/17). Comments received by close of business the Monday before the meeting (6/5/17) will be compiled, posted to the Web site as part of the meeting materials, and included in the administrative record; please use the Council's online form available from the Web site. For written comments received after the Monday before the meeting (after 6/5/17), individuals submitting a comment must use the Council's online form available from the Web site. Comments will automatically be posted to the Web site and available for Council consideration. Comments received prior to noon on Thursday, June 15, 2017 will be a part of the meeting administrative record. The items of discussion in the individual meeting agendas are as follows:

Scientific and Statistical Committee (SSC) Selection Committee (Closed Session), Monday, June 12, 2017, 8:30 a.m. Until 9:30 a.m.

1. The Committee will review applications for appointments to the SSC and provide recommendations.

AP Selection Committee, Monday, June 12, 2017, 9:30 a.m. Until 10:30 a.m. (Partially Closed Session)

Closed Session

1. The Committee will review applicants to the Citizen Science Advisory Panel Pool and provide recommendations.

2. The Committee will discuss the current structure and function of the Cobia Sub-panel of the Mackerel Cobia Advisory Panel, discuss options for an open Cobia Sub-panel seat, and discuss a petition sent to Council members concerning a Cobia Sub-panel member.

Open Session

3. The Committee will discuss the proposed process for future appointments to the Citizen Science Advisory Panel (AP) Pool and SEDAR AP Pool and provide recommendations.

SEDAR Committee (Partially Closed Session), Monday, June 12, 2017, 10:30 a.m. until 12 p.m.

Closed Session

1. The Committee will provide recommendations for appointment to upcoming SEDAR assessments.

Open Session

1. The Committee will receive an update on SEDAR projects including the status of on-going projects, schedule for the vermilion snapper stock assessment and Terms of Reference, and take action as necessary.

2. The Committee will also discuss the stock assessment process and schedule with a report from the SEDAR Steering Committee, an update on plans for a joint meeting of the South Atlantic Council and Gulf of Mexico Councils SSCs, and an SSC report relative to future priorities and research track. The Committee will provide recommendations as appropriate.

3. The Committee will receive an overview of NOAA Fisheries' Stock Assessment Improvement Plan (SAIP) Updates, review SSC comments and provide recommendations as appropriate.

Spiny Lobster Committee, Monday, June 12, 2017, 1:30 p.m. Until 2:30 p.m.

1. The Committee will receive an update on the status of catches versus annual catch limits (ACLs) for spiny lobster, review Spiny Lobster Regulatory Amendment 4 addressing management parameters including Acceptable Biological Catch (ABC) and ACLs, and the use of traps to recreationally harvest spiny lobster. The Committee will provide recommendations for approving the amendment for submission to the Secretary of Commerce for review.

2. The Committee will also receive updates on measures to align federal regulations with Florida Fish and Wildlife Commission regulations for spiny lobster.

Highly Migratory Species (HMS) Committee, Monday, June 12, 2017, 2:30 p.m. Until 3:30 p.m.

1. The Committee will review a white paper on HMS general category permit holders' compliance with U.S. Coast Guard commercial vessel safety requirements and receive an overview of shark feeding activities. The Committee will take action as appropriate.

Workshop on Improving Survival of Released Fish—Monday, June 12, 2017, 3:30 p.m. Until 5:30 p.m.

Council staff will provide an introduction to the problem of focusing on discard mortality rates used in stock assessments and the number of fish estimated to be discarded dead. The Council will then receive presentations on best fishing practices being used to reduce discard mortality including the use of descending devices, venting tools, and outreach efforts.

Law Enforcement Committee (Partially Closed), Tuesday, June 13, 2017, 8 a.m. Until 9:30 a.m.

Closed Session

1. The Committee will discuss and recommend an appointment for the Council's 2016 Law Enforcement Officer of the Year Award.

Open Session

1. The Committee will receive a report from the Law Enforcement Advisory Panel, and discuss the utility of operator cards and enforcement of offloading and closure timing for the commercial sector.

2. The Committee will discuss how non-reporting could result in suspension of a permit per the Magnuson-Stevens Conservation and

Management Act and also discuss agenda items for its next meeting. The Committee will provide guidance to staff.

Habitat Protection and Ecosystem-Based Management Committee, Tuesday, June 13, 2017, 9:30 a.m. Until 12 p.m.

1. The Committee will receive a report from the Habitat Protection and Ecosystem-Based Management Advisory Panel.

2. The Committee will review and approve the Council's Essential Fish Habitat Policy Statement on Artificial Reefs and the core Fishery Ecosystem Plan II sections.

3. The Committee will discuss the Habitat and Ecosystem Tools and Model Development, receive a presentation on International *Sargassum* Conservation, and an update on Council actions pertaining to habitat and provide recommendations as appropriate.

Dolphin Wahoo Committee, Tuesday, June 13, 2017, 1:30 p.m. Until 2:30 p.m.

1. The Committee will receive updates from NOAA Fisheries on commercial catches versus quota for dolphin and wahoo, receive a report from the Dolphin Wahoo Advisory Panel, from the SSC and provide guidance to staff.

Snapper Grouper Committee, Tuesday, June 13, 2017, 2:30 p.m. Until 5:30 p.m. and Wednesday, June 14, 2017 From 8 a.m. Until 4:30 p.m.

1. The Committee will receive updates from NOAA Fisheries on commercial catches versus quotas for species under ACLs and the status of amendments under formal Secretarial review.

2. The Committee will receive a report from the Snapper Grouper Advisory Panel and an update on the Southeast Reef Fish Survey (SERFS).

3. The Committee will receive an overview of Vision Blueprint Regulatory Amendment 26 addressing recreational management actions and alternatives and Vision Blueprint Regulatory Amendment 27 addressing commercial management actions and alternatives, as identified in the 2016–2020 Vision Blueprint for the Snapper Grouper Fishery. The Committee will modify the documents as necessary, provide guidance to staff and is scheduled to approve the amendments for public hearings.

4. The Committee will receive a report from NOAA Fisheries' Southeast Fisheries Science Center on 2016 red snapper landings and discard estimates and the status of the 2017 red snapper season for federal waters in the South Atlantic. The Committee will also receive a report from the SSC and an update on the joint Council and Snook & Gamefish Foundation reporting app project.

5. The Committee will receive an overview of management options in Amendment 43 to the Snapper Grouper Fishery Management Plan addressing red snapper management and recreational reporting requirements, discuss, and provide direction to staff.

6. The Committee will review a white paper on limiting entry for Federal For-Hire (Charter) Permits, discuss and provide direction to staff.

7. The Committee will receive an update on the status of the Snapper Grouper Socio-economic Characterization/Portfolio analysis for the snapper grouper fishery.

8. The Committee will receive a presentation from NOAA Fisheries on the stock assessment for red grouper, review SSC comments and provide guidance as appropriate.

9. The Committee will receive a report from the SSC relative to golden tilefish, receive an update on the SEDAR Steering Committee actions, review a background document on golden tilefish management and provide recommendations regarding the develop of an interim rule and any other guidance.

10. The Committee will receive an update on the Acceptable Biological Catch (ABC) Control Rule, receive a report from the SSC relative to the ABC Control Rule, and provide guidance to staff.

11. The Committee will receive an update on the review of the Wreckfish Individual Transferable Quota (ITQ) program, discuss background and timing, and provide guidance to staff.

Formal Public Comment, Wednesday, June 14, 2017, 4:30 p.m.

Public comment will be accepted on items on the Council agenda. Comment will be accepted first on items before the Council for Secretarial review and public hearings: Formal Review—Spiny Lobster Regulatory Amendment 4 and Public Hearings—Visioning Regulatory Amendment 26 (recreational) and Visioning Regulatory Amendment 27 (commercial). The Council Chair, based on the number of individuals wishing to comment, will determine the amount of time provided to each commenter.

Citizen Science Committee (Partially Closed), Thursday, June 15, 2017, 8 a.m. Until 9:30 a.m.

Closed Session

1. The Committee will make recommendations for appointments to the Citizen Science Action Teams.

Open Session

1. The Committee will receive an update on the Citizen Science Program and Terms of Reference, review and take action as necessary.

Mackerel Cobia Committee, Thursday, June 15, 2017, 9:30 a.m. Until 11a.m.

1. The Committee will receive status updates from NOAA Fisheries on commercial catches versus quotas for species under ACLs and amendments currently under Secretarial review.

2. The Committee will receive a meeting report from the Mackerel Cobia Advisory Panel and Cobia Sub-Panel, discuss emergency action for Atlantic cobia, receive an update on the status of the Atlantic States Marine Fisheries Commission's Interstate Cobia Plan, state reports on Atlantic cobia for 2017, discuss these items and take action as appropriate.

3. The Committee will consider a Framework to adjust Atlantic King Mackerel Trip Limits, discuss using a common unit for tracking Coastal Migratory Pelagic species, and take action as necessary.

Data Collection Committee, Thursday, June 15, 2017, 11 a.m. Until 12 p.m.

1. The Committee will receive reports and updates on the following: For-Hire Electronic Reporting Amendment, Bycatch Amendment, the Joint Council and Atlantic Coastal Cooperative Statistics Program (ACCSP) For-Hire Electronic Reporting Pilot Project, the draft Headboat Annual Report, and the South Atlantic Research Plan. The Committee will review and take action as necessary.

Executive/Finance Committee, Thursday, June 15, 2017, 1:30 p.m. Until 3:30 p.m.

1. The Committee will receive a report on the May 2017 Council Coordinating Committee meeting and provide guidance as necessary.

2. The Committee will receive an overview of the Calendar Year 2017 Budget and approve; and review, modify, and approve the Council Follow-up and Work Priorities.

3. The Committee will discuss standards and procedures for participating in Council webinar meetings, review of Exempted Fishing

Permits, and document timing for meeting briefing book materials, public comment at advisory panel meetings, and the SSC liaison and role of Council members at SSC meetings. The Committee will provide guidance and take action as appropriate.

4. The Committee will discuss options for an advisory panel/workgroup for the System Management Plan for the Council's managed areas and take action as necessary.

5. The Committee will receive an overview of the Marine Recreational Information Program (MRIP) 5-Year Strategic Plan and provide guidance as necessary.

Council Session: Thursday, June 15, 2017, 3:30 p.m. Until 5:30 p.m. and Friday, June 16, 2017, 8 a.m. Until 1 p.m. (Partially Closed Session)

The Full Council will convene beginning on Thursday afternoon with a Call to Order, announcements and introductions, presentations, and approval of the March 2017 meeting minutes.

The Council will receive a Legal Briefing on Litigation from NOAA General Counsel (if needed) during Closed Session. The Council will receive a report from the Executive Director. The Council will also receive reports from NOAA Fisheries on the status of commercial and recreational catches versus ACLs for species not covered during an earlier committee meeting, Protected Resources updates, and the status of Bycatch Collection Programs. The Council will review any Exempted Fishing Permits received by NOAA Fisheries, receive a report on the Workshop to Improve Survival of Released Fish and take action as necessary.

The Council will receive a report from the Spiny Lobster Committee, approve/disapprove Spiny Lobster Regulatory Amendment 4 for Secretarial review, consider other Committee recommendations, and take action as appropriate.

The Council will receive a report from the Snapper Grouper Committee and approve/disapprove Visioning Amendment 26 (recreational) and Visioning Amendment 27 (commercial) for public hearings.

The Council will continue to receive committee reports from the Mackerel Cobia, Dolphin Wahoo, Law Enforcement, Advisory Panel Selection, SSC Selection, SEDAR, Data Collection, Habitat and Ecosystem-Based Management, HMS, Citizen Science, and Executive Finance Committees, review recommendations, and take action as appropriate.

The Council will receive agency and liaison reports; and discuss other business and upcoming meetings.

Documents regarding these issues are available from the Council office (see **ADDRESSES**).

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

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

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

Dated: May 18, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–10489 Filed 5–22–17; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE988

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to a Dock Replacement Project in Unalaska, Alaska

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an Incidental Harassment Authorization (IHA) to the City of Unalaska (COU) to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with a dock expansion project at the existing Unalaska Marine Center (UMC) Dock in Unalaska, Alaska.

DATES: Effective April 28, 2017 through April 27, 2018.

FOR FURTHER INFORMATION CONTACT: Jolie Harrison, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the COU's application and supporting documents, as well as a list of the references cited in this document, may be obtained by visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed under **FOR FURTHER INFORMATION CONTACT**.

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding,

feeding, or sheltering (Level B harassment).

Summary of Request

On March 22, 2016, we received a request from the COU for authorization to take marine mammals incidental to pile driving and pile removal associated with construction activities that would expand the existing UMC Dock in Dutch Harbor in the City of Unalaska, on Amaknak Island, Alaska. The COU submitted a revised version of the request on July 30, 2016, which was deemed adequate and complete. In August 2016, NMFS released its Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (the Guidance, available at *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm*) which provides technical guidance for assessing the effects of anthropogenic sound on the hearing of marine mammal species under the jurisdiction of NMFS. The Guidance establishes new thresholds for predicting auditory injury, which equates to Level A harassment under the MMPA. The COU was able to update relevant portions of their application to incorporate re-calculated Level A harassment zones for vibratory and impact pile driving activities based on the updated acoustic thresholds described in the Guidance. The results of those calculations (*i.e.,* revised distances to Level A harassment thresholds) were provided to NMFS by the COU in September 2016 and were included in the proposed IHA. NMFS published a notice in the **Federal Register** making preliminary determinations and proposing to issue an IHA on November 10, 2016 (81 FR 78969). The notice initiated a 30-day comment period.

The COU proposes to demolish portions of the existing UMC dock and install a new dock between April 2017 and November 2017. The use of both vibratory and impact pile driving during pile removal and installation is expected to produce underwater sound at levels that have the potential to result in behavioral harassment of marine mammals. Species with the expected potential to be present during all or a portion of the in-water work window include Steller sea lion (*Eumetopias jubatus*), harbor seal (*Phoca vitulina*), humpback whale (*Megaptera novaeangliae*), and killer whale (*Orcinus orca*).

To account for potential unexpected delay in project time frame, the IHA issued to COU covers the period from April 28, 2017, to April 27, 2018, based on impact analysis.

Description of the Specified Activity

Overview

In order to meet the increasing needs of the international shipping industry and increase vessel berthing capacity, a substantial upgrade of aging UMC facilities is necessary. The proposed project will replace the existing pile supported docks located at UMC Dock Positions III and IV with a modern high-capacity sheet pile bulkhead dock that extends from the existing bulkhead dock at Position V to the U.S. Coast Guard (USCG) Dock.

COU port operations saw numerous factory trawler offloads occurring at Dock Positions III and IV in 2013. These operations require more length at the face of the dock and greater uplands area than is available with the current infrastructure. The existing pile-supported docks are aging structures in shallower water that no longer meet the needs of the Port and require increasing levels of maintenance and monitoring costs. Both docks are also severely constrained by the limited uplands area available for offloading and loading operations.

Dock Position III is a timber pile-supported dock with approximately 160 feet of dock face that was constructed in the 1960's by the U.S. Army Corps of Engineers (USACE). This dock has been used for the Alaska Marine Highway System, vessel moorage, and factory trawler offloads. However, use of this structure is severely limited due to the low load-carrying capacity of the dock. The bullrails, deck surface, and bollards have deteriorated with age and the entire structure is in need of replacement or extensive renovations.

Dock Position IV is a steel-pile-supported, concrete deck structure with an approximate length of 200 feet that was constructed in the 1980s by the State of Alaska. Similar to Dock Position III, use of this dock is limited due to the low load capacity of the structure. Erosion has damaged an abutment underneath the dock, which is very difficult to repair and has the potential for further damage to adjacent portions of the dock.

The dock face of Dock Positions III and IV does not align with the larger sections of the UMC facility, significantly limiting overall usable moorage space. The proposed project aligns the new dock structures with the adjacent facilities, eliminates two angle breaks, provides substantially more usable moorage, and provides much deeper water at the dock face. The sheet pile dock will encompass the area between Dock Position V and the adjacent USCG Dock, providing maximum use of the available berthing area and upland storage space. The new dock alignment will allow larger, deeper vessels as well as simultaneous use of the other UMC facilities.

Dates and Duration

In-water and over-water construction of Phase 1 (all sheet pile installation, all in-water pipe pile installation, most upland pipe pile installation, and fill placement) is planned to occur between approximately April 1, 2017 and November 1, 2017. Phase 2 is planned to occur between approximately May 1, 2018 and October 1, 2018. Some of the upland pipe pile for utilities may be driven in upland fill away from the dock face during Phase 2. The COU proposes to use the following general construction sequence, subject to adjustment by the construction contractor's means and methods:

Construction Phase 1 (2017):

- Mobilization of equipment and demolition of the existing dock Positions III and IV and removal of any existing riprap/obstructions (April–May 2017).
- Development of the quarry for materials.
- Installation (and later removal) of temporary support piles for contractor's template structures and barge support.
- Installation of the new sheet pile bulkhead dock. This includes driving sheet piles, placing fill within the cell to grade, and compaction of fill.
- Installation of fender and platform support piles in the water adjacent to the dock and miscellaneous support piles within the completed sheet pile cells.
- Installation of pre-assembled fender systems (energy absorbers, sleeve piles, steel framing, and fender panels).
- Installation of the crane support piles.
- Installation of temporary utilities and gravel surface to provide functional dock capability for the 2017/2018 season.

Construction Phase 2 (2018):

- Installation of concrete grade beam for crane rails, utility vaults, and dock surfacing.
- Installation of electrical, sewer, fuel, water, and storm drainage utilities.

Pile removal and pile driving is expected to occur between April 1 and November 1, 2017. In the summer months (April–September), 12-hour workdays in extended daylight will likely be used. In winter months (October–March), shorter 8-hour to 10-hour workdays in available daylight will likely be achievable. Work windows may be extended or shortened if or when electrical lighting is used. The

daily construction window for pile driving or removal will begin no sooner than 30 minutes after sunrise to allow for initial marine mammal monitoring to take place, and will end 30 minutes before sunset to allow for pre-activity monitoring. It is assumed that sound associated with the pile driving and removal activities will be put into the water approximately 50 percent of the total estimated project duration of 245 days (2,940 hours for 12-hour workdays). The remaining 50 percent of the project duration will be spent on activities that provide distinct periods without noise from pile driving or drilling such as installing templates and braces, moving equipment, threading sheet piles, pulling piles (without vibration), etc. During this time, a much smaller area will be monitored to ensure that animals are not injured by equipment or materials.

Specific Geographic Region

The UMC Dock is located in Dutch Harbor in the City of Unalaska, on Amaknak Island, Alaska (see Figure 5 of the application). Dutch Harbor is separated from the adjacent Iliuliuk Bay by a spit. The dock is located in Section 35, Township 72 South, Range 118 West, of the Seward Meridian. Tidelands in this vicinity are owned by the COU. Some of the adjacent uplands are owned by the COU and some are leased by the COU from Ounalashka Corporation. Adjacent infrastructure includes Ballyhoo Road and the Latitude 54 Building in which the COU Department of Ports and Harbors offices and facilities are currently housed. Neighboring docks include the USCG Dock and the existing UMC OCSP dock positions. Other marine facilities within Dutch Harbor include Delta Western Fuel, the Resolve-Magone Dock, North Pacific Fuel, the Kloosterboer Dock, and the COU's Light Cargo Dock and Spit Dock facilities, as shown in Figure 5 of the application. APL Limited is located within Iliuliuk Bay, and the entrance channel to Iliuliuk Harbor is south of Dutch Harbor.

Detailed Description of Activities

The COU proposes to install an OPEN CELL SHEET PILE™ (OCSP) dock at UMC Dock Position III and IV, replacing the existing pile-supported structure and providing a smooth transition between the UMC facility and the USCG dock. The OCSP dock will be constructed of PS31 flat sheet piles (web thickness of 0.5 inches and width between interlocks of 19.69 inches). In order to replace the existing timber pile-supported dock, the dock construction would include installation of the following:

- Approximately forty (40) 30-inch diameter steel fender and transition platform support piles;
- Approximately thirty (30) 30-inch diameter miscellaneous steel support piles
- Approximately one hundred fifty (150) 30-inch diameter steel crane rail support piles (approximately 25 of which are above the high tide line (HTL));
- Approximately one hundred fifty (150) 18-inch steel piles (H or round) used for temporary support of the sheet pile during construction (to be removed prior to completion);
- Approximately 1,800 PS31 flat sheet piles (approximately 100 of which are above the high tide line (HTL)); and
- Placement of approximately 110,000 cubic yards of clean fill.

The anticipated project quantities are shown in Table 1.

Concurrent with the dock construction, a material source will be developed in the hillside adjacent to Dock Position VII. The quarry will provide material for dock fill and other future projects, and the cleared area will be used for COU port offices and associated parking after the quarry is completed. The quarry will be developed through blasting benches in the rock face, with each bench being approximately 25 feet high, with the total height being approximately 125 feet. Quarry materials will be transported the short distance to the adjacent project site using heavy equipment.

TABLE 1—TOTAL PROJECT QUANTITIES

Item	Size and type, location	Below mean high water (MHW) (El. = 3.4)	Below high tide line (HTL) (El. = 4.7)	Total
Surface Area of Dock (Acres)		2.1	2.3	3.1
Surface Area of Water Filled (Acres)		2.1	2.8	2.8
Gravel Fill (Cubic Yards)	Clean Fill; Within dock	74,000	80,000	110,000
Piles to be Removed (Each)	Steel	195	195	195
	Timber	55	55	55
Estimated Temporary Piles (Each)	18″ Steel Pile; Within dock	150	150	150
Steel Piles—Fender and Platform Support (Each).	30″ Steel; In front of bulkhead	40	40	40
Miscellaneous Support Piles (Each)	30″ Steel; Within dock (not in-water)	30	30	30
Crane Rail Support Piles (Each)	30″ Steel; Within dock (not in-water)	125	125	150
Proposed Sheet Piles (Each)	PS31 Sheet Pile; Dock face	1,400	1,700	1,800

The existing structure will be demolished by removing the concrete deck, steel superstructure, and attached appurtenances and structures and then extracting the existing steel support piles with a vibratory hammer. Sheet pile will also be installed with a vibratory hammer. Pile driving may occur from shore or from a stationary barge platform, depending on the Contractor's selected methods. After cells are completely enclosed, they will be incrementally filled with clean material using bulldozers and wheel loaders. Fill will be placed primarily from shore, but some may be placed from the barge if needed. Fill will be compacted using vibratory compaction methods, described below. After all the sheet piles are installed and the cells are filled and compacted, fender piles, crane rail piles, mooring cleats, concrete surfacing, and other appurtenances will be installed.

As described, the project requires the removal and installation of various types and sizes of piles with the use of a vibratory hammer and impact hammer. These activities have the potential to result in Level B harassment (behavioral disruption) only, as a monitoring plan will be implemented to reduce the potential for exposure to Level A harassment (harassment resulting in injury). The rest of the in-water components of the project are

provided here for completeness. Note that many of the support piles will be installed to an elevation below MHW or HTL; however, they will be installed within the enclosed fill of the sheet pile dock rather than in the water.

Utilities will be installed during Phase II, and include addition/extension of water, sewer, fuel, electrical, and storm drain. Authorization to construct the sewer and storm drain extension, as well as a letter of non-objection for the storm drain, will be obtained from the State of Alaska Department of Environmental Conservation (ADEC).

A detailed description of the proposed project is provided in the **Federal Register** notice for the proposed IHA (81 FR 78969; November 10, 2016). Since that time, no changes have been made to the planned project activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the City was published in the **Federal Register** on November 10, 2016 (81 FR 78969). That notice described, in detail, the COU's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission). Specific comments and responses are provided below. Comments are also posted at *http://www.nmfs.noaa.gov/pr/permits/incidental/.*

Comment 1: The Commission recommends that NMFS (1) compile all in-situ source level pile-driving and pile-removal measurements from past and future projects in a central database, (2) require each action proponent to specify the sediment composition, water depth (in terms of hydrophone placement and bathymetry), duration over which the pressure was averaged for SPL_{rms} metrics, and median values in all future hydroacoustic monitoring reports, (3) ensure consistency regarding integration timeframes used for SPL_{rms} measurements (*e.g.,* 1-second averages, maximum over 10 seconds, or maximum over 30 seconds) in all future hydroacoustic monitoring reports, (4) require each action proponent to use median proxy source levels from all relevant sources when in-situ data are unavailable, and (5) require each action proponent to use the upper 90th percentile rather than the best-fit regression to inform the range to effects in all future hydroacoustic monitoring reports.

Response: NMFS understands the importance of taking a consistent approach when disseminating data for impact analyses, and is currently working on a guidance on in-water pile driving assessment, which will be supplemented by a compilation of in-situ source levels from pile driving and pile removal measurements from the past. The guidance will also include language that requires future sound source verifications (SSVs) to include information on sediment composition and water depth. Many of the standardized practices for SSVs such as hydrophone depth and integration time for impact and vibratory sound sources are provided in NMFS 2012 pile driving guidance. NMFS will refer applicants to this guidance in the future, and will also refer to these documents in the guidance that is being developed.

While NMFS is striving to achieve consistency in marine mammal impact analyses, including developing standard and acceptable methodologies and metrics for measuring and quantifying underwater noise sources, considerations are also given to action proponents with limited resources. In the case of data treatment whether percentile or regression to be used would depend on how measurements are conducted and how many data points an action proponent collected. For example, if an SSV is conducted using a shipboard hydrophone that collected acoustic data at various distances from the source, the amount of data at each location may be limited, not necessarily allowing us to perform a statistical treatment to obtain the percentile. Therefore, NMFS accepts a single data point at the received distance, or a distance derived using best-fit regression from a set of data that is available.

Comment 2: The Commission recommends that NMFS require each action proponent to (1) use a consistent source level reduction factor when sound attenuation devices would be used during impact pile driving and in-situ data are unavailable and (2) conduct bubble curtain testing (for air pressure and flow prior to impact hammer use) and place the bubble curtain device on the substrate in all relevant incidental take authorizations.

Response: The effectiveness of noise attenuation devices often depends on oceanographic conditions such as currents and tides, thus should be evaluated in a case by case fashion. For example, for pile driving activities being conducted in Puget Sound where local currents are strong, NMFS worked with the action proponent and recommend 0 dB reduction when calculating ensonified zones, while in other locations it has been shown in the past that an attenuation of 10 dB or more can be achieved. Regarding the second point from the Commission's comment, NMFS believes that the requirement for bubble curtain testing and design should also be considered in a case by case situation, as some of the action proponents may have limited resources to conduct such test or design a bubble curtain device that meets certain specifications.

In this case, no noise reduction is included in the calculation because the project proponent is not required to implement bubble curtain.

Comment 3: The Commission recommends that NMFS require each action proponent to implement a 100- rather than 50-msec pulse duration consistently when using NMFS's user spreadsheet and SPL_{rms}-based source levels to determine ranges to the various Level A harassment SEL_{cum} thresholds for impact pile driving.

Response: NMFS agrees with the Commission and will require each action proponent to implement a 100-msec pulse duration when using NMFS's optional spreadsheet and SPL_{rms}-based source level to determine ranges to Level A harassment zones. Consequently, 100-msec is the pulse duration we used for calculating Level A ensonified zones.

Comment 4: The Commission recommends that NMFS specify whether source levels based on SPL_{rms} or SEL_{s-s} are more appropriate for action proponents to use when both are available and require each action proponent to use that metric consistently to determine the ranges to the various Level A harassment SEL_{cum} thresholds.

Response: NMFS considers SEL_{s-s} provides a more accurate metric to calculate Level A harassment SEL_{cum} when using NMFS optional spread. Therefore, NMFS recommended action proponents to use that metric when both SPL_{rms} and SEL_{s-s} are available. In the case of issuance an IHA to COU, SEL_{s-s} metric was used.

Description of Marine Mammals in the Area of the Specified Activity

Marine waters near Unalaska Island support many species of marine mammals, including pinnipeds and cetaceans; however, the number of species regularly occurring within Dutch Harbor, including near the project location is limited due to the high volume of vessel traffic in and around the harbor. Due to this, Steller sea lion, harbor seal, humpback whale, and killer whale are the only species within NMFS

jurisdiction that are being included in the COA's IHA request. Sightings of other marine mammals within Dutch Harbor are extremely rare, and therefore, no further descriptions of the other marine mammals were included in the COA's application or in the notice of proposed authorization.

We have reviewed COA's species descriptions—which summarize available information regarding status and trends, distribution and habitat preferences, behavior and life history, and auditory capabilities of the potentially affected species—for accuracy and completeness and refer the reader to Sections 3 and 4 of the application. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

Table 2 lists the marine mammal species with the potential for occurrence in the vicinity of the project during the project timeframe and summarizes key information regarding stock status and abundance. A detailed description of the species likely to be affected by the project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (81 FR 78969; November 10, 2016). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

TABLE 2—MARINE MAMMALS POTENTIALLY PRESENT IN THE VICINITY OF THE PROJECT LOCATION

Species	Stock	MMPA status	ESA status	Occurrence in/near project	Seasonality	Abundance
Harbor seal (*Phoca vitulina richardsi*).	Aleutian Islands	Protected	.....	Common	Year-round	5,772
Steller sea lion (*Eumetopias jubatus*).	Western Distinct Population Segment (DPS).	Depleted, Strategic	Endangered	Common	Year-round	49,497
Killer whale (*Orcinus orca*).	Eastern North Pacific, Alaska Resident.	Protected	.....	Unknown	Summer, Fall	2,347
Killer whale (*Orcinus orca*).	Gulf of Alaska, Aleutian Islands, and Bering Sea Transient.	Protected	.....	Unknown	Year-round	587
Humpback whale (*Megaptera novaeangliae*).	Central North Pacific.	Depleted, Strategic	n/a*	Seasonal	Summer	10,103
Humpback whale (*Megaptera novaeangliae*).	Western North Pacific.	Depleted, Strategic	n/a*	Seasonal	Summer	1,107

*The newly defined DPSs (81 FR 62259) do not currently align with the stocks under the MMPA.

Potential Effects of the Specified Activity on Marine Mammals

The effects of underwater noise from construction activities for the project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (81 FR 78969; November 10, 2016) included a discussion of the effects of anthropogenic noise on marine mammals, therefore that information is not repeated here. Please refer to the **Federal Register** notice for that information.

Effects on Marine Mammal Habitat

The proposed activities at Dutch Harbor would not result in permanent impacts to habitats used directly by marine mammals, such as haul-out sites, but may have potential short-term impacts to food sources such as forage fish and salmonids. There are no rookeries or haulout sites within the modeled zone of influence for impact or vibratory pile driving associated with the project, or ocean bottom structure of significant biological importance to marine mammals that may be present in the waters in the vicinity of the project area. The project location receives heavy use by vessel moorage and factory trawler offloads, and experiences frequent vessel traffic because of these activities, thus the area is already relatively industrialized and not a pristine habitat for marine mammals. As such, the main impact associated with the proposed activity would be temporarily elevated sound levels and the associated direct effects on marine mammals, as discussed previously in this document. The most likely impact to marine mammal habitat occurs from pile driving effects on likely marine mammal prey (*i.e.,* fish) near the project location, and minor impacts to the immediate substrate during installation and removal of piles during the dock construction project.

The potential effects on marine mammal habitat are discussed in detail in the **Federal Register** notice for the proposed IHA (81 FR 78969; November 10, 2016), therefore that information is not repeated here; please refer to that **Federal Register** notice for that information.

Mitigation

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses.

The COU's calculation of the Level A harassment zones utilized the methods presented in Appendix D of NMFS' Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (the Guidance, available at *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm*), and the

accompanying User Spreadsheet.[1] The Guidance provides updated PTS onset thresholds using the cumulative SEL (SEL_{cum}) metric, which incorporates marine mammal auditory weighting functions, to identify the received levels, or acoustic thresholds, at which individual marine mammals are predicted to experience changes in their hearing sensitivity for acute, incidental exposure to all underwater anthropogenic sound sources. The Guidance (Appendix D) and its companion User Spreadsheet provide alternative methodology for incorporating these more complex thresholds and associated weighting functions.

The User Spreadsheet accounts for effective hearing ranges using Weighting Factor Adjustments (WFAs), and the COU's application uses the recommended values for vibratory and impact driving therein. NMFS' new acoustic thresholds use dual metrics of SEL_{cum} and peak sound level (PK) for impulsive sounds (*e.g.,* impact pile driving) and SEL_{cum} for non-impulsive sounds (*e.g.,* vibratory pile driving) (Table 3). The COU used proxy source level measurements taken from similar pile driving events (as described in ''Estimated Take by Incidental Harassment''), and using the User Spreadsheet, applied the updated PTS onset thresholds for impulsive PK and SEL_{cum} in the new acoustic guidance to determine distance to the isopleths for PTS onset for impact pile driving. For vibratory pile driving, the COU used the User Spreadsheet to determine isopleth estimates for PTS onset using the cumulative sound exposure level metric (L_E) (*http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm*). In determining the cumulative sound exposure levels, the Guidance considers the duration of the activity, the sound exposure level produced by the source during one working day, and the effective hearing range of the receiving species. In the case of the duel metric acoustic thresholds (L_{pk} and L_E) for impulsive sound, the larger of the two isopleths for calculating PTS onset is used. These values were then used to develop mitigation measures for proposed pile driving activities. The exclusion zone effectively represents the mitigation zone that would be established around each pile to prevent Level A harassment (PTS onset) to marine mammals (Table 4), while the zones of influence (ZOI) provide estimates of the areas within which Level B harassment might occur for impact/vibratory pile driving and quarry blasting (Table 5).

As discussed below, some of the proxy source levels, and the resulting PTS isopleth and harassment zone calculations, have been modified since the FR notice for the proposed IHA was published.

TABLE 3—SUMMARY OF PTS ONSET ACOUSTIC THRESHOLDS

Hearing group	PTS onset acoustic thresholds * (received level)	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	*Cell 1:* Lpk,flat: 219 dB, L_E,LF,24h: 183 dB	*Cell 2:* L_E,LF,24h: 199 dB.
Mid-Frequency (MF) Cetaceans	*Cell 3:* Lpk,flat: 230 dB, L_E,MF,24h: 185 dB	*Cell 4:* LE,MF,24h: 198 dB.
High-Frequency (HF) Cetaceans	*Cell 5:* Lpk,flat: 202 dB, L_E,HF,24h: 155 dB	*Cell 6:* LE,HF,24h: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	*Cell 7:* Lpk,flat: 218 dB, L_E,PW,24h: 185 dB	*Cell 8:* L_E,PW,24h: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	*Cell 9:* Lpk,flat: 232 dB, L_E,OW,24h: 203 dB	*Cell 10:* LE,OW,24h: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 µPa, and cumulative sound exposure level (L_E) has a reference value of 1µPa²s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript ''flat'' is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Monitoring and Shutdown for Pile Driving

The following measures would apply to the COU's mitigation through the exclusion zone and zone of influence:

Exclusion Zone—For all pile driving activities, the COU will establish an exclusion zone intended to contain the area in which Level A harassment thresholds are exceeded. The purpose of the exclusion zone is to define an area within which shutdown of construction activity would occur upon sighting of a marine mammal within that area (or in anticipation of an animal entering the defined area), thus preventing potential injury of marine mammals. Calculated distances to the updated PTS onset acoustic thresholds are shown in Table 4. Some of these distances have changed since the publication of the FR notice for the proposed IHA, as NMFS has incorporated more appropriate proxy source levels (see *Underwater Sound*) for some of the pile sizes based on Caltrans 2014 and 2015, as well as source levels used for recent Navy pile driving construction IHAs (79 FR 43429; 81 FR 66628; Navy, 2014). The greatest calculated distance to the Level A harassment threshold during impact pile driving, assuming a targeted maximum of 5 piles driven per day, is 397.6 m for low-frequency cetaceans (humpback whale). For mid-frequency cetaceans (killer whale), phocid pinnipeds (harbor seal), and otariid pinnipeds (Steller sea lion), the distances are 14.1 m, 212.8 m, and 15.5 m, respectively (Table 4). Calculated distances to the PTS onset threshold during vibratory pile driving range from a maximum of 14.7 m for low-frequency cetaceans to 0.6 m for otariids—depending on the specific type of piles/sheets that are installed or removed (Table 4).

[1] For most recent version of the NMFS User Spreadsheet, see: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 4—PILE DRIVING ACTIVITIES AND CALCULATED DISTANCES TO LEVEL A HARASSMENT ISOPLETHS (ONSET PTS THRESHOLD USING NMFS' NEW ACOUSTIC GUIDANCE) AND LEVEL A SHUTDOWN (EXCLUSION) ZONES

Source	Estimated duration				Level A harassment zone/shutdown zone (m) ** (new guidance)			
	Number of piles	Piles driven per day	Hours per day	Days of effort	LF Cetaceans	MF Cetaceans	PW Pinnipeds	OW Pinnipeds
Vibratory Installation Sheet	1,700	15	0.5	95	4.1/10	0.4/10	2.5/10	0.2/10
Vibratory Installation 18″	150	10	1.25	15	9.2/10	0.8/10	5.6/10	0.4/10
Vibratory Installation 30″	40	5	1	8	14.7/15	1.3/10	8.9/10	0.6/10
Vibratory Removal Steel 18″	195	10	1.25	35	9.2/10	0.8/10	5.6/10	0.4/10
Vibratory Removal Steel 18″	150	10	1.25	35	9.2/10	0.8/10	5.6/10	0.4/10
Vibratory Removal Timber	55	10	1.25	5.5	2.3/10	0.2/10	1.4/10	0.1/10
	Number of piles	Piles driven per day	Strikes per pile	Days of effort	LF Cetaceans	MF Cetaceans	PW Pinnipeds	OW Pinnipeds
Impact Installation 30″ (SEL Calc) *	40	5	200	8	397.6/400	14.1/15	212.8/215	15.5/15
		4	.....	10	342.6/340	12.2/15	183.3/185	13.3/15
		3	.....	14	282.8/280	10.1/10	151.4/150	11/10
		2	.....	20	215.8/215	7.7/10	115.5/115	8.4/10
		1	.....	40	136/135	4.8/10	72.8/75	5.3/10
		10	.....	4	630.1/630	22.4/25	337.2/340	24.6/25
		20	.....	2	1000.2/1000	35.6/35	535.3/535	39/40

* Distances to the Level A harassment (PTS onset) isopleth are based on the cumulative sound exposure level (L_E) acoustic threshold; the modeled distances to the PTS onset isopleth were smaller using the Lpk metric (see Table 8 in the application), and therefore, not used to establish shutdown zones.

** Calculated distances to the Level A harassment zones do assume additional sound reductions that may result from implementation of certain types of sound attenuation devices (*e.g.,* air bubble curtains).

The established shutdown zones corresponding to the Level A harassment zones for each activity are shown in Table 4 and are as follows:

- For all vibratory pile driving activities except vibratory installation of 30″ steel pile, a 10-m radius shutdown zone will be employed for all species observed. For vibratory installation of 30″ steel pile a 15-m radius shutdown zone will be employed.
- During impact pile driving, a shutdown zone will be determined by the number of piles to be driven that day as follows: If a maximum of five piles are to be driven that day, shutdown during the first driven pile will occur if a marine mammal enters the '5-pile' radius. After the first pile is driven, if no marine mammals have been observed within the '5-pile' radius, the '4-pile' radius will become the shutdown radius. This pattern will continue unless an animal is observed within the most recent shutdown radius, at which time that shutdown radius will remain in effect for the rest of the workday. Shutdown radii for each species, depending on number of piles driven, are as follows:
  - 5-pile radius: Humpback whale, 400 m; killer whale, 15 m; harbor seal, 215 m; Steller sea lion, 15 m.
  - 4-pile radius: Humpback whale, 340 m; killer whale, 15 m; harbor seal, 185 m; Steller sea lion, 15 m.
  - 3-pile radius: Humpback whale, 280 m; killer whale, 10 m; harbor seal, 150 m; Steller sea lion, 10 m.
  - 2-pile radius: Humpback whale, 215 m; killer whale, 10 m; harbor seal, 115 m; Steller sea lion, 10 m.
  - 1-pile radius: Humpback whale, 135 m; killer whale, 10 m; harbor seal, 75 m; Steller sea lion, 10 m.

A shutdown will occur prior to a marine mammal entering a shutdown zone appropriate for that species and the concurrent work activity. Activity will cease until the observer is confident that the animal is clear of the shutdown zone: The animal will be considered clear if:

- It has been observed leaving the shutdown zone; or
- It has not been seen in the shutdown zone for 30 minutes for cetaceans and 15 minutes for pinnipeds.

If shutdown lasts for more than 30 minutes, pre-activity monitoring (see below) must recommence.

If the exclusion zone is obscured by fog or poor lighting conditions, pile driving will not be initiated until the exclusion zone is clearly visible. Should such conditions arise while impact driving is underway, the activity would be halted.

Level B Harassment Zone (Zone of Influence)—The zone of influence (ZOI) refers to the area(s) in which SPLs equal or exceed NMFS' current Level B harassment thresholds (160 and 120 dB rms for pulsed and non-pulsed continuous sound, respectively). ZOIs provide utility for monitoring that is conducted for mitigation purposes (*i.e.,* exclusion zone monitoring) by establishing monitoring protocols for areas adjacent to the exclusion zone. Monitoring of the ZOI enables observers to be aware of, and communicate about, the presence of marine mammals within the project area but outside the exclusion zone and thus prepare for potential shutdowns of activity should those marine mammals approach the exclusion zone. However, the primary purpose of ZOI monitoring is to allow documentation of incidents of Level B harassment; ZOI monitoring is discussed in greater detail later (see ''Monitoring and Reporting''). The modeled radial distances for ZOIs for impact and vibratory pile driving and removal (not taking into account landmasses which are expected to limit the actual ZOI radii) are shown in Table 6.

In order to document observed incidents of harassment, monitors will record all marine mammals observed within the ZOI. Modeling was

performed to estimate the ZOI for impact pile driving (the areas in which SPLs are expected to equal or exceed 160 dB rms during impact driving) and for vibratory pile driving (the areas in which SPLs are expected to equal or exceed 120 dB rms during vibratory driving and removal). Results of this modeling showed the ZOI for impact driving would extend to a radius of 1,000 m from the pile being driven and the ZOI for vibratory pile driving would extend to a maximum radius of 11,659 m from the pile being driven. However, due to the geography of the project area, landmasses surround Dutch Harbor and Iliuliuk Bay are expected to limit the propagation of sound from construction activities such that the actual distances to the ZOI extent for vibratory pile driving will be substantially smaller than those described above. Modeling results of the ensonified areas, taking into account the attenuation provided by landmasses, suggest the actual ZOI will extend to a maximum distance of 3,300 m for vibratory driving. Due to this adjusted ZOI, and due to the monitoring locations chosen by the COU (see the Monitoring Plan in Appendix E of the application for details), we expect that monitors will be able to observe the entire modeled ZOI for both impact and vibratory pile driving, and thus we expect data collected on incidents of Level B harassment to be relatively accurate. The modeled areas of the ZOIs for impact and vibratory driving, taking into account the attenuation provided by landmasses in attenuating sound from the construction project, are shown in Appendix B of the application. The actual Level B harassment/monitoring zones for impact pile driving (1,000 m) and vibratory pile driving (3,300 m) are shown in Table 6. Some of these distances have changes since the publication of the FR notice for the proposed IHA, as NMFS has incorporated more appropriate proxy source levels (see *Underwater Sound*) for some of the pile sizes based on Caltrans 2014 and 2015, as well as proxy source levels used for recent Navy pile driving construction IHAs (79 FR 43429; 81 FR 66628; Navy, 2014).

Marine Mammal Monitoring

Qualified observers will be on site before, during, and after all pile-driving activities. The Level A and Level B harassment zones for underwater noise will be monitored before, during, and after all in-water construction activity. The observers will be authorized to shut down activity if pinnipeds or cetaceans are observed approaching or within the shutdown zone of any construction activities.

Observers will follow observer protocols, meet training requirements, fill out data forms and report findings in accordance with protocols reviewed and approved by NMFS. A detailed Marine Mammal Monitoring Plan is found in Appendix E of the application.

If marine mammals are observed approaching or within the shutdown zone, shutdown procedures will be implemented to prevent unauthorized exposure. If marine mammals are observed within the monitoring zone (ZOI), the sighting will be documented as a potential Level B take and the animal behaviors shall be documented. If the number of marine mammals exposed to Level B harassment approaches the number of takes allowed by the IHA, the COU will notify NMFS and seek further consultation. If any marine mammal species are encountered that are not authorized by the IHA and are likely to be exposed to sound pressure levels greater than or equal to the Level B harassment thresholds, then the COU will shut down in-water activity to avoid take of those species.

Pre-Activity Monitoring

Prior to the start of daily in-water construction activity, or whenever a break in pile driving of 30 minutes or longer occurs, the observer will observe the shutdown and monitoring zones for a period of 30 minutes. The shutdown zone will be cleared when a marine mammal has not been observed within zone for that 30-minute period. If a marine mammal is observed within the shutdown zone, a soft-start (described below) cannot proceed until the marine mammal has left the zone or has not been observed for 15 minutes (for pinnipeds) and 30 minutes (for cetaceans). If the Level B harassment zone has been observed for 30 minutes and non-permitted species are not present within the zone, soft start procedures can commence and work can continue even if visibility becomes impaired within the Level B zone. If the Level B zone is not visible while work continues, exposures will be recorded at the estimated exposure rate for each permitted species. If work ceases for more than 30 minutes, the pre-activity monitoring of both zones must recommence

Soft Start

The use of a ''soft-start'' procedure is believed to provide additional protection to marine mammals by providing a warning and an opportunity to leave the area prior to the hammer operating at full capacity. Soft start procedures will be used prior to pile removal, pile installation, and in-water fill placement to allow marine mammals to leave the area prior to exposure to maximum noise levels. For vibratory hammers, the soft start technique will initiate noise from the hammer for short periods at a reduced energy level, followed by a brief waiting period and repeating the procedure two additional times. For impact hammers, the soft start technique will initiate several strikes at a reduced energy level, followed by a brief waiting period. This procedure would also be repeated two additional times. Equipment used for fill placement will be idled near the waterside edge of the fill area for 15 minutes prior to performing in-water fill placement.

In-Water or Over-Water Construction Activities

During in-water or over-water construction activities having the potential to affect marine mammals, but not involving a pile driver, a shutdown zone of 10 m will be monitored to ensure that marine mammals are not endangered by physical interaction with construction equipment. These activities could include, but are not limited to, the positioning of the pile on the substrate via a crane (''stabbing'' the pile) or the removal of the pile from the water column/substrate via a crane (''deadpull''), or the slinging of construction materials via crane.

Sound Attenuation Devices

Sound attenuation devices (*e.g.,* air bubble curtains, pile caps, or other attenuating device) shall be used during all impact pile driving operations. Sound levels can be greatly reduced during impact pile driving using sound attenuation devices. The exact reduction of noise level by a noise attenuator varies, and depends on many factors such as water depth, current flow, and in the case of an air bubble curtain, bubble density and bubble diameter, etc. Caltrans (2015) and Navy (2014) provide information on the general effectiveness of various air bubble curtain systems in attenuating underwater sound. In low current situations, 5 to 15 dB of noise reduction has been achieved (Caltrans, 2015). Data are more limited on the effectiveness of pile caps in reducing the sound generated by the pile during impact pile driving.

Vessel Interactions

To minimize impacts from vessels interactions with marine mammals, the crews aboard project vessels will follow NMFS's marine mammal viewing guidelines and regulations as practicable. (*https://*

alaskafisheries.noaa.gov/protectedresources/mmv/guide.htm).

Mitigation Conclusions

We have carefully evaluated the COU's proposed mitigation measures and considered their likely effectiveness relative to implementation of similar mitigation measures in previously issued IHAs to determine whether they are likely to affect the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for applicant implementation.

Based on our evaluation of the COU's proposed measures, we have determined that the mitigation measures provide the means of affecting the least practicable impact on marine mammal species or stocks and their habitat.

Monitoring and Reporting

In order to issue an IHA for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for incidental take authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the proposed action area.

Monitoring

Any monitoring requirement we prescribe should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within defined zones of effect (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;

2. An increase in our understanding of how many marine mammals are likely to be exposed to stimuli that we associate with specific adverse effects, such as behavioral harassment or hearing threshold shifts;

3. An increase in our understanding of how marine mammals respond to stimuli expected to result in incidental take and how anticipated adverse effects on individuals may impact the population, stock, or species (specifically through effects on annual rates of recruitment or survival) through any of the following methods:

- Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, *e.g.,* received level, distance from source);
- Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict pertinent information, *e.g.,* received level, distance from source); and
- Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli.

4. An increased knowledge of the affected species; or

5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

The COU submitted a Marine Mammal Monitoring Plan as part of their IHA application (Appendix E of the application; also available online at: *http://www.nmfs.noaa.gov/pr/permits/incidental/*). The COU's proposed Marine Mammal Monitoring Plan was created with input from NMFS and was based on similar plans that have been successfully implemented by other action proponents under previous IHAs for pile driving projects.

Visual Marine Mammal Observations

The COU will collect sighting data and will record behavioral responses to construction activities for marine mammal species observed in the project location during the period of activity. All marine mammal observers (MMOs) will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. The COU will monitor the exclusion zone (shutdown zone) and Level B harassment zone before, during, and after pile driving, with observers located at the best practicable vantage points (See Figure 3 in the Marine Mammal Monitoring Plan for the observer locations planned for use during construction). Based on our requirements, the Marine Mammal Monitoring Plan would implement the following procedures for pile driving:

- During observation periods, observers will continuously scan the area for marine mammals using binoculars and the naked eye. Observers will work shifts of a maximum of four consecutive hours followed by an observer rotation or a 1-hour break and will work no more than 12 hours in any 24-hour period.
- Observers will collect data including, but not limited to, environmental conditions (*e.g.,* sea state, precipitation, glare, etc.), marine mammal sightings (*e.g.,* species, numbers, location, behavior, responses to construction activity, etc.), construction activity at the time of sighting, and number of marine mammal exposures. Observers will conduct observations, meet training requirements, fill out data forms, and report findings in accordance with this IHA.
- During all observation periods, observers will use binoculars and the naked eye to search continuously for marine mammals.
- If the exclusion zone is obscured by fog or poor lighting conditions, pile driving will not be initiated until the exclusion zone is clearly visible. Should such conditions arise while impact driving is underway, the activity would be halted.
- Observers will implement mitigation measures including monitoring of the shutdown and monitoring zones, clearing of the zones, and shutdown procedures.
- Observers will be in continuous contact with the construction personnel via two-way radio. A cellular phone will be used as back-up communications and for safety purposes.
- Individuals implementing the monitoring protocol will assess its effectiveness using an adaptive approach. MMOs will use their best professional judgment throughout implementation and seek improvements to these methods when deemed appropriate. Any modifications to protocol will be coordinated between NMFS and the COU.

Data Collection

We require that observers use approved data forms. Among other pieces of information, the COU will record detailed information about any implementation of shutdowns, including the distance of animals to the pile being driven, a description of specific actions that ensued, and resulting behavior of the animal, if any. In addition, the COU will attempt to distinguish between the number of individual animals taken and the number of incidents of take, when possible. We require that, at a minimum, the following information be collected on sighting forms:

- Date and time that permitted construction activity begins or ends;
- Weather parameters (*e.g.* percent cloud cover, percent glare, visibility) and Beaufort sea state;
- Species, numbers, and, if possible, sex and age class of observed marine mammals;
- Construction activities occurring during each sighting;
- Marine mammal behavior patterns observed, including bearing and direction of travel;
- Specific focus should be paid to behavioral reactions just prior to, or during, soft-start and shutdown procedures;
- Location of marine mammal, distance from observer to the marine mammal, and distance from pile driving activities to marine mammals;
- Record of whether an observation required the implementation of mitigation measures, including shutdown procedures and the duration of each shutdown; and
- Other human activity in the area. Record the hull numbers of fishing vessels if possible.

Sound Source and Attenuation Verification

The companion User Spreadsheet provided with NMFS' new acoustic guidance uses multiple conservative assumption which may result in unrealistically large isopleths associated with PTS onset. The COU may elect to verify the values used for source levels and sound attenuation in the various exclusion radii calculations. This would be achieved using the techniques and equipment for sound source verification discussed in Appendix A of the application. Sound levels would be measured at the earliest possibility during pile driving at 10, 100, 300, and 500 meters from the sound source. For the purpose of recalculating the observation and hazard radii, measured source levels (at 10 m) would be substituted for the assumed source levels for piles of the same size and method of installation as the measured pile. The distant values would be plotted and a logarithmic line of best fit used to determine the site specific attenuation rate (geometric loss coefficient) experienced at the project site. If the measured geometric loss coefficient is higher than the typically-used value of 15, the observation and hazard radii for all pile driving activities will be revised by applying the site specific measured values to the practical spreading loss equation. The site specific radii would be used for the remaining duration of construction. The COU may elect not to exercise this option, if the cost of shutdown during impact pile driving is not anticipated to warrant additional measurements.

The COU must obtain approval from NMFS of any new exclusion zone before it may be implemented.

Reporting

Annual Report

A draft report will be submitted within 90 calendar days of the completion of the activity. The report will include information on marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of any mitigation shutdowns and results of those actions, as well as an estimate of total take based on the number of marine mammals observed during the course of construction. A final report must be submitted within 30 days following resolution of comments from NMFS on the draft report. The report shall include at a minimum:

- General data:
  - Date and time of activity.
  - Water conditions (*e.g.,* sea-state).
  - Weather conditions (*e.g.,* percent cover, percent glare, visibility).
- Specific pile driving data:
  - Description of the pile driving activity being conducted (pile locations, pile size and type), and times (onset and completion) when pile driving occurs.
  - The construction contractor and/or marine mammal monitoring staff will coordinate to ensure that pile driving times and strike counts are accurately recorded. The duration of soft start procedures should be noted as separate from the full power driving duration.
  - Detailed description of the sound attenuation system utilized, including the design.
  - Description of in-water construction activity not involving pile driving (location, type of activity, onset and completion times).
- Pre-activity observational survey-specific data:
  - Date and time survey is initiated and terminated.
  - Description of any observable marine mammals and their behavior in the immediate area during monitoring.
  - Times when pile driving or other in-water construction is delayed due to presence of marine mammals within shutdown zones.
- During-activity observational survey-specific data:
  - Description of any observable marine mammal behavior within monitoring zones or in the immediate area surrounding the monitoring zones, including the following:
    - Distance from animal to pile driving sound source.
    - Reason why/why not shutdown implemented.
    - If a shutdown was implemented, behavioral reactions noted and if they occurred before or after implementation of the shutdown.
    - If a shutdown was implemented, the distance from animal to sound source at the time of the shutdown.
    - Behavioral reactions noted during soft starts and if they occurred before or after implementation of the soft start.
    - Distance to the animal from the sound source during soft start.
- Post-activity observational survey-specific data:
  - Results, which include the detections and behavioral reactions of marine mammals, the species and numbers observed, sighting rates and distances,
  - Refined exposure estimate based on the number of marine mammals observed. This may be reported as a rate of take (number of marine mammals per hour or per day), or using some other appropriate metric.

General Notifications

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner not authorized by the IHA, such as a Level A harassment, or a take of a marine mammal species other than those authorized, the COU would immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Stranding Coordinator.

The report would include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities would not resume until NMFS is able to review the circumstances of the prohibited take. NMFS would work with the COU to determine what is necessary to

minimize the likelihood of further prohibited take and ensure MMPA compliance. The COU would not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the COU discovers an injured or dead marine mammal, and determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition), the COU would immediately report the incident to Jolie Harrison (*Jolie.Harrison@noaa.gov*), Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and Mandy Migura (*Mandy.Migura@noaa.gov*), Alaska Stranding Coordinator. The report would include the same information identified in the paragraph above. Construction related activities would be able to continue while NMFS reviews the circumstances of the incident. NMFS would work with the COU to determine whether modifications in the activities are appropriate.

In the event that the COU discovers an injured or dead marine mammal, and determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the COU would report the incident to Jolie Harrison (*Jolie.Harrison@noaa.gov*), Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and Mandy Migura (*Mandy.Migura@noaa.gov*), Alaska Stranding Coordinator, within 24 hours of the discovery. The COU would provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network. The COU can continue its operations under such a case.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as: ''. . . any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).''

All anticipated takes would be by Level B harassment, resulting from vibratory and impact pile driving and involving temporary changes in behavior. Based on the best available information, the proposed activities—vibratory and impact pile driving—would not result in serious injuries or mortalities to marine mammals even in the absence of the planned mitigation and monitoring measures. Additionally, the mitigation and monitoring measures are expected to minimize the potential for injury, such that take by Level A harassment is considered discountable.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder, 2007; Weilgart, 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound.

This practice potentially overestimates the numbers of marine mammals taken, as it is often difficult to distinguish between the individual animals harassed and incidences of harassment. In particular, for stationary activities, it is more likely that some smaller number of individuals may accrue a number of incidences of harassment per individual than for each incidence to accrue to a new individual, especially if those individuals display some degree of residency or site fidelity and the impetus to use the site (*e.g.,* because of foraging opportunities) is stronger than the deterrence presented by the harassing activity.

The COU has requested authorization for the incidental taking of small numbers of Steller sea lions, harbor seals, humpback whales, and killer whales that may result from pile driving activities associated with the UMC dock construction project described previously in this document. In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then incorporate information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine mammal density or abundance information, and the method of estimating potential incidences of take.

Sound Thresholds

We use sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a ''take'' by harassment might occur. As discussed above, NMFS has recently revised PTS (and temporary threshold shift) onset acoustic thresholds for impulsive and non-impulsive sound as part of its new acoustic guidance (refer to Table 3 for those thresholds). The Guidance does not address Level B harassment, nor airborne noise harassment; therefore, COU uses the current NMFS acoustic exposure criteria to determine exposure to airborne and underwater noise sound pressure levels for Level B harassment (Table 5).

TABLE 5—CURRENT NMFS ACOUSTIC EXPOSURE CRITERIA FOR LEVEL B HARASSMENT

Criterion	Definition	Threshold
Level B harassment (underwater) ...	Behavioral disruption	160 dB re: 1 μPa (impulsive source*)/120 dB re: 1 μPa (continuous source*) (rms).
Level B harassment (airborne)**	Behavioral disruption	90 dB re: 20 μPa (harbor seals)/100 dB re: 20 μPa (other pinnipeds) (unweighted).

* Impact pile driving produces impulsive noise; vibratory pile driving produces non-pulsed (continuous) noise.

** NMFS has not established any formal criteria for harassment resulting from exposure to airborne sound. However, these thresholds represent the best available information regarding the effects of pinniped exposure to such sound and NMFS' practice is to associate exposure at these levels with Level B harassment.

Distance to Sound Thresholds

Underwater Sound Propagation Formula—Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

$TL = B * \log_{10}(R_1/R_2)$,

where

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

This formula neglects loss due to scattering and absorption, which is assumed to be zero here. The degree to which underwater sound propagates away from a sound source is dependent on a variety of factors, most notably the water bathymetry and presence or absence of reflective or absorptive conditions including in-water structures and sediments. Spherical spreading occurs in a perfectly unobstructed (free-field) environment not limited by depth or water surface, resulting in a 6 dB reduction in sound level for each doubling of distance from the source (20*log(range)). Cylindrical spreading occurs in an environment in which sound propagation is bounded by the water surface and sea bottom, resulting in a reduction of 3 dB in sound level for each doubling of distance from the source (10*log(range)). A practical spreading value of fifteen is often used under conditions, such as Dutch Harbor, where water depth increases as the receiver moves away from the shoreline, resulting in an expected propagation environment that would lie between spherical and cylindrical spreading loss conditions. Practical spreading loss (4.5 dB reduction in sound level for each doubling of distance) is assumed here.

Underwater Sound—During the installation of piles, the project has the potential to increase underwater noise levels. This could result in disturbance to pinnipeds and cetaceans that occur within the Level B harassment zone. The intensity of pile driving sounds is greatly influenced by factors such as the type of piles, hammers, and the physical environment in which the activity occurs. A large quantity of literature regarding SPLs recorded from pile driving projects is available for consideration. In order to determine reasonable SPLs and their associated effects on marine mammals that are likely to result from pile driving at the UMC dock, studies with similar properties to the specified activity were evaluated.

According to studies by the California Department of Transportation (Caltrans), the installation of steel sheet piles using a vibratory hammer can result in underwater noise levels reaching a source level of 163 dB RMS or 162 dB_{SEL} at 10 m (Caltrans, 2015). PND Engineers, Inc. performed acoustic measurements during vibratory installation of steel sheet pile at a similar construction project in Unalaska, Alaska, and found average SPLs of 160.7 dB RMS (Unisea, 2015). This lower value was used to calculate the harassment radii for vibratory installation sheet pile and is discussed further in Appendix A of the application.

Underwater noise levels during the vibratory removal and installation of 18-inch steel pile can reach a source level of 162 dB RMS at 10 m (Illingworth and Rodkin, 2012; Navy, 2014). Because there was little information on the underwater noise levels of the removal of timber piles, the levels used for analysis (153 dB RMS at 10 m) were taken from the installation of timber piles (Illingworth and Rodkin, 2012; Navy, 2014). Underwater noise levels during the impact pile driving of a 30-inch steel pile can reach a source level of 190 dB RMS (177 dB_{SEL}) at 10 m (Caltrans, 2014 and 2015), whereas the underwater noise from the vibratory driving of 30-inch steel pile can result in a source level of 166 dB RMS at 10 m (Illingworth and Rodkin, 2012; Navy, 2014).

Dutch Harbor does not represent open water, or free field, conditions. Therefore, sounds would attenuate as they encounter land masses. As a result, and as described above, pile driving noise in the project area is not expected to propagate to the calculated distances for the 120 dB thresholds as shown in Table 6. See Appendix B of the application for figures depicting the actual extents of areas in which each underwater sound threshold is predicted to occur at the project area due to pile driving, taking into account the attenuation provided by landmasses.

TABLE 6—MODELED DISTANCES TO THE NMFS LEVEL B HARASSMENT THRESHOLDS (ISOPLETHS) AND ACTUAL MONITORING ZONES DURING PILE INSTALLATION AND REMOVAL

Threshold	Distance (m) *	Monitoring zone (m)
Impact driving, disturbance (160 dB)	1,000 **	1,000.
Vibratory removal, disturbance (120 dB)	11,659 *** (steel)	3,300 (steel).
	1,585 (timber)	1,600 (timber).

*Distances shown are modeled maximum distances and do not account for landmasses which are expected to reduce the actual distances to sound thresholds.

**Calculated distance to the impact pile driving Level B harassment zone does not assume additional sound reductions that may result from implementation of certain types of sound attenuation devices (*e.g.,* air bubble curtains).

***This is the maximum distance modeled. See Section 5 of the application for the modeled distances for each pile driving activity type.

Airborne Sound—During the installation of piles and blasting activities at the quarry, the project has the potential to increase airborne noise levels. This could result in disturbance to pinnipeds at the surface of the water or hauled out along the shoreline of Iliuliuk Bay or the Dutch Harbor spit; however, we do not expect animals to haul out frequently within Dutch Harbor or the spit due to the amount of activity within the area. A spherical spreading loss model (*i.e.,* 6 dB reduction in sound level for each doubling of distance from the source), in which there is a perfectly unobstructed (free-field) environment not limited by depth or water surface, is appropriate for use with airborne sound and was used to estimate the distance to the airborne thresholds.

The formula for calculating spherical spreading loss in airborne noise is:

$TL = GL \times \log(R_1/R_2)$

where:

TL = Transmission loss (dB)

GL = Geometric Loss Coefficient (20 for spherical spreading in airborne noise)

R_1 = Range of the sound pressure level (m)
R_2 = Distance from the source of the initial measurement (m)

Noise levels used to calculate airborne harassment radii come from Laughlin (2010) and Laughlin (2013) and are summarized in Table 9 of the application. Data for vibratory driving from Laughlin (2010) is presented in dB_{L5EQ}, or the 5-minute average continuous sound level. In this case dB_{RMS} values would be calculated in a similar fashion, so these dB_{L5EQ} were considered equivalent to the standard dB_{RMS}. Impact pile driving noise levels were taken from a recent Washington State Department of Transportation IHA application which used data collected by Laughlin (2013). A report was not available for this data, but it is assumed to be provided in dB_{RMS}. Only A-weighted airborne noise levels were available for quarry plasting (Giroux, 2009), so a conservative maximum level was selected, dBA_{LMAX}.

Based on the spherical spreading loss equation, the calculated airborne Level B harassment zones would extend out to the following distances:

- For the vibratory installation of 18-inch steel piles, the calculated airborne Level B harassment zone for harbor seals is 11.4 m; for Steller sea lions, the distance is 3.6 m;
- For the vibratory installation of 30-inch steel piles, the calculated airborne Level B harassment zone for harbor seals is 31.9 meters; for Steller sea lions, the distance is 10.1 m;
- For the impact installation of 24-inch steel piles, the calculated airborne Level B harassment zone for harbor seals is 152.4 m; for Steller sea lions, the distance is 48.2 m; and
- For quarry blasting, the calculated Level B harassment zone for harbor seals extends to 38.5 m and 12.2 m for Steller sea lions.

Vibratory installation of sheet piles is assumed to create lower noise levels than installation of 30-inch round piles, so these values will be used for sheet pile driving. Similarly, vibratory removal of steel or wooden piles will observe the same harassment radii. For the purposes of this analysis, impact installation of 30-inch steel piles is assumed to generate similar sound levels to the installation of 24-inch piles, as no unweighted data was available for the 30-inch piles.

Since the in-water area encompassed within the above areas is located entirely within the underwater Level B harassment zone, the pinnipeds that come within these areas will already be recorded as a take based on Level B harassment threshold for underwater noise, which are in all cases larger than those associated with airborne sound. Further, it is not anticipated that any pinnipeds will haul out within the airborne harassment zone. Airborne noise thresholds have not been established for cetaceans (NOAA, 2015b), and no adverse impacts are anticipated.

Distance from the quarry bottom to the shoreline is an average of 70–80 m, so exposure to even Level B harassment from blasting noise is highly unlikely.

Therefore, we do not believe that authorization of incidental take resulting from airborne sound for pinnipeds is warranted, and airborne sound is not discussed further here.

Marine Mammal Occurrence

The most appropriate information available was used to estimate the number of potential incidences of take. Density estimates for Steller sea lions, harbor seals, humpback whales, and killer whales in Dutch Harbor, and more broadly in the waters surrounding Unalaska Island, are not readily available. Likewise, we were not able to find any published literature or reports describing densities or estimating abundance of either species in the project area. As such, data collected from marine mammal surveys represent the best available information on the occurrence of both species in the project area.

Beginning in April 2015, UMC personnel began conducting surveys within Dutch Harbor under the direction of an ecological consultant. The consultant visited the site every month to ensure that data was gathered consistently and comprehensively. Observers monitored for a variety of marine mammals, including Steller sea lions, whales, and harbor seals. Several observation locations from various vantage points were selected for the surveys. Observations took place for approximately 15 minutes from each point, and included only marine mammals which were inside Dutch Harbor. The survey recorded the type of species observed, the number of species observed, the primary activity of the species, and any applicable notes. Surveys were conducted through July 2016.

These surveys represent the most recent data on marine mammal occurrence in the harbor, and represent the only targeted marine mammal surveys of the project area that we are aware of.

Data from bird surveys of Dutch Harbor conducted by the U.S. Army Corps of Engineers (USACE) from 2003–2013, which included observations of Steller sea lions in the harbor, were also available; however, we determined that these data were unreliable as a basis for prediction of marine mammal abundance in the project location as the goal of the USACE surveys was to develop a snapshot of waterfowl and seabird location and abundance in the harbor, thus the surveys would have been designed and carried out differently if the goal had been to document marine mammal use of the harbor. Additionally, USACE surveys occurred only in winter; as Steller sea lion abundance is expected to vary significantly between the breeding and the non-breeding season in the project location, data that were collected only during the non-breeding season have limited utility in predicting year-round abundance. As such, we determined that the data from the surveys commissioned by COU in 2015–2016 represents the best available information on marine mammals in the project location.

Description of Take Calculation

The take calculations presented here rely on the best data currently available for marine mammal populations in the project location. Density data for marine mammal species in the project location is not available. Therefore the data collected from marine mammal surveys of Dutch Harbor in 2015–2016 represent the best available information on marine mammal populations in the project location, and this data was used to estimate take. As such, the zones that have been calculated to contain the areas ensonified to the Level A and Level B thresholds for marine mammals have been calculated for mitigation and monitoring purposes and were not used in the calculation of take. See Table 7 for total estimated incidents of take. Estimates were based on the following assumptions:

- All marine mammals estimated to be in areas ensonified by noise exceeding the Level B harassment threshold for impact and vibratory driving (as shown in Appendix B of the application) are assumed to be in the water 100 percent of the time. This assumption is based on the fact that there are no haulouts or rookeries within the area predicted to be ensonified to the Level B harassment threshold based on modeling.
- Predicted exposures were based on total estimated total duration of pile driving/removal hours, which are estimated at 1,470 hours over the entire project. This estimate is based on a 245 day project time frame, an average work day of 12 hours, and a conservative estimate that up to approximately 50 percent of time (likely less on some days, based on the short pile driving durations provided in Table 4) during those work days will include pile driving and removal activities (with the rest of the work day spent on non-pile driving activities

which will not result in marine mammal take, such as installing templating and bracing, moving equipment, etc.).

- Vibratory or impact driving could occur at any time during the ''duration'' and our approach to take calculation assumes a rate of occurrence that is the same for any of the calculated zones.
- The hourly marine mammal observation rate recorded during marine mammal surveys of Dutch Harbor in 2015 is reflective of the hourly rate that will be observed during the construction project.
- Takes were calculated based on estimated rates of occurrence for each species in the project area and this rate was assumed to be the same regardless of the size of the zone (for impact or vibratory driving/removal).
- Activities that may be accomplished by either impact driving or down-the-hole drilling (*i.e.,* fender support/pin piles, miscellaneous support piles, and temporary support piles) were assumed to be accomplished via impact driving. If any of these activities are ultimately accomplished via down-the-hole drilling instead of impact driving, this would not result in a change in the amount of overall effort (as they will be accomplished via down-the-hole drilling instead of, and not in addition to, impact driving). As take estimates are calculated based on effort and not marine mammal densities, this would not change the take estimate.

Take estimates for Steller sea lions, harbor seals, humpback whales, and killer whales were calculated using the following series of steps:

1. The average hourly rate of animals observed during 2015–2016 marine mammal surveys of Dutch Harbor was calculated separately for both species (''Observation Rate''). Thus ''Observation Rate'' (OR) = Number of individuals observed/hours of observation;
2. The 95 percent confidence interval was calculated for the data set, and the upper bound of the 95 percent confidence interval was added to the Observation Rate to account for variability of the small data set (''Exposure Rate''). Thus ''Exposure Rate'' (XR) = μ_{OR} + CI_{95} (where μ_{OR} = average of hourly observation rates and CI_{95} = 95 percent confidence interval (normal distribution);
3. The total estimated hours of pile driving work over the entire project was calculated, as described above (''Duration''); Thus ''Duration'' = total number of work days (245) * average pile driving/removal hours per day (6) = total work hours for the project (1,470); and
4. The estimated number of exposures was calculated by multiplying the ''Duration'' by the estimated ''Exposure Rate'' for each species. Thus, estimated takes = Duration * XR.

Please refer to Appendix G of the application for a more thorough description of the statistical analysis of the observation data from marine mammal surveys.

Steller Sea Lion—Steller sea lion density data for the project area is not available. Steller sea lions occur year-round in the Aleutian Islands and within Unalaska Bay and Dutch Harbor. As described above, local abundance in the non-breeding season (winter months) is generally lower overall; data from surveys conducted by the COU in 2015–2016 revealed Steller sea lions were present in Dutch Harbor in most months that surveys occurred. We assume, based on marine mammal surveys of Dutch Harbor, and based on the best available information on seasonal abundance patterns of the species including over 20 years of NOAA National Marine Mammal Laboratory (NMML) survey data collected in Unalaska, that Steller sea lions will be regularly observed in the project area during most or all months of construction. As described above, all Steller sea lions in the project area at a given time are assumed to be in the water, thus any sea lion within the modeled area of ensonification exceeding the Level B harassment threshold would be recorded as taken by Level B harassment.

Estimated take of Steller sea lions was calculated using the equations described above, as follows:

μ_{OR} = 0.40 animals/hour
CI_{95} = 0.23 animals/hour
XR = 0.63 animals/hour
Estimated exposures (Level B harassment) = 0.63 * 1,470 = 926

Thus we estimate that a total of 926 Steller sea lion takes will occur as a result of the proposed UMC dock construction project (Table 7).

Harbor Seal—Harbor seal density data for the project location is not available. We assume, based on the best on the best available information, that harbor seals will be encountered in low numbers throughout the duration of the project. We relied on the best available information to estimate take of harbor seals, which in this case was survey data collected from the 2015–2016 marine mammal surveys of Dutch Harbor as described above. That survey data showed harbor seals are present in the harbor only occasionally (average monthly observation rate = 0.41). NMML surveys have not been performed in Dutch Harbor, but the most recent NMML surveys of Unalaska Bay confirm that harbor seals are present in the area in relatively small numbers, with the most recent haulout counts in Unalaska Bay (2008–2011) recording no more than 19 individuals at the three known haulouts there. NMML surveys have been limited to the months of July and August, so it is not known whether harbor seal abundance in the project area varies seasonally. As described above, all harbor seals in the project area at a given time are assumed to be in the water, thus any harbor seals within the modeled area of ensonification exceeding the Level B harassment threshold would be recorded as taken by Level B harassment.

Estimated take of harbor seals was calculated using the equations described above, as follows:

μ_{OR} = 0.16 animals/hour
CI_{95} = 0.16 animals/hour
XR = 0.32 animals/hour
Estimated exposures (Level B harassment) = 0.32 * 1,470 hours = 470

Thus we estimate that a total of 470 harbor seal takes will occur as a result of the proposed UMC dock construction project (Table 7).

Humpback Whale—Humpback whale density data for the project location is not available. We assume, based on the best on the best available information, that humpback whales will be encountered in low numbers throughout the duration of the project. We relied on the best available information to estimate take of humpback whales, which in this case was survey data collected from the 2015–2016 marine mammal surveys of Dutch Harbor as described above. That survey data showed humpback whales are present in the harbor only occasionally (average monthly observation rate = 0.06). Estimated take of humpback whales was calculated using the equations described above, as follows:

μ_{OR} = 0.06 animals/hour
CI_{95} = 0.06 animals/hour
XR = 0.12 animals/hour
Estimated exposures (Level B harassment) = 0.12 * 1,470 hours = 176

Thus we estimate that a total of 176 humpback whale takes will occur as a result of the proposed UMC dock construction project (Table 7).

Killer Whale—Little is known about killer whales that inhabit waters near Unalaska (Parsons *et al.,* 2013). While it is likely that killer whales may appear in Dutch Harbor, given their known range and the availability of food, the 2015–2016 surveys saw only a small number (2) of marine mammals that were suspected to be killer whales (average monthly observation rate for these unidentified whales = 0.02). There are differences in the physical appearance of transient and resident killer whales; however, in the surveys no distinction was notated. Killer whale density data for the project location is not available. We assume, based on the best on the best available information,

that killer whales will be encountered in low numbers throughout the duration of the project. We relied on the best available information to estimate take of killer whales, which in this case was survey data collected from the 2015–2016 marine mammal surveys of Dutch Harbor as described above. That survey data showed killer whales are potentially present in the harbor only very rarely. Estimated take of killer whales was calculated using the equations described above, as follows:

μ_{OR} = 0.02 animals/hour
CI_{95} = 0.04 animals/hour
XR = 0.06 animals/hour
Estimated exposures (Level B harassment) = 0.06 * 1,470 hours = 88

Thus we estimate that a total of 88 killer whale takes will occur as a result of the proposed UMC dock construction project (Table 7).

We therefore propose to authorize the take, by Level B harassment only, of a total of 926 Steller sea lions (Western DPS), 470 harbor seals (Aleutian Islands Stock), 88 killer whales (Eastern North Pacific Alaska Resident and Gulf of Alaska, Aleutian Islands, and Bering Sea Transient Stocks), and 176 humpback whales (Central North Pacific Stock; Western North Pacific Stock) as a result of the proposed construction project. These take estimates are considered reasonable estimates of the number of marine mammal exposures to sound above the Level B harassment threshold that are likely to occur over the course of the project, and not the number of individual animals exposed. For instance, for pinnipeds that associate fishing boats in Dutch Harbor with reliable sources of food, there will almost certainly be some overlap in individuals present day-to-day depending on the number of vessels entering the harbor, however each instance of exposure for these individuals will be recorded as a separate, additional take. Moreover, because we anticipate that marine mammal observers will typically be unable to determine from field observations whether the same or different individuals are being exposed over the course of a workday, each observation of a marine mammal will be recorded as a new take, although an individual theoretically would only be considered as taken once in a given day.

TABLE 7—NUMBER OF POTENTIAL MARINE MAMMAL INCIDENTAL TAKES AUTHORIZED, AND PERCENTAGE OF STOCK ABUNDANCE, AS A RESULT OF THE PROPOSED PROJECT

Species	Underwater [1]		Percentage of stock abundance
	Level A	Level B	
Humpback whale	0	176	1.6
Killer whale	0	88	3.0
Steller sea lion	0	926	1.9
Harbor seal	0	470	8.1

[1] We assume, for reasons described earlier, that no takes would occur as a result of airborne noise.

Analyses and Determinations

Negligible Impact Analysis

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''. . . an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of Level B harassment takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through behavioral harassment, we consider other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, and effects on habitat.

To avoid repetition, the discussion of our analyses applies generally to all the species listed in Table 7, given that the anticipated effects of this pile driving project on marine mammals are expected to be relatively similar in nature. Where there are species-specific factors that have been considered, they are identified below.

Pile driving activities associated with the proposed dock construction project, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) only, from underwater sounds generated from pile driving. Potential takes could occur if individuals of these species are present in the ensonified zone when pile driving and removal are under way.

The takes from Level B harassment will be due to potential behavioral disturbance and TTS. No injury, serious injury or mortality of marine mammals would be anticipated as a result of vibratory and impact pile driving. Except when operated at long continuous duration (not the case here) in the presence of marine mammals that do not move away, vibratory hammers do not have significant potential to cause injury to marine mammals due to the relatively low source levels produced and the lack of potentially injurious source characteristics. Impact pile driving produces short, sharp pulses with higher peak levels than vibratory driving and much sharper rise time to reach those peaks. The potential for injury that may otherwise result from exposure to noise associated with impact pile driving will effectively be minimized through the implementation of the planned mitigation measures. These measures include: The implementation of an exclusion (shutdown) zone, which is expected to eliminate the likelihood of marine mammal exposure to noise at received levels that could result in injury; and the use of ''soft start'' before pile driving, which is expected to provide marine mammals near or within the zone of potential injury with sufficient time to vacate the area. We believe the required mitigation measures, which have been successfully implemented in similar pile driving projects, will minimize the possibility of injury that may otherwise exist as a result of impact pile driving.

The proposed activities are localized and of relatively short duration. The entire project area is limited to the UMC Dock area and its immediate surroundings. These localized and relatively short-term noise exposures may cause short-term behavioral modifications in harbor seals, Steller sea lions, killer whales, and humpback

whales. Moreover, the mitigation and monitoring measures, including injury shutdowns, soft start techniques, and multiple MMOs monitoring the behavioral and injury zones for marine mammal presence, are expected to reduce the likelihood of injury and behavior exposures. Additionally, no critical habitat or other specifically important areas for marine mammals are known to be within the ensonification areas of the proposed action area during the construction time frame. No pinniped rookeries or haul-outs are present within the project area

The project also is not expected to have significant adverse effects on affected marine mammals' habitat. The project activities would not modify existing marine mammal habitat for a significant amount of time. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from similar pile driving projects that have received incidental take authorizations from NMFS, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging. Most likely, individuals will simply move away from the sound source and be temporarily displaced from the area of pile driving. In response to vibratory driving, harbor seals have been observed to orient towards and sometimes move towards the sound. Repeated exposures of individuals to comparatively lower levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus in this case, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness to those individuals, and thus would not result in any adverse impact to the stock as a whole. Take of marine mammal species or stocks and their habitat will be reduced to the level of least practicable impact through use of mitigation measures described herein and, if sound produced by project activities is sufficiently disturbing, animals are likely to simply avoid the project area while the activity is occurring.

While we are not aware of comparable construction projects in the project location, the pile driving activities analyzed here are similar to other in-water construction activities that have received incidental harassment authorizations previously, including a Unisea dock construction project in neighboring Iliuliuk Harbor, and at Naval Base Kitsap Bangor in Hood Canal, Washington, and at the Port of Friday Harbor in the San Juan Islands, which have occurred with no reported injuries or mortalities to marine mammals, and no known long-term adverse consequences to marine mammals from behavioral harassment.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidences of Level B harassment consist of, at worst, temporary modifications in behavior or potential short-term TTS; (3) the absence of any major rookeries and only a few isolated haulout areas near the project site; (4) the absence of any other known areas or features of special significance for foraging or reproduction within the project area; and (5) the presumed efficacy of planned mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individual animals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, we find that the total marine mammal take from UMC dock construction activities in Dutch Harbor will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

The numbers of animals authorized to be taken would be considered small relative to the relevant stocks or populations (1.9 percent for Steller sea lions, 8.1 percent for harbor seals, 1.6 percent for humpback whales, and 3.0 percent for killer whales) even if each estimated taking occurred to a new individual. However, the likelihood that each take would occur to a new individual is extremely low.

Further, these takes are likely to occur only within some small portion of the overall regional stock. For example, of the estimated 49,497 western DPS Steller sea lions throughout Alaska, there are probably no more than 300 individuals with site fidelity to the three haulouts located nearest to the project location, based on over twenty years of NMML survey data (see ''Description of Marine Mammals in the Area of the Specified Activity'' above). For harbor seals, NMML survey data suggest there are likely no more than 60 individuals that use the three haulouts nearest to the project location (the only haulouts in Unalaska Bay). Thus the estimate of take is an estimate of the number of anticipated exposures, rather than an estimate of the number of individuals that will be taken, as we expect the majority of exposures would be repeat exposures that would accrue to the same individuals. As such, the authorized takes would represent a much smaller number of individuals in relation to total stock sizes.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, we find that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Subsistence hunting and fishing is an important part of the history and culture of Unalaska Island. However, the number of Steller sea lions and harbor seals harvested in Unalaska decreased from 1994 through 2008; in 2008, the last year for which data is available, there were no harbor seals reported as harvested for subsistence use and only three Steller sea lions reported (Wolfe *et al.,* 2009). Data on pinnipeds hunted for subsistence use in Unalaska has not been collected since 2008. For a summary of data on pinniped harvests in Unalaska from 1994–2008, see Section 8 of the application. Subsistence hunting for humpback whales and killer whales does not occur in Unalaska.

Aside from the apparently decreasing rate of subsistence hunting in Unalaska, Dutch Harbor is not likely to be used for subsistence hunting or fishing due to its industrial nature, with several dock facilities located along the shoreline of the harbor. In addition, the proposed construction project is likely to result only in short-term, temporary impacts to

pinnipeds in the form of possible behavior changes, and is not expected to result in the injury or death of any marine mammal. As such, the proposed project is not likely to adversely impact the availability of any marine mammal species or stocks that may otherwise be used for subsistence purposes.

Endangered Species Act (ESA)

Threatened or endangered marine mammal species with confirmed occurrence in the project area include the Western North Pacific DPS and Mexico DPS of humpback whale, and the Western DPS Steller sea lion. The project area occurs within critical habitat for three major Steller sea lion haul-outs and one rookery. The three haul-outs (Old Man Rocks, Unalaska/Cape Sedanka, and Akutan/Reef-Lava) are located between approximately 15 and 19 nautical miles from the project area. The closest rookery is Akutan/Cape Morgan, which is about 19 nautical miles from the project area.

The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion on April 19, 2017, under Section 7 of the ESA, on the issuance of an IHA to the COU under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of Western DPS Steller sea lions or the Mexico DPSs of humpback whales, and is not likely to destroy or adversely modify western DPS Steller sea lion critical habitat.

National Environmental Policy Act (NEPA)

NMFS prepared an Environmental Assessment (EA) analyzing the potential impacts to marine mammals from the proposed action and subsequently signed a Finding of No Significant Impact (FONSI). A copy of the EA and Finding of No Significant Impact (FONSI) is available upon request (see **ADDRESSES**).

Dated: May 18, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–10536 Filed 5–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF445

Western Pacific 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 Western Pacific Fishery Management Council (Council) will hold a meeting of its Commonwealth of the Northern Mariana Islands (CNMI) Mariana Archipelago Fishery Ecosystem Plan (FEP) Advisory Panel (AP) to discuss and make recommendations on fishery management issues in the Western Pacific Region.

DATES: The CNMI Mariana Archipelago FEP AP will meet on Wednesday, June 7, 2017, from 6 p.m. to 8 p.m. All times listed are local island times. For specific times and agendas, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The CNMI Mariana Archipelago FEP AP will meet at the Saipan Department of Land and Natural Resources Conference Room, Lower Base, Saipan, MP 96950.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION: Public comment periods will be provided in the agenda. The order in which agenda items are addressed may change. The meetings will run as late as necessary to complete scheduled business.

Schedule and Agenda for the CNMI Mariana Archipelago FEP AP Meeting

Wednesday, June 7, 2017, 6 p.m.–8 p.m.

1. Welcome and Introductions
2. Report on Previous Council Action Items
3. Council Issues
   - A. CNMI Marine Conservation Plan
   - B. Council Research Priorities
   - i. Cooperative Research Priorities
   - ii. Magnuson Stevens Act Five-year Priorities
4. Mariana FEP Community Activities
5. Marianas FEP AP–CNMI Issues
   - A. Report of the Subpanels
   - i. Island Fisheries Subpanel
   - ii. Pelagic Fisheries Subpanel
   - iii. Ecosystems and Habitat Subpanel
   - iv. Indigenous Fishing Rights Subpanel
   - B. Other Issues
6. Public Comment
7. Discussion and Recommendations
8. Other Business

Although other non-emergency issues not on the agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Actions will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

The meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, (808) 522–8220 (voice) or (808) 522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: May 18, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–10507 Filed 5–22–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Acquisition Technology and Logistics, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Science Board, Defense Science Board 2017 Summer Study Task Force on Countering Anti-access Systems with Longer Range and Standoff Capabilities will take place.

DATES: Monday, May 22, 2017 from 7:50 a.m. to 4:00 p.m. and Tuesday, May 23, 2017 from 8:00 a.m. to 3:00 p.m.

ADDRESSES: Strategic Analysis Inc., The Executive Conference Center, 4075 Wilson Boulevard, 3rd Floor, Arlington, VA 22203.

FOR FURTHER INFORMATION CONTACT: Defense Science Board Designated Federal Officer (DFO) Ms. Karen D.H. Saunders, (703) 571–0079 (Voice), (703) 697–1860 (Facsimile),

karen.d.saunders.civ@mail.mil (Email). Mailing address is Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301–3140. Web site: *http://www.acq.osd.mil/dsb/.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: The Defense Science Board was unable to provide public notification concerning its meeting on May 22 through 23, 2017, of the Defense Science Board 2017 Summer Study Task Force on Countering Anti-access Systems with Longer Range and Standoff Capabilities, as required by 41 CFR 102–3.150(a). Accordingly, the Advisory Committee Management Officer for the Department of Defense, pursuant to 41 CFR 102–3.150(b), waives the 15-calendar day notification requirement.

This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The mission of the DSB is to provide independent advice and recommendations on matters relating to the Department of Defense's (DoD) scientific and technical enterprise. The objective of the Long Range Effects 2017 Summer Study Task Force is to explore new defense systems and technologies that will enable cost effective power projection that relies on the use of longer stand-off distances than current capabilities. System components may be deployed on manned or unmanned platforms with a range of potential autonomous capabilities. Use of cost reducing technology and advanced production practices from defense and commercial industry may be a major part of the strategy for deploying adequate numbers of weapons.

Agenda: This two-day session will focus on industry perspectives regarding potential future capabilities and architectures for DoD implementation. Day One briefings will include opening remarks and expectations for the two-day session from Dr. David Whelan and Mr. Mark Russell, task force co-chairs; a briefing on Raytheon perspectives regarding potential future capabilities and architectures for the DoD from Mr. William Kiczuk, The Raytheon Company; a briefing on Aerojet Rocketdyne perspectives regarding potential future capabilities and architectures for the DoD from Mr. Tyler Evans, Aerojet Rocketdyne; a briefing on Boeing perspectives regarding potential future capabilities and architectures for the DoD from Mr. Kevin Bowcutt, Mr. Brian Tillotson, and Mr. David Bujold, The Boeing Company; and a briefing on Northrop Grumman perspectives regarding potential future capabilities and architectures for the DoD from Mr. Patrick Antkowiak, Northrop Grumman Corporation. Day Two activities will include a briefing on Lockheed Martin perspectives regarding potential future capabilities and architectures for the DoD by Mr. Richard Lewis, Lockheed Martin Corporation. The remainder of Day Two activities will be the Long Range Effects 2017 Summer Study Task Force's four-panel break-out sessions: Architecture; Intelligence, Surveillance, and Reconnaissance; Basing, Delivery, and Weapons; and Command, Control, Communications, and Cyber. These panels will meet simultaneously to discuss topics to analyze in support of the study. Day Two will close with discussion of the four panels' work.

Meeting Accessibility: In accordance with section 10(d) of the FACA and 41 CFR 102–3.155, the DoD has determined that the Long Range Effects 2017 Summer Study Task Force meeting will be closed to the public. Specifically, the Under Secretary of Defense (Acquisition, Technology, and Logistics), in consultation with the DoD Office of General Counsel, has determined in writing that the meeting will be closed to the public because matters covered by 5 U.S.C. 552b(c)(1) will be considered. The determination is based on the consideration that it is expected that discussions throughout will involve classified matters of national security concern. Such classified material is so intertwined with the unclassified material that it cannot reasonably be segregated into separate discussions without defeating the effectiveness and meaning of the overall meetings. To permit the meeting to be open to the public would preclude discussion of such matters and would greatly diminish the ultimate utility of the DSB's findings and recommendations to the Secretary of Defense and to the Under Secretary of Defense for Acquisition, Technology, and Logistics.

Written Statements: In accordance with section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit a written statement for consideration by the Long Range Effects 2017 Summer Study Task Force members at any time regarding its mission or in response to the stated agenda of a planned meeting. Individuals submitting a written statement must submit their statement to the DSB's DFO—Ms. Karen D.H. Saunders, Executive Director, Defense Science Board, 3140 Defense Pentagon, Room 3B888A, Washington, DC 20301, via email at *karen.d.saunders.civ@mail.mil* or via phone at (703) 571–0079 at any point; however, if a written statement is not received at least 3 calendar days prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the Long Range Effects 2017 Summer Study Task Force until the next meeting of this task force. The DFO will review all submissions with the Long Range Effects 2017 Summer Study Task Force Co-Chairs and ensure they are provided to Long Range Effects 2017 Summer Study Task Force members prior to the end of the two-day meeting on May 23, 2017.

Dated: May 18, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–10508 Filed 5–22–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Advisory Committee on Women in the Services; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Defense Advisory Committee on Women in the Services will take place.

DATES: Day 1—Open to the public Tuesday, June 13, 2017 from 8:30 a.m. to 2:45 p.m. Day 2—Open to the public Wednesday, June 14, 2017, from 8:30 a.m. to 12:15 p.m.

ADDRESSES: The address of the open meeting is the Association of the United States Army (AUSA) Conference Center, 2425 Wilson Boulevard, Arlington, VA 22201.

FOR FURTHER INFORMATION CONTACT: Jessica C. Myers, 703–697–2122 (Voice), 703–614–6233 (Facsimile), *jessica.c.myers4.civ@mail.mil* (Email). Mailing address is 4800 Mark Center Drive, Suite 04J25–01, Alexandria, VA 22350. Web site: *http://dacowits.defense.gov.* The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is for the Committee to receive briefings and updates relating to their current work. The meeting will open with the Designated Federal Officer (DFO) giving a status update on the Committee's requests for information. This will be followed with two panel discussions on the following topics: Assignments to Key Developmental Positions; and Pregnancy and Parenthood Survey Data. The Committee will then receive an overview briefing on the 2017 Focus Group Finding. Day one will end with a Public Comment Period. The second day of the meeting will open with two panel discussions on the following topics: Gender Integration; and Physiological Gender Differences. The Committee will then receive an update briefing from the Marine Corps.

Agenda

Tuesday, June 13, 2017, From 8:30 a.m. to 2:45 p.m.

—Welcome, Introductions, Announcements
—Request for Information Status Update
—Panel Discussion—Assignments to Key Developmental Positions
—Panel Discussion—Pregnancy and Parenthood Survey Data
—Briefing—Overview of 2017 Focus Group Findings
—Public Comment Period
—Public Dismissed

Wednesday, June 14, 2017, From 8:30 a.m. to 12:15 p.m.

—Welcome and Announcements
—Panel Discussion—Gender Integration
—Panel Discussion—Physiological Gender Differences
—Briefing—Marine Corps Update
—Public Dismissed

Meeting Accessibility: Pursuant to 5 U.S.C. 552b and 41 CFR 102–3.140 through 102–3.165, this meeting is open to the public, subject to the availability of space.

Written Statements: Pursuant to 41 CFR 102–3.140, and section 10(a)(3) of the Federal Advisory Committee Act of 1972, interested persons may submit a written statement for consideration by the DACOWITS. Individuals submitting a written statement must submit their statement to the point of contact listed at the address in **FOR FURTHER INFORMATION CONTACT** no later than 5:00 p.m., Monday, June 5, 2017. If a written statement is not received by Monday, June 5, 2017, prior to the meeting, which is the subject of this notice, then it may not be provided to or considered by the DACOWITS until its next open meeting. The DFO will review all timely submissions with the DACOWITS Chair and ensure they are provided to the members of the Committee. If members of the public are interested in making an oral statement, a written statement should be submitted. After reviewing the written comments, the Chair and the DFO will determine who of the requesting persons will be able to make an oral presentation of their issue during an open portion of this meeting or at a future meeting. Pursuant to 41 CFR 102–3.140(d), determination of who will be making an oral presentation is at the sole discretion of the Committee Chair and the DFO, and will depend on time available and if the topics are relevant to the Committee's activities. Five minutes will be allotted to persons desiring to make an oral presentation. Oral presentations by members of the public will be permitted only on Tuesday, June 13, 2017 from 2:15 p.m. to 2:45 p.m. in front of the full Committee. The number of oral presentations to be made will depend on the number of requests received from members of the public.

Dated: May 18, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–10546 Filed 5–22–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Under Secretary of Defense for Personnel and Readiness, Department of Defense.

ACTION: Notice of Federal Advisory Committee meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board (RFPB) will take place.

DATES: The RFPB will hold a meeting on Wednesday, June 7, 2017, from 9:10 a.m. to 4:00 p.m. The portion of the meeting from 9:10 a.m. to 1:30 p.m. will be closed to the public. The portion of the meeting from 1:35 p.m. to 4:00 p.m. will be open to the public.

ADDRESSES: The RFPB meeting address is the Pentagon, Room 3E863, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Alexander Sabol, (703) 681–0577 (Voice), 703–681–0002 (Facsimile), *Alexander.J.Sabol.Civ@Mail.Mil* (Email). Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://rfpb.defense.gov/*. The most up-to-date changes to the meeting agenda can be found on the Web site.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act (FACA) of 1972 (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.140 and 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to obtain, review, and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components.

Agenda: The RFPB will hold a meeting from 9:10 a.m. to 4:00 p.m. The portion of the meeting from 9:10 a.m. to 1:30 p.m. will be closed to the public and will consist of remarks to the RFPB from following invited speakers: The Chief, National Guard Bureau will discuss the guidance and readiness goals for the National Guard and the future role of the Army and Air Guard as part of the Total Force; the Assistant Deputy Chief of Staff for Operations, Headquarters U.S. Air Force will discuss the readiness priorities of the Air Force, the Air Force Reserve Commission initiatives, and the Air Force challenges to balance force structure, readiness and modernization while supporting operations across the globe in a fiscally constrained environment and its effects on the Reserve Components; the Deputy Chief of Naval Operations for Operations, Plans, and Strategy will discuss the key readiness priorities for the Navy and the ''Operational Reserve'' challenges in this period of fiscal uncertainty and increasingly challenging security environment; the Deputy Commandant Plans, Policies, and Operations, Headquarters Marine Corps will discuss the readiness challenges for the Marine Corps and the future role of the Reserve Components as part of the Total Force in this period of fiscal uncertainty and increasingly challenging security environment; and the Deputy Director

Operations, Readiness, and Mobilization, Headquarters, Department of the Army will discuss the Army readiness posture, the Report of the National Commission on the Future of the Army initiatives, and plans to adapt the Total Army to meet future challenges in this period of fiscal uncertainty and increasingly challenging security environment. The portion of the meeting from 1:35 p.m. to 4:00 p.m. will be open to the public and will consist of the following briefings: The Deputy Director of the Air National Guard will discuss the Air Guard goals, readiness objectives, and challenges for the ''Operational Reserve'' as part of the Total Force; the Chair of the Subcommittee on Supporting and Sustaining Reserve Component Personnel will discuss the subcommittee's review of the Department of Defense's Duty Status reform proposals, the Joint Professional Military Education II Qualifications program issues, and the Reserve Joint Travel Regulation issues, as well as the proposed recommendation reports to the Secretary of Defense; the Chair of the Subcommittee on Ensuring a Ready, Capable, Available, and Sustainable Operational Reserve will discuss the subcommittee's proposed RFPB recommendation report to the Secretary of Defense from the review of the 10 U.S.C. 12304b Mobilization Authority disparity issues with Reservist's benefits and entitlements for involuntary recalls.

Meeting Accessibility: Pursuant to section 10(a)(1) of the FACA and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public from 1:35 p.m. to 4:00 p.m. Seating is on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, not later than 12:00 p.m. on Tuesday, June 6, 2017, as listed in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements for a Pentagon escort, if necessary. Public attendees requiring escort should arrive at the Pentagon Metro Entrance with sufficient time to complete security screening no later than 1:00 p.m. on June 7. To complete the security screening, please be prepared to present two forms of identification. One must be a picture identification card. In accordance with section 10(d) of the FACA, 5 U.S.C. 552b(c), and 41 CFR 102–3.155, the DoD has determined that the portion of this meeting scheduled to occur from 9:10 a.m. to 1:30 p.m. will be closed to the public. Specifically, the Under Secretary of Defense (Personnel and Readiness), in coordination with the Department of Defense FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it is likely to disclose classified matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit written statements to the RFPB about its approved agenda or at any time on the RFPB's mission. Written statements should be submitted to the RFPB's Designated Federal Officer at the address, email, or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the RFPB members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the RFPB's Web site.

Dated: May 18, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–10538 Filed 5–22–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Child Care Access Means Parents in School Program

AGENCY: Office of Postsecondary Education, 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 the Child Care Access Means Parents in School (CCAMPIS) Program, Catalog of Federal Domestic Assistance (CFDA) number 84.335A.

DATES:

Applications Available: May 23, 2017.

Deadline for Transmittal of Applications: June 22, 2017.

Deadline for Intergovernmental Review: August 21, 2017.

FOR FURTHER INFORMATION CONTACT: Antoinette Clark Edwards, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C115, Washington, DC 20202–4260. Telephone: (202) 453–7121 or by email: *antoinette.clark@ed.gov.*

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.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The CCAMPIS Program supports the participation of low-income parents in postsecondary education through provision of campus-based child care services.

Priorities: This notice contains two absolute priorities. In accordance with 34 CFR 75.105(b)(2)(iv), the absolute priorities are from section 419N(d) of the Higher Education Act of 1965, as amended (HEA), 20 U.S.C. 1070e(d).

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

These priorities are:

Absolute Priority 1: Projects that are designed to leverage significant local or institutional resources, including in-kind contributions, to support the activities assisted under section 419N of the HEA.

Absolute Priority 2: Projects that are designed to utilize a sliding fee scale for child care services provided under section 419N of the HEA in order to support a high number of low-income parents pursuing postsecondary education at the institution.

Program Authority: 20 U.S.C. 1070e.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 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: Because there are no program-specific regulations for the CCAMPIS

Program, applicants are encouraged to carefully read the authorizing statute, title IV, part A, subpart 7, sec. 419N of the HEA.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: $8,549,000.

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.

Estimated Range of Awards: $10,000 to $375,000.

Estimated Average Size of Awards: $118,730.

Maximum Award: In accordance with section 419N(b)(2)(A) of the HEA, the maximum annual amount an applicant may receive under this program is one percent of the total amount of all Federal Pell Grant funds awarded to students enrolled at the institution for FY 2016. A grant will not be less than $10,000 for a single budget period of 12 months (see section 419N(b)(2)(B) of the HEA).

Estimated Number of Awards: 72.

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

Project Period: Up to 48 months.

III. Eligibility Information

1. *Eligible Applicants:* Any institution of higher education (IHE) that during FY 2016 awarded a total of $350,000 or more of Federal Pell Grant funds to students enrolled at the institution. At this time, we do not anticipate conducting a competition for new awards in FY 2018. Institutions that currently have a CCAMPIS Program grant with a project ending in 2017 or 2018 are eligible to apply for a new grant during this FY 2017 competition.

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

IV. Application and Submission Information

1. *Address to Request Application Package:* Antoinette Clark Edwards, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C115, Washington, DC 20202–4260. Telephone: (202) 453–7121 or by email: *antoinette.clark@ed.gov*.

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

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 program contact person listed in this section.

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. We recommend that you (1) limit the application narrative, which includes the budget narrative, to the equivalent of no more than 50 pages and (2) use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margin.
- Each page on which there is text or graphics will be counted as one full page.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including charts, tables, figures, and graphs. Titles, headings, footnotes, quotations, references, and captions may be singled spaced.
- Use a font that is either 12 point or larger, or no smaller than 10 pitch (characters per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial.

The recommended page limit does not apply to Part I, the Application for Federal Assistance Face Sheet (SF 424); Part II, the Budget Information Summary form (ED Form 524); Part III, the CCAMPIS Program Profile form; Part III, the one-page Project Abstract form; and Part IV, the Assurances and Certifications. The recommended page limit also does not apply to a table of contents, which you should include in the application narrative. You must include your complete response to the selection criteria in the application narrative.

3. *Submission Dates and Times:*

Applications Available: May 23, 2017.

Deadline for Transmittal of Applications: June 22, 2017.

Applications for grants under this program 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 21, 2017.

4. *Intergovernmental Review:* This program 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 specify funding restrictions as outlined in section 419N(b)(2)(B) of the HEA. We reference additional 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 CCAMPIS Program, CFDA number 84.335A, 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 CCAMPIS Program 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 84.335, not 84.335A).

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, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable 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.
- 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, non-modifiable 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 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: James Davis, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C133, Washington, DC 20202–4260. FAX: (202) 260–7464.

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 84.335A), 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 84.335A), 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 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:* The selection criteria for this competition are from section 419N of the HEA and the Department's regulations at 34 CFR 75.210 and are listed below.

We will award up to 100 points to an application under the selection criteria. The maximum score for each criterion is indicated in parentheses and the maximum score for each subcriterion is in the application package for this competition.

A. *Need for the Project.* (Maximum 30 Points)

In determining the need for the proposed project, the Secretary considers the extent to which the applicant demonstrates, in its application, the need for campus-based child care services for low-income students at the institution by including the following:

1. Information regarding student demographics.

2. An assessment of child care capacity on or near campus.

3. Information regarding the existence of waiting lists for existing child care.

4. Information regarding additional needs created by concentrations of poverty or by geographic isolation.

5. Other relevant data (see section 419N(c)(3)(E) of the HEA).

B. *Quality of project design.* (Maximum 25 Points)

In determining the quality of the design of the proposed project, the Secretary considers the following:

1. The extent to which the applicant describes in its application the activities to be assisted and whether the grant funds will support an existing child care program or a new child care program (see section 419N(c)(4) of the HEA).

2. The extent to which the services to be provided by the proposed project are focused on those with the greatest needs (see 34 CFR 75.210(d)(3)(xi)).

3. The likely impact of the services to be provided by the proposed project on the intended recipients of those services (see 34 CFR 75.210(d)(3)(iv)).

4. The extent to which the application includes an assurance that the institution will meet the child care needs of low-income students through the provision of services, or through a contract for the provision of services (see section 419N(c)(6) of the HEA).

5. The extent to which the child care program will coordinate with the institution's early childhood education curriculum, to the extent the curriculum is available, to meet the needs of the students in the early childhood education program at the institution, and the needs of the parents and children participating in the child care program assisted under this section (see section 419N(c)(7) of the HEA).

6. The extent to which the proposed project encourages parental involvement (see 34 CFR 75.210(c)(2)(xix)).

7. If the applicant is requesting grant assistance for a new child care program (the applicant is not currently funded under this program)—

a. The extent to which the applicant provides in its application a timeline, covering the period from receipt of the grant through the provision of the child care services, delineating the specific steps the institution will take to achieve the goal of providing low-income students with child care services (see section 419N(c)(8)(A) of the HEA).

b. The extent to which the applicant specifies in its application the measures the institution will take to assist low-income students with child care during the period before the institution provides child care services (see section 419N(c)(8)(B) of the HEA).

c. The extent to which the application includes a plan for identifying resources needed for the child care services, including space in which to provide child care services and technical assistance if necessary (see section 419N(c)(8)(C) of the HEA).

8. The extent to which the application includes an assurance that any child care facility assisted under this program will meet the applicable State or local government licensing, certification, approval, or registration requirements (see section 419N(c)(9) of the HEA).

9. The extent to which the application includes a plan for any child care facility assisted under this program to become accredited within three years of the date the institution first receives assistance (see section 419N(c)(10) of the HEA).

C. *Quality of management plan.* (Maximum 25 Points)

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

1. The extent to which the application includes a management plan that describes the resources, including technical expertise and financial support, the institution will draw upon to support the child care program and the participation of low-income students in the program, such as accessing social services funding, using student activity fees to help pay the costs of child care, using resources obtained by meeting the needs of parents who are not low-income students, and accessing foundation, corporate or other institutional support, and demonstrates that the use of the resources will not result in increases in student tuition (see section 419N(c)(5) of the HEA).

2. The qualifications, including relevant training and experience, of key project personnel (see 34 CFR 75.210(e)(3)(ii)).

3. 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 (see 34 CFR 75.210(g)(2)(i)).

4. The extent to which the management plan includes specific plans for the institution to comply with the reporting requirements in section 419N(e)(1) of the HEA.

D. *Quality of Project Evaluation.* (Maximum 15 Points)

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

1. The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project (see 34 CFR 75.210(h)(2)(i)).

2. The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible (see 34 CFR 75.210(h)(2)(iv)).

3. The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes (see 34 CFR 75.210(h)(2)(vi)).

E. *Adequacy of resources.* (Maximum 5 points)

In determining the adequacy of resources for the proposed project, the Secretary considers the following:

1. The extent to which the budget is adequate to support the proposed project (see 34 CFR 75.210(f)(2)(iii)).

2. The extent to which the costs are reasonable in relation to the number of persons to be served and to the anticipated results and benefits (see 34 CFR 75.210(f)(2)(v)).

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 also 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).

For this competition, a panel of non-Federal readers will review each application in accordance with the selection criteria, consistent with 34 CFR 75.217. The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process.

If there are insufficient funds for all applications with the same total scores, the Secretary will choose among the tied applications so as to serve geographical areas that have been underserved by the CCAMPIS Program.

3. *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.

4. *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.*

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The success of the CCAMPIS Program will be measured by the postsecondary persistence and degree of completion rates of the CCAMPIS Program participants that remain at the grantee institution. All CCAMPIS Program grantees will be required to submit an annual performance report documenting the persistence and degree attainment of their participants. Since students may take different lengths of time to complete their degrees, multiple years of performance report data are needed to determine the degree completion rates of CCAMPIS Program participants. The Department will aggregate the data provided in the annual performance reports from all grantees to determine the accomplishment level.

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 grant, 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) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT**.

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: May 18, 2017.

Lynn B. Mahaffie,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 2017–10568 Filed 5–22–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

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

ACTION: Notice for solicitation of members.

SUMMARY: In accordance with the Federal Advisory Committee Act, the U.S. Department of Energy is soliciting

nomination for candidates to fill vacancies on the Biomass Research and Development Technical Advisory Committee (Committee).

DATES: Deadline for Technical Advisory Committee member nominations is June 30, 2017.

ADDRESSES: The nominee's name, resume, biography, and any letters of support must be submitted via one of the following methods:

(1) *Email to: Mark.Elless@ee.doe.gov*

(2) *Overnight delivery service to:* Mark Elless, Designated Federal Officer, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, Mail Stop EE–3B, 1000 Independence Avenue SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Elless, Designated Federal Officer, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; (202) 586–1476; Email: *Mark.Elless@ee.doe.gov.*

Committee Web site: http://biomassboard.gov/committee/committee.html.

SUPPLEMENTARY INFORMATION: The Biomass Research and Development Act of 2000 (Biomass Act) [Pub. L. 106–224] requires cooperation and coordination in biomass research and development (R&D) between the U.S. Department of Agriculture (USDA) and U.S. Department of Energy (DOE). The Biomass Act was repealed in June 2008 by section 9008 of the Food, Conservation and Energy Act of 2008 (FCEA) [Pub. L. 110–246, 122 Stat. 1651, enacted June 18, 2008, H.R. 6124]. The Biomass Act was re-authorized in the Agricultural Act of 2014.

FCEA section 9008(d) established the Biomass Research and Development Technical Advisory Committee and lays forth its meetings, coordination, duties, terms, and membership types. Committee members are paid travel and per diem for each meeting. The Committee must meet quarterly and should not duplicate the efforts of other Federal advisory committees. Meetings are typically two days in duration. At least three meetings are held in the Washington DC area, with the fourth meeting possibly held at a site to be determined each year. The Committee advises DOE and USDA points of contact with respect to the Biomass R&D Initiative (Initiative) and priority technical biomass R&D needs and makes written recommendations to the Biomass R&D Board (Board). Those recommendations regard whether: (A) Initiative funds are distributed and used consistent with Initiative objectives; (B) solicitations are open and competitive with awards made annually; (C) objectives and evaluation criteria of the solicitations are clear; and (D) the points of contact are funding proposals selected on the basis of merit, and determined by an independent panel of qualified peers.

The committee members may serve two, three-year terms and committee membership must include: (A) An individual affiliated with the biofuels industry; (B) an individual affiliated with the biobased industrial and commercial products industry; (C) an individual affiliated with an institution of higher education that has expertise in biofuels and biobased products; (D) 2 prominent engineers or scientists from government (non-federal) or academia that have expertise in biofuels and biobased products; (E) an individual affiliated with a commodity trade association; (F) 2 individuals affiliated with environmental or conservation organizations; (G) an individual associated with state government who has expertise in biofuels and biobased products; (H) an individual with expertise in energy and environmental analysis; (I) an individual with expertise in the economics of biofuels and biobased products; (J) an individual with expertise in agricultural economics; (K) an individual with expertise in plant biology and biomass feedstock development; (L) an individual with expertise in agronomy, crop science, or soil science; and (M) at the option of the points of contact, other members (REF: FCEA 2008 section 9008(d)(2)(A)). All nominees will be carefully reviewed for their expertise, leadership, and relevance to an expertise. Appointments will be made for three-year terms as dictated by the legislation.

Nominations this year are needed for the following categories in order to address the Committee's needs: (E) An individual affiliated with a commodity trade association; (F) individuals affiliated with environmental or conservation organizations; and (I) an individual with expertise in the economics of biofuels and biobased products. Nominations for other categories will also be accepted. Nomination categories C, D, H, I, J, K, L, and M are considered special Government employees and require submittal of an annual financial disclosure form. In addition to the required categories, other areas of expertise of interest to the Committee are individuals with expertise in process engineering related to biorefineries, or biobased coproducts that enable fuel production.

Nominations are solicited from organizations, associations, societies, councils, federations, groups, universities, and companies that represent a wide variety of biomass research and development interests throughout the country. In your nomination letter, please indicate the specific membership category of interest. Each nominee must submit their resume and biography along with any letters of support by the deadline above. If you were nominated in previous years but were not appointed to the committee and would still like to be considered, please submit your nomination package again in response to this notice with all required materials. All nominees will be vetted before selection.

Nominations are open to all individuals without regard to race, color, religion, sex, national origin, age, mental or physical handicap, marital status, or sexual orientation. To ensure that recommendations of the Technical Advisory Committee take into account the needs of the diverse groups served by DOE, membership shall include (to the extent practicable), all racial and ethnic groups, women and men, and persons with disabilities. Please note that registered lobbyists serving in an ''individual capacity,'' individuals already serving another Federal Advisory Committee, and Federal employees are ineligible for nomination.

Appointments to the Biomass Research and Development Technical Advisory Committee will be made by the Secretary of Energy and the Secretary of Agriculture.

Issued in Washington, DC, on May 17, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–10495 Filed 5–22–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Biomass Research and Development Technical Advisory Committee

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

ACTION: Notice of open meeting.

SUMMARY: This notice announces an open meeting of the Biomass Research and Development Technical Advisory Committee under Section 9008(d) of the Food, Conservation, and Energy Act of 2008 amended by the Agricultural Act of 2014. The Federal Advisory Committee Act requires that agencies publish these notices in the **Federal**

Register to allow for public participation.

DATES: June 15, 2017: 8:30 a.m.–5:30 p.m. June 16, 2017: 8:30 a.m.–1:30 p.m.

ADDRESSES: DoubleTree By Hilton Washington, DC—Crystal City, 300 Army Navy Drive, Arlington, VA 22202.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Elless, Designated Federal Officer, Office of Energy Efficiency and Renewable Energy, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585; Email: *Mark.Elless@ee.doe.gov* and Roy Tiley at: (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com.*

SUPPLEMENTARY INFORMATION:

Purpose of Meeting: To develop advice and guidance that promotes research and development leading to the production of biobased fuels and biobased products.

Tentative Agenda: Agenda will include the following:

- Update on USDA Biomass R&D Activities
- Update on DOE Biomass R&D Activities
- Panels on Near-term Motivations For and Benefits of Accelerated Development of a Bio-based Economic Engine. Points of view include States' Department of Agriculture, Congressional, and industry.

Public Participation: In keeping with procedures, members of the public are welcome to observe the business of the Biomass Research and Development Technical Advisory Committee. To attend the meeting and/or to make oral statements regarding any of the items on the agenda, you must contact Dr. Mark Elless at; Email: *Mark.Elless@ee.doe.gov* and Roy Tiley at (410) 997–7778 ext. 220; Email: *rtiley@bcs-hq.com at least 5 business days* prior to the meeting. Members of the public will be heard in the order in which they sign up at the beginning of the meeting. Reasonable provision will be made to include the scheduled oral statements on the agenda. The Co-chairs of the Committee will make every effort to hear the views of all interested parties. If you would like to file a written statement with the Committee, you may do so either before or after the meeting. The Co-chairs will conduct the meeting to facilitate the orderly conduct of business.

Minutes: The summary of the meeting will be available for public review and copying at *http://biomassboard.gov/committee/meetings.html.*

Issued at Washington, DC, on May 17, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–10497 Filed 5–22–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, June 14, 2017, 6:00 p.m.

ADDRESSES: Department of Energy Information Center, Office of Science and Technical Information, 1 Science.gov Way, Oak Ridge, Tennessee 37831.

FOR FURTHER INFORMATION CONTACT: Melyssa P. Noe, Alternate Deputy Designated Federal Officer, U.S. Department of Energy, Oak Ridge Office of Environmental Management, P.O. Box 2001, EM–942, Oak Ridge, TN 37831. Phone (865) 241–3315; Fax (865) 241–6932; E-Mail: *Melyssa.Noe@orem.doe.gov.* Or visit the Web site at *www.energy.gov/orssab.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE–EM and site management in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

- Welcome and Announcements.
- Comments from the Deputy Designated Federal Officer (DDFO).
- Comments from the DOE, Tennessee Department of Environment and Conservation and Environmental Protection Agency Liaisons.
- Public Comment Period.
- Presentation by DOE EM SSAB DFO: Federal Advisory Committee Act.
- Motions/Approval of May 10, 2017 Meeting Minutes.
- Status of Outstanding Recommendations.
- Alternate DDFO Report.
- Committee Reports.
- Adjourn.

Public Participation: The EM SSAB, Oak Ridge, welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Melyssa P. Noe at least seven days in advance of the meeting at the phone number listed above. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Melyssa P. Noe at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comments will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Melyssa P. Noe at the address and phone number listed above. Minutes will also be available at the following Web site: *https://energy.gov/orem/services/community-engagement/oak-ridge-site-specific-advisory-board/oak-ridge-site-specific-0.*

Issued at Washington, DC on May 16, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–10498 Filed 5–22–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR17–12–000]

Oxy SENM Gathering LP; Notice of Request for Temporary Waiver

Take notice that on May 4, 2017, pursuant to Rule 204 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.204, Oxy SENM Gathering LP filed a petition for temporary waiver of the tariff filing and reporting requirements of sections 6 and 20 of the Interstate Commerce Act and parts 341 and 357 of the Commission's regulations for a crude petroleum gathering system to be located in the state of New Mexico, as more fully explained in the request.

Any person desiring to intervene or to protest this filing 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.

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 Requester.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is 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 31, 2017.

Dated: May 17, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10513 Filed 5–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3409–031]

Boyne USA, Inc.; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 3409–031.

c. *Date Filed:* January 31, 2017.

d. *Submitted By:* Boyne USA, Inc.

e. *Name of Project:* Boyne River Dam Hydroelectric Project.

f. *Location:* On the Boyne River, in Charlevoix County, Michigan. No federal lands are occupied by the project works or located within the project boundary.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Randall Sutton, Area Manager, Boyne Mountain Resort, 1 Boyne Mountain Road, Boyne Falls, Michigan, 49713; (231) 549–6076; email—*rsutton@boynemountain.com.*

i. *FERC Contact:* Chelsea Hudock at (202) 502–8448; or email at *chelsea.hudock@ferc.gov.*

j. Boyne USA, Inc. filed its request to use the Traditional Licensing Process on January 31, 2017, and provided public notice of its request on February 15, 2017. Boyne USA, Inc. filed its pre-application document on March 21, 2017. In a letter dated May 17, 2017, the Director of the Division of Hydropower Licensing approved Boyne USA, Inc.'s request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, part 402. We are also initiating consultation with the Michigan State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Boyne USA, Inc. as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Boyne USA, Inc. filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site (*http://www.ferc.gov*), using the eLibrary link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCONlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a new license for Project No. 3409. Pursuant to 18 CFR 16.8, 16.9, and 16.10 each application for a new license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by January 31, 2020.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: May 17, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10515 Filed 5–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER17–1609–000]

Carroll County Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Carroll County Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is June 6, 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: May 17, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10512 Filed 5–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 6168–024 & 7057–009]

B C Hydro, Inc., Highland Hydro Constructors of California, Inc., Shamrock Utilities, LLC; Notice of Transfer of Exemption

1. By letter filed January 23, 2017, Shamrock Utilities, LLC informed the Commission that the exemption from licensing for the Cedar Flat Project No. 6168, originally issued September 28, 1982 [1] located on Mill Creek in Trinity County, California and occupies lands within Shasta-Trinity National Forest; and the Clover Leaf Ranch Project No. 7057, originally issued July 12, 1983 [2] located on Clover Creek in Shasta County, California have been transferred to Shamrock Utilities, LLC. The transfer of an exemption does not require Commission approval.

2. Shamrock Utilities, LLC is now the exemptee of the Cedar Flat Project No. 6168 and the Clover Leaf Ranch Project No. 7057. All correspondence should be forwarded to: Theresa A. Ungaro, President/Owner, Shamrock Utilities, LLC, P. O. Box 859, Palo Cedro, CA 96073.

Dated: May 17, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10516 Filed 5–22–17; 8:45 am]

BILLING CODE 6717–01–P

[1] Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 MW or Less. *Richard Bean and Fred Castagna,* 20 FERC 62,550 (1982).

[2] Order Granting Exemption from Licensing of a Small Hydroelectric Project of 5 Megawatts or Less. *Mega Hydro, Inc.,* 24 FERC 62,041.

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: RP17–743–000.

Applicants: Ozark Gas Transmission, L.L.C.

Description: Ozark Gas Transmission, L.L.C. submits tariff filing per 154.204: BP Energy K820104 Negotiated Rate eff 5–1–2021 to be effective 5/1/2021.

Filed Date: 05/12/2017.

Accession Number: 20170512–5030.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, May 24, 2017.

Docket Numbers: RP17–744–000.

Applicants: East Tennessee Natural Gas, LLC.

Description: East Tennessee Natural Gas, LLC submits tariff filing per 154.204: Duke Energy Progress K410135 Neg Rate eff. 11–1–2017 to be effective 11/1/2017.

Filed Date: 05/12/2017.

Accession Number: 20170512–5058.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, May 24, 2017.

Docket Numbers: RP17–745–000.

Applicants: Kern River Gas Transmission Company.

Description: Kern River Gas Transmission Company submits tariff filing per 154.204: 2017 Nonconforming Alt P2 and P2 Insulated TSAs to be effective 5/1/2017.

Filed Date: 05/12/2017.

Accession Number: 20170512–5195.

Comment Date: 5:00 p.m. Eastern Time on Wednesday, May 24, 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: May 16, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10523 Filed 5–22–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 176–018; 176–035]

City of Escondido, California, & Vista Irrigation District; Notice of Effective Date for Exemption From Licensing (Conduit), Surrender of License, and Dismissal of Relicense Application

On September 25, 2012, the Commission issued a Conditional Order Granting Exemption from Licensing (Conduit), Accepting Surrender of License, and Dismissing Relicense Application for the Escondido Project No. 176 (the 2012 Order).[1] The Escondido Project is located on the San Luis Rey River and Escondido Creek, near the city of Escondido, in San Diego County, California.

The 2012 Order approved a conduit exemption for the Bear Valley Powerhouse Project No. 176 (part of the existing Escondido Project) and accepted surrender of the license for the remaining project facilities. Both the conduit exemption and the license surrender were contingent on certain conditions being met including the protection of historic properties, approval of a water rights settlement agreement, dismissal of pending court proceedings, and obtaining a rights-of-way agreement for parts of the project that would continue to occupy federal land after the surrender. The 2012 order also dismissed the relicense application for the Escondido Project, effective as of the effective date of the conduit exemption and license surrender.

On May 3, 2017, the City of Escondido and Vista Irrigation District filed documentation that all conditions

[1] *City of Escondido and Vista Irrigation District,* 140 FERC 62,226 (2012).

in the 2012 Order have been satisfied. Therefore, the new Bear Valley Powerhouse Project No. 176 conduit exemption, the license surrender for the Escondido Project No. 176, and our dismissal of the relicensing application are all effective as of the date of this notice.

Dated: May 17, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10514 Filed 5–22–17; 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 rate filings:

Docket Numbers: ER13–1504–003; ER10–2861–002; ER10–2866–002.

Applicants: SWG Arapahoe, LLC, SWG Colorado, LLC, Fountain Valley Power, L.L.C.

Description: Supplement to December 28, 2016 Triennial Market Power Analysis for the Northwest Region of the Southwest Generation Operating Company Sellers.

Filed Date: 5/16/17.

Accession Number: 20170516–5113.

Comments Due: 5 p.m. ET 6/6/17.

Docket Numbers: ER17–1612–000.

Applicants: PJM Interconnection, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of Service Agreement No. 3637, Queue No. Y1–084 to be effective 3/27/2017.

Filed Date: 5/16/17.

Accession Number: 20170516–5082.

Comments Due: 5 p.m. ET 6/6/17.

Docket Numbers: ER17–1613–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Wholesale Market Participation Agreement No. 4700; Queue No. AC1–030 to be effective 4/25/2017.

Filed Date: 5/16/17.

Accession Number: 20170516–5087.

Comments Due: 5 p.m. ET 6/6/17.

Docket Numbers: ER17–1614–000.

Applicants: Duke Energy Carolinas, LLC.

Description: § 205(d) Rate Filing: DEC-Due West RS No. 329 Revised PPA to be effective 1/1/2016.

Filed Date: 5/17/17.

Accession Number: 20170517–5007.

Comments Due: 5 p.m. ET 6/7/17.

Docket Numbers: ER17–1615–000.

Applicants: McCallum Enterprises I Limited Partnership.

Description: Request for Waiver of McCallum Enterprises I Limited Partnership.

Filed Date: 5/11/17.

Accession Number: 20170511–5080.

Comments Due: 5 p.m. ET 6/1/17.

Docket Numbers: ER17–1616–000.

Applicants: Solios Power Trading LLC.

Description: Tariff Cancellation: Cancellation of Market Based Rate Tariff to be effective 5/22/2017.

Filed Date: 5/17/17.

Accession Number: 20170517–5044.

Comments Due: 5 p.m. ET 6/7/17.

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: May 17, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10510 Filed 5–22–17; 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: RP17–746–000.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits tariff filing per 154.204: Housekeeping Filing 5–16–2017 to be effective 6/6/2016.

Filed Date: 05/16/2017.

Accession Number: 20170516–5067.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, May 30, 2017.

Docket Numbers: RP17–747–000.

Applicants: Empire Pipeline, Inc.

Description: Empire Pipeline, Inc. submits tariff filing per 154.403(d)(2): Fuel Tracker (Empire tracking Supply) to be effective 6/1/2017.

Filed Date: 05/16/2017.

Accession Number: 20170516–5097.

Comment Date: 5:00 p.m. Eastern Time on Tuesday, May 30, 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: May 17, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–10511 Filed 5–22–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9961–62–OA]

Notification of a Public Teleconference of the Chartered Clean Air Scientific Advisory Committee (CASAC) and the CASAC Sulfur Oxides Panel

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The EPA Science Advisory Board (SAB) Staff Office announces a public teleconference of the Chartered Clean Air Scientific Advisory Committee (CASAC) and CASAC Sulfur Oxides Panel to discuss the CASAC draft review of the EPA's *Integrated Science Assessment (ISA) for Sulfur Oxides—Health Criteria (Second External Review Draft—December 2016).*

DATES: The teleconference will be held on Tuesday, June 20, 2017, from 1:00 p.m. to 4:00 p.m. (Eastern Time).

Location: The public teleconference will be held by telephone only.

FOR FURTHER INFORMATION CONTACT: Any member of the public wishing to obtain information concerning the public meeting may contact Mr. Aaron Yeow, Designated Federal Officer (DFO), EPA Science Advisory Board Staff Office (1400R), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; by telephone at (202) 564–2050 or at *yeow.aaron@epa.gov*. General information about the CASAC, as well as any updates concerning the meetings announced in this notice, may be found on the CASAC Web page at *http://www.epa.gov/casac*.

SUPPLEMENTARY INFORMATION: The CASAC was established pursuant to the Clean Air Act (CAA) Amendments of 1977, codified at 42 U.S.C. 7409(d)(2), to review air quality criteria and National Ambient Air Quality Standards (NAAQS) and recommend any new NAAQS and revisions of existing criteria and NAAQS as may be appropriate. The CASAC is a Federal Advisory Committee chartered under the Federal Advisory Committee Act (FACA), 5 U.S.C., App. 2. Section 109(d)(1) of the CAA requires that the Agency periodically review and revise, as appropriate, the air quality criteria and the NAAQS for the six ''criteria'' air pollutants, including sulfur oxides. EPA is currently reviewing the primary (health-based) NAAQS for sulfur dioxide (SO_2), as an indicator for health effects caused by the presence of sulfur oxides in the ambient air. Pursuant to FACA and EPA policy, notice is hereby given that the Chartered CASAC and the CASAC Sulfur Oxides Panel will hold a public teleconference to discuss the draft CASAC review of the EPA's *Integrated Science Assessment for Sulfur Oxides—Health Criteria (Second External Review Draft—December 2016)*. The CASAC Sulfur Oxides Panel and CASAC will comply with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

Technical Contacts: Any technical questions concerning the *Integrated Science Assessment for Sulfur Oxides—Health Criteria (Second External Review Draft—December 2016)* should be directed to Dr. Tom Long (*long.tom@epa.gov*), EPA Office of Research and Development.

Availability of Meeting Materials: Prior to the meeting, the review documents, agenda and other materials will be available on the CASAC Web page at *http://www.epa.gov/casac/*.

Procedures for Providing Public Input: Public comment for consideration by EPA's federal advisory committees and panels has a different purpose from public comment provided to EPA program offices. Therefore, the process for submitting comments to a federal advisory committee is different from the process used to submit comments to an EPA program office.

Federal advisory committees and panels, including scientific advisory committees, provide independent advice to EPA. Members of the public can submit relevant comments on the topic of this advisory activity, including the charge to the panel and the EPA review documents, and/or the group conducting the activity, for the CASAC to consider as it develops advice for EPA. Input from the public to the CASAC will have the most impact if it provides specific scientific or technical information or analysis for CASAC panels to consider, or if it relates to the clarity or accuracy of the technical information. Members of the public wishing to provide comment should follow the instructions below to submit comments.

Oral Statements: In general, individuals or groups requesting an oral presentation on a public teleconference will be limited to three minutes. Each person making an oral statement should consider providing written comments as well as their oral statement so that the points presented orally can be expanded upon in writing. Interested parties should contact Mr. Aaron Yeow, DFO, in writing (preferably via email) at the contact information noted above by June 13, 2017, to be placed on the list of public speakers.

Written Statements: Written statements will be accepted throughout the advisory process; however, for timely consideration by CASAC members, statements should be supplied to the DFO (preferably via email) at the contact information noted above by June 13, 2017. It is the SAB Staff Office general policy to post written comments on the Web page for the advisory meeting or teleconference. Submitters are requested to provide an unsigned version of each document because the SAB Staff Office does not publish documents with signatures on its Web sites. Members of the public should be aware that their personal contact information, if included in any written comments, may be posted to the CASAC Web site. Copyrighted material will not be posted without explicit permission of the copyright holder.

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Aaron Yeow at (202) 564–2050 or *yeow.aaron@epa.gov*. To request accommodation of a disability, please contact Mr. Yeow preferably at least ten days prior to each meeting to give EPA as much time as possible to process your request.

Dated: April 10, 2017.

Khanna Johnston,

Acting Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. 2017–10448 Filed 5–22–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0997]

Information Collection Being Reviewed by the Federal Communications Commission Under Delegated Authority

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before July 24, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0997.

Title: Section 52.15(k), Numbering Utilization and Compliance Audit.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other for-profit.

Number of Respondents and Responses: 10 respondents; 10 responses.

Estimated Time per Response: 33 hours.

Frequency of Response: Third party disclosure requirement.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. Section 251.

Total Annual Burden: 330 hours.

Total Annual Cost: No cost.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: Commission employees and the independent auditor are prohibited by 47 U.S.C. 220(f) from divulging any fact or information that may come to their knowledge in the course of performing the audit, except as directed by the Commission or a court.

Needs and Uses: The audit program, consisting of audit procedures and guidelines, is developed to conduct random audits. The random audits are conducted on the carriers that use numbering resources in order to verify the accuracy of numbering data reported on FCC Form 502, and to monitor compliance with FCC rules, orders and applicable industry guidelines. Failure of the audited carriers to respond to the audits can result in penalties. Based on the final audit report, evidence of potential violations may result in enforcement action.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–10434 Filed 5–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1113]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 22, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain*>, (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1113.

Title: Commercial Mobile Alert System (CMAS).

Form No.: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 1,253 respondents; 1,253 responses.

Estimated Time per Response: 30 minutes (.5 hours).

Frequency of Response: On occasion reporting requirement, recordkeeping requirement and third party disclosure requirements.

Obligation to Respond: Mandatory. Statutory authority for this information collection is contained in 47 U.S.C. 151, 154(i), 154(j), 154(o), 218, 219, 230, 256, 302(a), 303(f), 303(g), 303(r), 403, 621(b)(3), and 621(d).

Total Annual Burden: 28,193 hours.

Total Annual Cost: No cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: This collection will be submitted as an extension after this 60 day comment period to the Office of Management and Budget (OMB) in order to obtain OMB approval.

On August 7, 2008, the FCC released a *Third Report and Order* in PS Docket No. 07–287, FCC 08–184 *(CMAS Third R&O),* the *CMAS Third R&O* implements provisions of the Warning, Alert and Response Network (''WARN'') Act, including inter alia, a requirement that within 30 days of release of the *CMAS Third R&O,* each Commercial Mobile Service (CMS) provider must file an election with the Commission indicating whether or not it intends to transmit emergency alerts as part of the Commercial Mobile Alert System (CMAS). The *CMAS Third R&O* noted that this filing requirement was subject to OMB review and approval. The Commission received ''pre-approval'' from the OMB on February 4, 2008. The Commission began accepting CMAS election filings on or before September 8, 2008.

All CMS providers are required to submit a CMAS election, including those that were not licensed at the time of the initial filing deadline with the FCC. In addition, any CMS provider choosing to withdraw its election must notify the Commission at least sixty (60) days prior to the withdrawal of its election. The information collected will be the CMS provider's contact information and its election, *i.e.,* a ''yes'' or ''no'', on whether it intends to provide commercial mobile service alerts.

The Commission will use the information collected to meet its statutory requirement under the WARN Act to accept licensees' election filings and to establish an effective CMAS that will provide the public with effective mobile alerts in a manner that imposes minimal regulatory burdens on affected entities.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–10435 Filed 5–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Deletion of Items From Sunshine Act Meeting

May 17, 2017.

The following consent agenda item has been deleted from the list of items scheduled for consideration at the Thursday, May 18, 2017, Open Meeting and previously listed in the Commission's Notice of May 11, 2017.

* * * * *

Consent Agenda

The Commission will consider the following subject listed below as a consent agenda and this item will not be presented individually:

1	*Media*	*Title:* Budd Broadcasting Co., Inc., Application for Renewal of License for Television Station WFXU(TV), Live Oak, Florida. *Summary:* The Commission will consider an Order adopting a Consent Decree which resolves issues regarding potential violations of the Commission's rules and grants the license renewal application of WFXU(TV).

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–10627 Filed 5–19–17; 4:15 pm]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–0819]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before June 22, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov*; and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the Web page *http://www.reginfo.gov/public/do/PRAMain,* (2) look for the section of the Web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently

under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–0819.

Title: Lifeline and Link Up Reform and Modernization, Telecommunications Carriers Eligible for Universal Service Support, Connect America Fund.

Form Numbers: FCC Form 555, FCC Form 481, FCC Form 497.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households and business or other for-profit.

Number of Respondents and Responses: 20,535,330 respondents; 23,328,463 responses.

Estimated Time per Response: .0167 hours–250 hours.

Frequency of Response: Annual, biennial, monthly, daily and on occasion reporting requirements and third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 1, 4(i), 5, 201, 205, 214, 219, 220, 254, 303(r), and 403 of the Communications Act of 1934, as amended, and section 706 of the Communications Act of 1996, as amended; 47 U.S.C. 151, 154(i), 155, 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302.

Total Annual Burden: 12,148,151 hours.

Total Annual Cost: $937,500.

Privacy Act Impact Assessment: Yes. The Commission completed a Privacy Impact Assessment (PIA) for some of the information collection requirements contained in this collection. The PIA was published in the **Federal Register** at 78 FR 73535 on December 6, 2013. The PIA may be reviewed at: *http://www.fcc.gov/omd/privacyact/Privacy_Impact_Assessment.html.*

Nature and Extent of Confidentiality: Some of the requirements contained in this information collection affect individuals or households, and thus, there are impacts under the Privacy Act. The FCC's system of records notice (SORN) associated with this collection is FCC/WCB–1, ''Lifeline Program.'' The Commission will use the information contained in FCC/WCB–1 to cover the personally identifiable information (PII) that is required as part of the Lifeline Program (''Lifeline''). As required by the Privacy Act of 1974, as amended, 5 U.S.C. 552a, the Commission published FCC/WCB–1 ''Lifeline Program'' in the **Federal Register** on December 6, 2013 (78 FR 73535).

Also, respondents may request materials or information submitted to the Commission or to the Universal Service Administrative Company (USAC or Administrator) be withheld from public inspection under 47 CFR 0.459 of the FCC's rules. We note that USAC must preserve the confidentiality of all data obtained from respondents; must not use the data except for purposes of administering the universal service programs; and must not disclose data in company-specific form unless directed to do so by the Commission.

Needs and Uses: The Commission will submit this information collection after this comment period to obtain approval from the Office of Management and Budget (OMB) of proposed revisions to this information collection.

On April 27, 2016, the Commission released an order reforming its low-income universal service support mechanisms. Lifeline and Link Up Reform and Modernization; Telecommunications Carriers Eligible for Universal Service Support; Connect America Fund, WC Docket Nos. 11–42, 09–197, 10–90, Third Further Notice of Proposed Rulemaking, Order on Reconsideration, and Further Report and Order, (*Lifeline Third Reform Order*). In the *Lifeline Third Reform Order,* the Commission adopted the National Verifier to make eligibility determinations and perform other functions necessary to enroll subscribers into the Lifeline program. This revised information collection addresses changes associated with transition to the National Verifier. In addition, the Commission seeks to update the number of respondents for certain requirements contained in this information collection, thus increasing the total burden hours for some requirements and decreasing the total burden hours for other requirements. Finally, the Commission seeks to revise the FCC Form 555 to reflect the transition to the National Verifier.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–10433 Filed 5–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1039]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The FCC may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before July 24, 2017. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts below as soon as possible.

ADDRESSES: Direct all PRA comments to Cathy Williams, FCC, via email: *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the PRA, 44 U.S.C. 3501–3520, the FCC invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control No.: 3060–1039.

Title: Nationwide Programmatic Agreement Regarding the Section 106 National Historic Preservation Act—Review Process, WT Docket No. 03–128.

Form No.: FCC Form 620 and 621, TCNS E-filing.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; not-for-profit institutions; State, Local or Tribal Government.

Number of Respondents and Responses: 70,152 respondents and 70,152 responses.

Estimated Time per Response: 1–5 hours.

Frequency of Response: Recordkeeping requirement; on occasion reporting requirement; third party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection of information is contained in sections 1, 4(i), 303(q), 303(r), 309(a), 309(j) and 319 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 303(q), 303(r), 309(a), 309(j) and 319, sections 101(d)(6) and 106 of the National Historic Preservation Act (NHPA) of 1966, 16 U.S.C. 470a(d)(6) and 470f, and section 800.14(b) of the rules of the Advisory Council on Historic Preservation, 36 CFR 800.14(b).

Total Annual Burden: 97,929 hours.

Annual Cost Burden: $13,087,425.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: In general there is no need for confidentiality. On a case by case basis, the Commission may be required to withhold from disclosure certain information about the location, character, or ownership of a historic property, including traditional religious sites.

Needs and Uses: FCC staff, State Historic Preservation Officers (SHPO), Tribal Historic Preservation Officers (THPO) and the Advisory Council of Historic Preservation (ACHP) use the data to take such action as may be necessary to ascertain whether a proposed action may affect sites of cultural significance to tribal nations and historic properties that are listed or eligible for listing on the National Register as directed by section 106 of the National Historic Preservation Act (NHPA) and the Commission's rules.

FCC Form 620, New Tower (NT) Submission Packet is to be completed by or on behalf of applicants to construct new antenna support structures by or for the use of licensees of the FCC. The form is to be submitted to the State Historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under section 106 of the NHPA prior to beginning construction may violate section 110(k) of the NHPA and the Commission's rules.

FCC Form 621, Collocation (CO) Submission Packet is to be completed by or on behalf of applicants who wish to collocate an antenna or antennas on an existing communications tower or non-tower structure by or for the use of licensees of the FCC. The form is to be submitted to the State historic Preservation Office (''SHPO'') or to the Tribal Historic Preservation Office (''THPO''), as appropriate, and the Commission before any construction or other installation activities on the site begins. Failure to provide the form and complete the review process under section 106 of the NHPA prior to beginning construction or other installation activities may violate section 110(k) of the NHPA and the Commission's rules.

The Tower Construction Notification System (TCNS) is used by or on behalf of Applicants proposing to construct new antenna support structures, and some collocations, to ensure that Tribal Nations have the requisite opportunity to participate in review prior to construction. To facilitate this coordination, Tribal Nations have designated areas of geographic preference, and they receive automated notifications based on the site coordinates provided in the filing. Applicants complete TCNS before filing a 620 or 621 and all the relevant data is pre-populated on the 620 and 621 when the forms are filed electronically.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–10436 Filed 5–22–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of the Termination of the Receivership of 10244—Granite Community Bank, NA., Granite Bay, California

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Granite Community Bank, NA., Granite Bay, California (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Granite Community Bank, NA. on May 28, 2010. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: May 17, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–10442 Filed 5–22–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Submission for OMB Review; Comment Request (3064–0019, –0061, –0087 & –0143)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. On February 9, 2017, the FDIC requested comment for 60 days on a proposal to renew the information collections described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

DATES: Comments must be submitted on or before June 22, 2017.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Jennifer Jones (202–898–6768), Counsel, MB–3105, or Manny Cabeza (202–898–3767), Counsel, MB–3007, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jennifer Jones or Manny Cabeza, at the FDIC address above.

SUPPLEMENTARY INFORMATION: On February 9, 2017, (82 FR 10004), the FDIC requested comment for 60 days on a proposal to renew the information collections described below. No comments were received. The FDIC hereby gives notice of its plan to submit to OMB a request to approve the renewal of these collections, and again invites comment on this renewal.

Proposal to renew the following currently approved collections of information:

1. *Title:* Interagency Notice of Change in Control.

OMB Number: 3064–0019.

Form Number: FDIC 6822/01.

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

	Type of burden	Estimated number of respondents	Estimated time per response (hours)	Frequency of response	Total annual estimated burden
Notice of Change in Control	Reporting	25	30	On Occasion	750

General Description of Collection: The *Interagency Notice of Change in Control* is submitted by any person proposing to acquire ownership control of an insured state nonmember bank. The information is used by the FDIC to determine whether the competence, experience, or integrity of any acquiring person indicates it would not be in the interest of the depositors of the bank, or in the public interest, to permit such persons to control the bank.

There is no change in the method or substance of the collection. The overall burden remains the same. In particular, the number of respondents and the hours per response remain the same.

2. *Title:* Foreign Banking and Investment by Insured State Nonmember Banks.

OMB Number: 3064–0061.

Form Number: Summary of Deposits.

Affected Public: All FDIC-insured institutions, including insured U.S. branches of foreign banks.

Burden Estimate:

	Type of burden	Estimated number of respondents	Estimated time per response (hours)	Frequency of response	Total annual estimated burden (hours)
Summary of Deposits	Reporting	4,843	3	On Occasion	14,529

General Description of Collection: The Summary of Deposits (SOD) is the annual survey of branch office deposits as of June 30 for all FDIC-insured institutions, including insured U.S. branches of foreign banks. All FDIC-insured institutions that operate a main office and one or more branch locations (including limited service drive-thru locations) as of June 30 each year are required to file the SOD Survey. Insured branches of foreign banks are also required to file. All data collected on the SOD submission are available to the public. The survey data provides a basis for measuring the competitive impact of bank mergers and has additional use in research on banking.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response remain the same.

3. *Title:* Procedures for Monitoring Bank Secrecy Act Compliance.

OMB Number: 3064–0087.

Form Number: None.

Affected Public: Insured State Nonmember Banks and Savings Associations.

Burden Estimate:

	Type of burden	Estimated number of respondents	Estimated time per response (hours)	Frequency of response	Total annual estimated burden (hours)
Small Institutions	Recordkeeping	3,011	35	On Occasion	105,385
Medium Institutions	Recordkeeping	747	250	On Occasion	186,750
Large Institutions	Recordkeeping	29	450	On Occasion	13,050
Total Estimated Burden		3,787			305,185

General Description of Collection: Respondents must establish and maintain procedures designed to monitor and ensure their compliance with the requirements of the Bank Secrecy Act and the implementing regulations promulgated by the Department of Treasury at 31 CFR part 103. Respondents must also provide training for appropriate personnel.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response remain the same.

4. *Title:* Forms Relating to Processing Deposit Insurance Claims.

OMB Number: 3064–0143.

Form Number: 7200/04—Declaration for Government Deposit; 7200/05—Declaration for Revocable Trust; 7200/06—Declaration of Independent Activity; 7200/07—Declaration of Independent Activity for Unincorporated Association; 7200/08—Declaration for Joint Ownership Deposit; 7200/09—Declaration for Testamentary Deposit; 7200/10—Declaration for Defined Contribution Plan; 7200/11—Declaration for IRA/KEOGH Deposit; 7200/12—Declaration for Defined Benefit Plan; 7200/13—Declaration of Custodian Deposit; 7200/14—Declaration or Health and Welfare Plan; 7200/15—Declaration for Plan and Trust; 7200/18—Declaration for Irrevocable Trust; 7200/24—Claimant Verification; 7200/26—Depositor Interview Form.

Affected Public: Any person who has a deposit account relationship with an insured depository institution that has failed and from whom more information is needed to complete the deposit insurance determination.

Burden Estimate:

	Type of burden	Estimated number of respondents	Estimated time per response (hours)	Frequency of response	Total annual estimated burden (hours)
COMBINED DEPOSIT BROKERS AND INDIVIDUALS:					
7200/04—Declaration for Government Deposit.	Reporting	14	.5	On Occasion	7
7200/05—Declaration for Revocable Trust.	Reporting	165	.5	On Occasion	83
7200/06—Declaration of Independent Activity.	Reporting	0	.5	On Occasion	0
7200/07—Declaration of Independent Activity for Unincorporated Association.	Reporting	0	.5	On Occasion	0
7200/08—Declaration for Joint Ownership Deposit.	Reporting	0	.5	On Occasion	0
7200/09—Declaration for Testamentary Deposit.	Reporting	21	.5	On Occasion	11
7200/10—Declaration for Defined Contribution Plan.	Reporting	0	1 hour	On Occasion	0
7200/11—Declaration for IRA/KEOGH Deposit.	Reporting	0	.5	On Occasion	0
7200/12—Declaration for Defined Benefit Plan.	Reporting	0	1 hour	On Occasion	0
7200/13—Declaration of Custodian Deposit.	Reporting	0	.5	On Occasion	0
7200/14—Declaration or Health and Welfare Plan.	Reporting	12	1 hour	On Occasion	12
7200/15—Declaration for Plan and Trust.	Reporting	0	.5	On Occasion	0
7200/18—Declaration for Irrevocable Trust.	Reporting	0	.5	On Occasion	0
7200/24—Claimant Verification	Reporting	218	.5	On Occasion	109
7200/26—Depositor Interview Form	Reporting	198	.5	On Occasion	99
SUBTOTAL: COMBINED BROKERS AND INDIVIDUALS.		628			321

	Type of burden	Estimated number of respondents	Estimated time per response (hours)	Frequency of response	Total annual estimated burden (hours)
DEPOSIT BROKERS ONLY:					
Deposit Broker Submission Checklist ...	Reporting	136	.08	On Occasion	11.33
Diskette, following "Broker Input File Requirements"—burden will vary depending on the broker's number of brokered accounts.	Reporting	102	.75	On Occasion	76.5
	Reporting	34	5	On Occasion	170
Exhibit B, the standard agency agreement, or the non-standard agency agreement.	Reporting	136	.0167	On Occasion	2.27
SUBTOTAL: DEPOSIT BROKERS ONLY.	.....	136	.....	.....	260.10
TOTAL HOURLY BURDEN	.....	764	.....	.....	581.10

General Description of Collection: The collection involves forms used by the FDIC to obtain information from depositors and deposit brokers necessary to supplement the records of failed insured depository institutions to make determinations regarding deposit insurance coverage. The information provided enables the FDIC to identify the actual owners of an account, each owner's interest in the account, and the right and capacity in which the deposit is insured.

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the number of respondents has decreased while the hours per response remain the same.

Request for Comment

Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, this 17th day of May 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–10443 Filed 5–22–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

May 18, 2017.

TIME AND DATE: 10:00 a.m., Thursday, June 15, 2017.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW., Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Pocahontas Coal Company, LLC,* Docket Nos. WEVA 2014–395–R, et al. (Issues include whether the Judge erred in concluding that MSHA had established that a pattern of violations existed at the operator's mine.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434–9935/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

PHONE NUMBER FOR LISTENING TO MEETING: 1–(866) 867–4769, Passcode: 678–100.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2017–10576 Filed 5–19–17; 11:15 am]

BILLING CODE 6735–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than June 19, 2017.

A. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *CBB Bancorp, Inc.;* to become a bank holding company by acquiring 100 percent of the voting shares of

Commonwealth Business Bank, both of Los Angeles, California.

Board of Governors of the Federal Reserve System, May 18, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–10488 Filed 5–22–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Title: Behavioral Interventions to Advance Self-Sufficiency Next Generation (BIAS–NG).

OMB No.: New Collection.

Description: The Office of Planning, Research and Evaluation (OPRE) in the Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) requests Office of Management and Budget (OMB) approval for a 3-year pilot generic clearance to collect data as part of rapid cycle testing and evaluation, in order to inform the design of interventions informed by behavioral science and to better understand the mechanisms and effects of such interventions. These interventions, which will be in the program area domains of Temporary Assistance for Needy Families (TANF) and child welfare, are intended to improve outcomes for participants in these programs.

OPRE plans to conduct the Behavioral Interventions to Advance Self-Sufficiency Next Generation (BIAS–NG) project. This project will use behavioral insights to design and test interventions intended to improve the efficiency, operations, and efficacy of human services programs. The BIAS–NG project will apply behavioral insights to a range of ACF programs including TANF, Child Welfare, and other program areas to be determined. This notice is specific to data collection with TANF and Child Welfare sites; when and if the project desires to work in other program areas, OPRE will publish a **Federal Register** notice allowing for public comment and will submit a new information collection request for that work. Under this pilot generic clearance, OPRE plans to work with approximately six sites to conduct approximately two tests per site, for a total of approximately 12 tests of behavioral interventions.

The design and testing of BIAS NG interventions will be rapid and iterative. Each specific intervention will be designed in consultation with agency leaders and launched quickly. To maximize the likelihood that the intervention produces measurable, significant, positive effects on outcomes of interest, rapid cycle evaluation techniques will be employed in which proximate outcomes will be measured to allow the research team to rapidly iterate and adjust the intervention design, informing subsequent tests. Due to the rapid and iterative nature of this work OPRE seeks generic clearance to conduct this research. Following standard OMB requirements for generic clearances, once instruments are tailored to a specific site and the site's intervention, OPRE will submit an individual generic information collection request under this umbrella clearance. Each request will include the individual instrument(s), a justification specific to the individual information collection, a description of the proposed intervention, and any supplementary documents. Each specific information collection will include two submissions: First, a submission for the formative stage research and second, a submission for the test and evaluation materials. In this notice we describe the types of information expected to be collected for each test and the expected burden.

To ensure maximal relevance to the domain areas selected (*i.e.,* Child Welfare and TANF), the project has identified a set of broad problems that affect entire domain areas rather than problems that are idiosyncratic to a particular program. In each of the approximately six sites with which the project will work under this clearance, interventions will be designed and tested using an approach called behavioral diagnosis and design which will involve determining how identified problems operate within each site's specific context, diagnosing behavioral reasons for those problems, designing interventions informed by behavioral insights, and rigorously testing the interventions. Information will be collected throughout this process. The information that will be collected is specific to each of the sites, will not be collected indefinitely, and is not intended to be interpreted as applicable to other sites or to other programs. In addition, in working with the project to design the behavioral interventions to be tested, some sites may decide to change what data they collect and/or the questions they ask the public to answer. Such decisions will be controlled by the sites, not by the project.

In order to define and diagnose program challenges and design appropriate interventions, OPRE plans to conduct interviews and focus groups with administrators, staff, and/or clients in each of the approximately six sites. OPRE will field client and/or staff surveys in order to hear from a breadth of perspectives. In addition to interviews, focus groups, and surveys, OPRE anticipates observing program activities and reviewing documents and administrative data. This information will be critical to diagnosing where and why programs are facing challenges and which behavioral interventions may have an impact.

During the testing phase OPRE anticipates conducting mixed-methods evaluations consisting of implementation, impact, and cost research for the approximately two tests in each of the approximately six total sites that will be engaged across the two program areas included under this clearance, TANF and Child Welfare (for a total of 12 tests). To better understand how the intervention is being implemented and its effects, OPRE anticipates conducting interviews and focus groups with program administrators, staff, and/or clients in each site. Because not all outcomes of interest (for example, improved understanding of and/or satisfaction with the foster parent recruitment process) are reflected in administrative records, OPRE anticipates conducting client surveys and staff surveys.

Interest in participating in BIAS–NG is expected to be high, and it is not expected that systematic recruitment of sites will be necessary. Within each site, we do not intend to do any active recruitment as all those who are eligible will be enrolled in the study and randomization will be conducted using a list of those who meet the eligibility criteria. Findings from these tests will be publicized through multiple dissemination channels, which may include but are not limited to reports on individual tests, a final synthesis report, presentations at conferences and meetings, scholarly journal articles, webinars, social media, press outreach, newsletters, etc.

Respondents: (1) Program Administrators (2) Program Staff and (3) Program Clients.

TOTAL BURDEN HOURS

Instrument	Total number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Diagnosis and Design Phase:				
Administrator interviews/focus groups	24	1	1	24
Staff interviews/focus groups	48	1	1	48
Client interviews/focus groups	48	1	1	48
Client survey	600	1	.25	150
Staff Survey	120	1	.25	30
Evaluation Phase:				
Administrator interviews/focus groups	48	1	1	48
Staff interviews/focus groups	96	1	1	96
Client interviews/focus groups	96	1	1	96
Client Survey	6,000	1	.25	1,500
Staff survey	120	1	.25	30

Estimated Total Burden Hours: 2,070 hours.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2017–10526 Filed 5–22–17; 8:45 am]

BILLING CODE 4184–07–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Assessing the Implementation and Cost of High Quality Early Care and Education: Comparative Multi-Case Study.

OMB No.: New.

Description: The Administration for Children and Families (ACF) at the U.S. Department of Health and Human Services (HHS) seeks approval to collect new information to use in developing measures of the implementation and costs of high quality early care and education. This information collection is part of the project, Assessing the Implementation and Cost of High Quality Early Care and Education (ECE–ICHQ). The project's goal is to create a technically sound and feasible instrument that will provide consistent, systematic measures of the implementation and costs of education and care in center-based settings that serve children from birth to age 5. The resulting measures will inform research, policy, and practice by improving understanding of variations in what centers do to support quality, their associated costs, and how resources for ECE may be better aligned with expectations for quality. The goals of the study are (1) to test and refine a mixed methods approach to identifying the implementation activities and costs of key functions within ECE centers and (2) to produce data for creating measures of implementation and costs. The study recently collected data through on-site visits to 15 centers as part of an initial phase of data collection under clearance, #0970–0355. In this initial phase, the study team tested data collection tools and methods, conducted cognitive interviews to obtain feedback from respondents about the tools, and used the information to reduce and refine the tools for the next phase of data collection. This request is focused on the next phase of data collection which will include 50 ECE centers in three states. The next phase will rely on remote data collection through electronic data collection tools, telephone interviews, and web-based surveys.

Respondents: ECE site administrators or center directors, program directors, education specialists, financial managers or accountants, lead teachers, and assistant teachers.

ANNUAL BURDEN ESTIMATES

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Initial email to selected center directors	400	1	.08	32
Center recruitment call	415	1	.33	137
Center engagement call	50	1	.42	21
Implementation interview: Center director	50	1	3	150

ANNUAL BURDEN ESTIMATES—Continued

Instrument	Total/annual number of respondents	Number of responses per respondent	Average burden hours per response	Annual burden hours
Implementation interview: Additional center staff	60	1	.5	30
Cost workbook	50	1	7.5	375
Time use survey staff roster	50	1	.25	13
Time use survey advance letter	700	1	.08	56
Time use survey	560	1	.25	140

Estimated Total Annual Burden Hours: 954 hours.

Additional Information: Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV,* Attn: Desk Officer for the Administration for Children and Families.

Mary Jones,

ACF/OPRE Certifying Officer.

[FR Doc. 2017–10525 Filed 5–22–17; 8:45 am]

BILLING CODE 4184–23–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0110]

Agency Information Collection Activities; Proposed Collection; Comment Request; Prescription Drug Advertisements

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the reporting requirements, including third party disclosure, contained in FDA's current regulations on prescription drug advertisements.

DATES: Submit either electronic or written comments on the collection of information by July 24, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0110 for ''Prescription Drug Advertisements.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more

information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Prescription Drug Advertisements; OMB Control Number 0910–0686—Extension

Section 502(n) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 352(n)) requires that manufacturers, packers, and distributors (sponsors) who advertise prescription human and animal drugs, including biological products for humans, disclose in advertisements certain information about the advertised product's uses and risks. For prescription drugs and biologics, section 502(n) of the FD&C Act requires advertisements to contain ''* * * a true statement * * *'' of certain information including ''* * * information in brief summary relating to side effects, contraindications, and effectiveness * * *'' as required by regulations issued by FDA. FDA's prescription drug advertising regulations at § 202.1 (21 CFR 202.1) describe requirements and standards for print and broadcast advertisements. Section 202.1 applies to advertisements published in journals, magazines, other periodicals, and newspapers, and advertisements broadcast through media such as radio, television, and telephone communication systems. Print advertisements must include a brief summary of each of the risk concepts from the product's approved package labeling (§ 202.1(e)(1)). Advertisements that are broadcast through media such as television, radio, or telephone communications systems must disclose the major risks from the product's package labeling in either the audio or audio and visual parts of the presentation (§ 202.1(e)(1)); this disclosure is known as the ''major statement.'' If a broadcast advertisement omits the major statement, or if the major statement minimizes the risks associated with the use of the drug, the advertisement could render the drug misbranded in violation of section 502(n) of the FD&C Act, section 201(n) of the FD&C Act (21 U.S.C. 321(n)), and FDA's implementing regulations at § 202.1(e).

Advertisements subject to the requirements at § 202.1 are subject to the PRA because these advertisements disclose information to the public. In addition, § 202.1(e)(6) and (j) include provisions that are subject to OMB approval under the PRA.

Reporting to FDA

Section 202.1(e)(6) permits a person who would be adversely affected by the enforcement of a provision of § 202.1(e)(6) to request a waiver from FDA for that provision. The waiver request must set forth clearly and concisely the petitioner's interest in the advertisement, the specific provision of § 202.1(e)(6) from which a waiver is sought, a complete copy of the advertisement, and a showing that the advertisement is not false, lacking in fair balance, misleading, or otherwise violative of section 502(n) of the FD&C Act.

Section 202.1(j), which sets forth requirements for the dissemination of advertisements subject to the standards in § 202.1(e), contains the following information collection that is subject to the PRA:

Under § 202.1(j)(1), a sponsor must submit advertisements to FDA for prior approval before dissemination if: (1) The sponsor or FDA has received information that has not been widely publicized in medical literature that the use of the drug may cause fatalities or serious damage; (2) FDA has notified the sponsor that the information must be part of the advertisements for the drug; and (3) the sponsor has failed to present to FDA a program for assuring that such information will be publicized promptly and adequately to the medical profession in subsequent advertisements, or if such a program has been presented to FDA but is not being followed by the sponsor.

Under § 202.1(j)(1)(iii), a sponsor must provide to FDA a program for assuring that significant new adverse information about the drug that becomes known (*i.e.,* use of drug may cause fatalities or serious damage) will be publicized promptly and adequately to the medical profession in any subsequent advertisements.

Under § 202.1(j)(4), a sponsor may voluntarily submit advertisements to FDA for comment prior to publication.

Disclosures to the Public

Under § 202.1, advertisements for human and animal prescription drug and biological products must comply with the standards described in that section.

Under § 202.1(j)(1), if information that the use of a prescription drug may cause fatalities or serious damage has not been widely publicized in the medical literature, a sponsor must include such information in the advertisements for that drug.

We estimate the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section or activity	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
CDER:					
202.1(e)(6); waiver request	1	1	1	12	12
202.1(j)(1); submission of advertisement	1	1	1	2	2
202.1(j)(1)(iii); assuring that adverse information be publicized	1	1	1	12	12
202.1(j)(4); voluntary submission of ad to FDA	71	6.97	495	20	9,900
CBER:					
202.1(e)(6); waiver request	0	0	0	12	0
202.1(j)(1); submission of advertisement	0	0	0	2	0
202.1(j)(1)(iii); assuring that adverse information be publicized	0	0	0	12	0
202.1(j)(4); voluntary submission of ad to FDA	9	8	72	20	1,440
CVM:					
202.1(e)(6); waiver request	0	0	0	12	0
202.1(j)(1); submission of advertisement	0	0	0	2	0
202.1(j)(1)(iii); assuring that adverse information be publicized	0	0	0	12	0
202.1(j)(4); voluntary submission of ad to FDA	5	1	5	20	100
Total					11,466

[1] There are no capital costs or operating and maintenance costs associated with this collection.

TABLE 2—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN [1]

21 CFR section or activity	Number of respondents	Number of responses per respondent	Total annual responses	Hours per response	Total hours
CDER:					
202.1; ad prepared in accordance with 21 CFR Part 202	394	105.3	41,494	400	16,597,600
202.1(j)(1); info. included re. fatalities or serious damage	1	1	1	40	40
CBER:					
202.1; ad prepared in accordance with 21 CFR Part 202	47	63.4	2,984	400	1,193,600
202.1(j)(1); info. included re. fatalities or serious damage	0	0	0	40	0
CVM:					
202.1; ad prepared in accordance with 21 CFR Part 202	25	36	900	400	360,000
202.1(j)(1); info. included re. fatalities or serious damage	0	0	0	40	0
Total					18,151,240

[1] There are no capital costs or operating and maintenance costs associated with this collection.

Dated: May 18, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10533 Filed 5–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–1848]

Agency Information Collection Activities; Proposed Collection; Comment Request; Cosmetic Labeling Regulations

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on information collection provisions in FDA's cosmetic labeling regulations.

DATES: Submit either electronic or written comments on the collection of information by July 24, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–1848 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Cosmetic Labeling Regulations.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrachi, FDA PRA Staff, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–7726, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Cosmetic Labeling Regulations—21 CFR Part 701; OMB Control Number 0910–0599—Extension

The Federal Food, Drug, and Cosmetic Act (the FD&C Act) and the Fair Packaging and Labeling Act (the FPLA) require that cosmetic manufacturers, packers, and distributors disclose information about themselves or their products on the labels or labeling of their products. Sections 201, 301, 502, 601, 602, 603, 701, and 704 of the FD&C Act (21 U.S.C. 321, 352, 361, 362, 363, 371, and 374) and sections 4 and 5 of the FPLA (15 U.S.C. 1453 and 1454) provide authority to FDA to regulate the labeling of cosmetic products. Failure to comply with the requirements for cosmetic labeling may render a cosmetic adulterated under section 601 of the FD&C Act or misbranded under section 602 of the FD&C Act.

FDA's cosmetic labeling regulations are published in part 701 (21 CFR part 701). Four of the cosmetic labeling regulations have information collection provisions. Section 701.3 requires the label of a cosmetic product to bear a declaration of the ingredients in descending order of predominance. Section 701.11 requires the principal display panel of a cosmetic product to bear a statement of the identity of the product. Section 701.12 requires the label of a cosmetic product to specify the name and place of business of the manufacturer, packer, or distributor. Section 701.13 requires the label of a cosmetic product to declare the net quantity of contents of the product.

FDA estimates the annual burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD PARTY DISCLOSURE BURDEN [1]

21 CFR section/activity	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
701.3—Ingredients in order of predominance	1,518	21	31,878	1	31,878
701.11—Statement of identity	1,518	24	36,432	1	36,432
701.12—Name and place of business	1,518	24	36,432	1	36,432
701.13—Net quantity of contents	1,518	24	36,432	1	36,432
Total					141,174

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

The hour burden is the additional or incremental time that establishments need to design and print labeling that includes the following required elements: A declaration of ingredients in decreasing order of predominance, a statement of the identity of the product, a specification of the name and place of business of the establishment, and a declaration of the net quantity of contents. These requirements increase the time establishments need to design labels because they increase the number of label elements that establishments must take into account when designing labels. These requirements do not generate any recurring burden per label because establishments must already print and affix labels to cosmetic products as part of normal business practices.

The estimated annual third party disclosure is based on data available to the Agency, our knowledge of and experience with cosmetic labeling, and our communications with industry. We estimate there are 1,518 cosmetic product establishments in the United States. We calculate label design costs based on stock keeping units (SKUs) because each SKU has a unique product label. Based on data available to the Agency and on communications with industry, we estimate that cosmetic establishments will offer 94,800 SKUs for retail sale in 2017. This corresponds to an average of 62 SKUs per establishment.

One of the four provisions that we discuss in this information collection, § 701.3, applies only to cosmetic products offered for retail sale. However, the other three provisions, §§ 701.11, 701.12, and 701.13, apply to all cosmetic products, including non-retail professional-use-only products. We estimate that including professional-use-only cosmetic products increases the total number of SKUs by 15 percent to 109,020. This corresponds to an average of 72 SKUs per establishment.

Finally, based on the Agency's experience with other products, we estimate that cosmetic establishments may redesign up to one-third of SKUs per year. Therefore, we estimate that the number of disclosures per respondent will be 21 (31,878 SKUs) for § 701.3 and 24 each (36,432 SKUs) for §§ 701.11, 701.12, and 701.13.

We estimate that each of the required label elements may add approximately 1 hour to the label design process. We base this estimate on the hour burdens the Agency has previously estimated for food, drug, and medical device labeling and on the Agency's knowledge of cosmetic labeling. Therefore, we estimate that the total hour burden on members of the public for this information collection is 141,174 hours per year.

Dated: May 18, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10532 Filed 5–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2013–D–0349]

Agency Information Collection Activities; Proposed Collection; Comment Request; Providing Waiver-Related Materials in Accordance With the Guidance for Industry on Providing Post-Market Periodic Safety Reports in the International Conference on Harmonisation E2C(R2) Format

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the collection of information associated with the Guidance ''Providing Post-market Periodic Safety Reports in the ICH E2C(R2) Format (Periodic Benefit-Risk Evaluation Report).''

DATES: Submit either electronic or written comments on the collection of information by July 24, 2017. Late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 24, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 24, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you

do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2013–D–0349 for ''Providing Waiver-Related Materials in Accordance With the Guidance for Industry on Providing Post-market Periodic Safety Reports in the International Conference on Harmonisation E2C(R2) Format.'' Received comments, those filed in a timely manner (see **DATES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Providing Waiver-Related Materials in Accordance With the Guidance for Industry on Providing Post-Market Periodic Safety Reports in the International Conference on Harmonisation E2C(R2) Format (Periodic Benefit-Risk Evaluation Report), OMB Control Number 0910–0771—Extension

The International Conference on Harmonisation (ICH) of Technical Requirements for Registration of Pharmaceuticals for Human Use issued, on November 15, 2012, the ICH harmonized tripartite guideline entitled ''Periodic Benefit-Risk Evaluation Report (PBRER) E2C(R2)'' (the PBRER guideline) (available at *http://www.ich.org/products/guidelines/efficacy/article/efficacy-guidelines.html*). The PBRER guideline is intended to promote a consistent approach to periodic post-marketing safety reporting among the ICH regions and to enhance efficiency by reducing the number of reports generated for submission to the regulatory authorities. The PBRER is intended to provide a common standard for periodic reporting on approved drugs or biologics among the ICH regions.

FDA currently has OMB approval for the required submission of periodic adverse drug experience reports (PADER) for drugs subject to a new drug application (NDA) or an abbreviated new drug application (ANDA) (§ 314.80(c)(2) (21 CFR 314.80(c)(2)) (OMB control number 0910–0230), and for the required submission of periodic adverse experience reports (PAER) for drugs subject to a biologics license application (BLA) (§ 600.80(c)(2) (21 CFR 600.80(c)(2)) (OMB control number 0910–0308).

There is considerable overlap in the information required under §§ 314.80(c)(2) and 600.80(c)(2) and the information requested in a periodic safety report using the ICH E2C(R2) PBRER format. Applicants subject to periodic safety reporting requirements under FDA regulations could choose to continue to submit the reports as specified in those regulations, and would be permitted to submit reports in the PBRER format and submit reports as specified in FDA regulations with an approved waiver. Companies who submit periodic reports on the same drug to multiple regulators, including not only the United States, but, also the European Union, Japan, and regulators in other countries who have elected to adopt the ICH standards, may find it in their interest to prepare a single PBRER,

rather than preparing multiple types of reports for multiple regulators. As a result, FDA, in the **Federal Register** of November 29, 2016 (81 FR 85976), announced the availability of the guidance for industry entitled ''Providing Post-marketing Periodic Safety Reports in the ICH E2C(R2) Format (Periodic Benefit-Risk Evaluation Report)'' to indicate its willingness to accept post-market periodic safety reports using the ICH PBRER format in lieu of the specific reports described in FDA regulations.

Because FDA regulations in §§ 314.80(c)(2) and 600.80(c)(2) include specific requirements for periodic safety reports, in order for an applicant to submit an alternative report, such as the PBRER, for a given product, FDA must grant a waiver. Existing regulations permit applicants to request waivers of any post-marketing safety reporting requirement, and the information collections associated with such waiver requests generally are approved under existing control numbers. (See § 314.90(a), waivers for drugs subject to NDAs and ANDAs, approved under OMB control number 0910–0001, and § 600.90(a), waivers for products subject to BLAs, approved under OMB control number 0910–0308.) The November 29, 2016, guidance both explains conditions under which applicants that have previously received waivers to submit reporting information in the format of the previous ICH guidance would be permitted to apply those existing waivers to the submission of PBRERs, and also advises how applicants that have not previously obtained a waiver may submit waiver requests to submit the PBRER.

There are information collections proposed in the November 29, 2016, guidance that are related to waivers specifically to enable the submission of PBRERs, and these information collections are not already addressed under the approved control numbers covering waiver submissions and periodic safety reports generally. FDA has previously granted waiver requests, submitted under §§ 314.90(a) and 600.90(a), that allow applicants to prepare and submit reports using the periodic safety update report (PSUR) format described in FDA's 1996 and 2004 ICH E2C guidance. In accordance with the recommendations of the November 29, 2016, guidance, if an applicant already has a PSUR waiver in place for a given approved application, FDA will consider the existing PSUR waiver to allow the applicant to submit a PBRER instead of a PSUR because the PBRER replaces the PSUR for post-marketing periodic safety reporting for that application. The applicant would not need to submit a new waiver request unless the applicant wishes to change the frequency of reporting. FDA will consider requests to be waived of the quarterly reporting requirement but will not waive applicants of the annual reporting requirement.

If an applicant submits a PBRER in place of the PSUR and uses a different data lock point, the applicant should submit overlapping reports or submit a one-time PADER/PAER in order to cover the gap in reporting intervals. The applicant should submit notification to the application(s), indicating the change in data lock point and should include a description of the measures taken to ensure that there are no resulting gaps in reporting.

If an applicant submits a PBRER in place of the PSUR and uses a different reporting frequency for the PBRER than was used for the PSUR, the continued validity of the waiver will be conditioned on the submission of a PADER/PAER as needed to fulfill the reporting frequency requirement under FDA regulations. The applicant should submit a notification to the application(s), describing this change and the measures taken to ensure that the periodicity requirements are being met.

FDA expects approximately 187 waiver requests and notifications to include the additional information described previously in this document for using a different data lock point and/or for using a different reporting frequency when submitting a PBRER. FDA expects approximately 55 applicants to make these submissions, and we estimate that the time for submitting the additional information described previously would be on average approximately 1 hour for each waiver request or notification.

If an applicant does not have a PSUR waiver in place for an approved application, the applicant may submit a waiver request under § 314.90(a) or § 600.90(a) to submit a PBRER instead of the PADER/PAER. The applicant should submit a request to FDA for each approved application for which a waiver is requested, and a single waiver request letter can include multiple applications. Waiver requests should be submitted to each of the application(s) in the request, and may be submitted electronically or by mail as described in the November 29, 2016, guidance. Each PBRER waiver request should include the following information:

- The product name(s) and application number(s);
- a brief description of the justification for the request;
- the U.S. approval date for the product(s) and current reporting interval used;
- the reporting interval of the last PADER/PAER submitted for the product(s); and
- the data lock point that will be used for each PBRER. If a data lock point other than one aligned to the U.S. approval date is proposed, the applicant should describe how he/she will ensure that there are no gaps in reporting intervals (*e.g.,* by submitting overlapping reports; submitting a one-time PADER/PAER to cover the gap period; or, if the gap is less than 2 months, extending the reporting interval of the final PADER/PAER to close the gap).
- The frequency for submitting the PBRER, as described in section IV.C of the April 8, 2013, draft guidance.
- The email address and telephone number for the individual who can provide additional information regarding the waiver request.

As explained earlier, existing regulations at § 314.90(a) or 600.90(a) permit applicants to request waivers of any post-marketing safety reporting requirement, and the information collections associated with such waiver requests generally are approved under OMB control numbers 0910–0001 and 0910–0308. FDA believes that the information submitted under numbers 1–4 and number 7 in the list in the previous paragraph is information that is typical of any waiver request regarding post-marketing safety reporting and is accounted for in the existing approved collections of information for waiver requests and reports. Concerning numbers 5 and 6, FDA expects approximately 67 waiver requests to include the additional information for using a different data lock point and/or for using a different reporting frequency when submitting a PBRER. FDA expects approximately 29 applicants to make these submissions, and we estimate that the time for submitting the additional information described in the previous paragraph would be on average approximately 2 hours for each waiver request.

FDA estimates the additional burden of this collection of information as follows:

TABLE 1—ESTIMATED REPORTING BURDEN [1]

Additional information and/or notifications for using a different data lock point and/or a different reporting frequency	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Applicants that have a PSUR waiver for an approved application	55	3.4	187	1	187
Applicants that do not have a PSUR waiver for an approved application	29	2.3	67	2	134
Total					321

[1] There are no capital or operating and maintenance costs associated with the information collection.

Dated: May 18, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10537 Filed 5–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0222]

Agency Information Collection Activities; Proposed Collection; Comment Request; Guidance for Industry—User Fee Waivers, Reductions, and Refunds for Drug and Biological Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on recommendations to applicants considering whether to request a waiver or reduction in user fees.

DATES: Submit either electronic or written comments on the collection of information by July 24, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov/.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov/* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov/.* If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–0222 for ''User Fee Waivers, Reductions, and Refunds for Drug and Biological Products.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov/* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov/.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov/* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint

North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Guidance for Industry—User Fee Waivers, Reductions, and Refunds for Drug and Biological Products—OMB Control Number 0910–0693—Extension

The guidance provides recommendations for applicants planning to request waivers or reductions in prescription drug user fees assessed under sections 735 and 736 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 379g and 21 U.S.C. 379h) (the FD&C Act). The guidance describes the types of waivers and reductions permitted under the prescription drug user fee provisions of the FD&C Act, and the procedures for submitting requests for waivers or reductions. It also includes recommendations for submitting information for requests for reconsideration of denials of waiver or reduction requests, and for requests for appeals. The guidance also provides clarification on related issues such as user fee exemptions for orphan drugs.

Based on Agency records, we estimate that the total annual number of waiver requests submitted for all of these categories will be 150, submitted by 115 different applicants. We estimate that the average burden hours for preparation of a submission will total 16 hours. Because FDA may request additional information from the applicant during the review period, we have also included in this estimate time to prepare any additional information. We have included in the burden estimate the preparation and submission of application fee waivers for small businesses, because small businesses requesting a waiver must submit documentation to FDA on the number of their employees and must include the information that the application is the first human drug application, within the meaning of the FD&C Act, to be submitted to the Agency for approval.

Previously, after receipt of a small business waiver request, FDA would request a small business size determination from the Small Business Administration (SBA). Waiver applicants would submit their supporting documentation directly to SBA for evaluation and after completing their review, SBA provided FDA with a determination whether a waiver applicant qualified as a small business for purposes of evaluating user fee waivers. The burden for submission of this information to SBA is approved under OMB control number 3245–0101. Beginning fiscal year 2015, the SBA declined to conduct further size determinations for evaluation of small business user fee waivers and as a result, a processing change at FDA occurred. The new FDA process requires waiver applicants to submit documentation directly to FDA. In addition, fewer supporting documents than previously requested by SBA are required. As a result, we estimate that the 4 burden hours per small business waiver previously attributed to SBA and approved under OMB control number 3245–0101, should now be attributed to FDA because SBA is no longer conducting size determinations for FDA. Also, because FDA is asking that applicants submit fewer supporting documents, we estimate that these burden hours should be reduced to 2 hours instead of 4 hours. We understand that SBA plans to submit a revised burden estimate to OMB control number 3245–0101 to account for this redistribution.

The reconsideration and appeal requests are not addressed in the FD&C Act, but are discussed in the guidance. We estimate that we will receive seven requests for reconsideration annually, and that the total average burden hours for a reconsideration request will be 24 hours. In addition, we estimate that we will receive one request annually for an appeal of a user fee waiver determination, and that the time needed to prepare an appeal would be approximately 12 hours We have included in this estimate both the time needed to prepare the request for appeal to the Chief Scientist, User Fee Appeals Officer, Office of the Commissioner, and the time needed to create and send a copy of the request for an appeal to the Director, Division of User Fee Management, Office of Management at the Center for Drug Evaluation and Research.

The burden for completing and submitting Form FDA 3397 (Prescription Drug User Fee Coversheet) is not included in this analysis as the burden is included under OMB control number 0910–0297. The collection of information associated with submission of a new drug application or biologics license application are approved under OMB control numbers 0910–0001 and 0910–0338, respectively.

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

User fee waivers, reductions, & refunds for drug & biological products	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
FD&C Act sections 735 and 736	115	1.3	150	16	2,400
FD&C Act section 736(d)(1)(D)(4)	25	1	25	2	50
Reconsideration requests	7	1	7	24	168
Appeal requests	1	1	1	12	12

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]—Continued

User fee waivers, reductions, & refunds for drug & biological products	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Total					2,630

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 18, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10534 Filed 5–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0366]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Advisory Committee Nomination Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995 (the PRA).

DATES: Fax written comments on the collection of information by June 22, 2017.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number, 0910–NEW, and title, ''FDA Advisory Committee Membership Nominations.'' Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Jonnalynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, we have submitted the following proposed collection of information to OMB for review and clearance.

FDA Advisory Committee Membership Nominations—OMB Control Number 0910–NEW

FDA chooses to select advisory committee members through a nomination process. (Appendix A to Subpart C of 41 CFR 102–3, the Federal Advisory Committee Management Final Rule notes that the Federal Advisory Committee Act (FACA, 5 U.S.C. App. 2) does not specify the manner in which advisory committee members and staff must be appointed.) A person can self-nominate or be nominated by another individual. In order to identify and select qualified individuals to serve on its advisory committees, FDA has established an online portal, the FDA Advisory Committee Membership Application, to accept nominations of potential advisory committee members.

The FDA Advisory Committee Membership Application accepts nominations for Academician/Practitioner, Consumer Representative, and Industry Representative membership types. Nominees who are nominated as scientific members should be technically qualified experts in the field (*e.g.,* clinical medicine, engineering, biological and physical sciences, biostatistics, food sciences) and have experience interpreting complex data. Candidates must be able to analyze detailed scientific data and understand its public health significance. The nomination process has recently been made electronic and is available at *http://accessdata.test.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm.* To submit a nomination, nominators or prospective nominees should upload the following documents in PDF format (see 21 CFR 14.82(c)): (1) Curriculum vitae (CV); (2) a written confirmation that the nominee(s) is (are) aware of the nomination (unless self-nominated); and (3) letters of recommendation are also suggested. For Consumer Representative nominations, a cover letter that lists consumer or community organizations for which the candidate can demonstrate active participation is also recommended.

These documents are collected in order to determine if the nominee has the expertise in the subject matter with which the committee is concerned and has diverse professional education, training, and experience so that the committee will reflect a balanced composition of sufficient scientific expertise to handle the problems that come before it (21 CFR 14.80(b)(1)(i)). In the case of Industry and Consumer Representatives, information is collected to assess the candidate's ability to represent all interested persons within the class which the member is selected to represent (21 CFR 14.86).

Each nominee should be sure to review the Agency Web site for information on:

- Vacancies, qualifications, and experience for more details concerning vacancies on each committee and the qualifications and experience common for nominees. Vacancies are updated periodically; therefore, one or more vacancies listed may be in the nomination process or a final appointment may have been made.
- Potential conflicts of interest such as financial holdings, employment, and research grants and/or contracts in order to permit evaluation of possible sources of conflict of interest.

Also, FDA asks that prospective nominees inform us of how they heard about the FDA Advisory Committees (*e.g.,* attendance at a professional meeting, an article in a publication, our Web site, while speaking with a friend or colleague).

To further the Agency's goals of promoting transparency regarding the advisory committee process, FDA will also require that nominees to serve on advisory committees submit a consent form authorizing FDA to publicly post to FDA's Web site the CV submitted as part of their nomination materials if the nominee is selected to serve on an advisory committee. In the past, FDA has generally posted the CVs of FDA advisory committee members publicly on *http://www.fda.gov/AdvisoryCommittees/* after reviewing the CVs and redacting information that appeared to be confidential. However,

in furtherance of FDA's goal of ensuring transparency regarding the qualifications of individuals selected to serve on FDA advisory committees, and in recognition that individual advisory committee members are best situated to evaluate the confidentiality of information contained in their CVs, including any considerations raised by their relationships and agreements with third parties, FDA will now be requiring that all CVs submitted as part of the nomination process for positions on FDA advisory committees be accompanied by a written consent form stating that, if the nominee is accepted as a member of an FDA advisory committee, the nominee consents to the publication of the nominee's CV to FDA's Web site, without FDA removing or redacting any information. The consent form requires that the nominee affirm that the CV does not include any confidential information, including information pertaining to third parties that the nominee is not permitted to disclose. A nominee will be required to submit a signed consent form as a part of the nomination package in order for the nomination to be considered complete.

All nominations for new advisory committee members will be required to be submitted through FDA's Web site at *http://accessdata.test.fda.gov/scripts/FACTRSPortal/FACTRS/index.cfm,* or any successor system, and the submission will be required to be accompanied by the consent form, on or after the date of OMB approval for this information collection.

In the **Federal Register** of February 6, 2017 (82 FR 9383), we published a 60-day notice requesting public comment on the proposed collection of information. One comment was received in support of the information collection and recommended no changes to the Agency's burden estimate. On our own initiative, however, we have revised the estimate provided in our 60 day notice to reflect an increase of 23.5 burden hours and 94 responses. While we believe our original burden estimate accurately reflects the time burden associated with providing the specific data elements, but we have increased the number of respondents to the collection to include Industry Representative members of FDA advisory committees.

We therefore estimate the burden of the information collection as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR part 14; subpart E—members of advisory committees	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Advisory Committee Membership Nominations	583	1	583	0.25 (15 minutes)	145.75
Representative Member Submission of Updated Information	64	1	64	0.25 (15 minutes)	16.0
Total			647		161.75

[1] There are no capital or operating and maintenance costs associated with the information collection.

Based on a review of data, we received 638 nominations for membership to FDA advisory committees in Fiscal Year (FY) 2011; we received 603 nominations in FY 2012; we received 622 in FY 2013; we received 545 in FY 2014; and we received 505 nominations in FY 2015. By averaging the number of nominations received annually over the past 5 years, we estimate there are approximately 583 respondents to the information collection. We estimate it takes respondents 15 minutes to complete an initial nomination, where accompanying documentation is already available or has been prepared in advance by respondents. Multiplying 15 minutes (0.25) by the number of respondents to the information collection (583) equals 145.75 annual burden hours.

We have also included a burden estimate for members who currently serve on FDA advisory committees who are not Special Government and Regular Government Employees and who must submit an updated CV and an executed/completed consent form annually. Currently there are 64 authorized positions for these Representative members, mostly Industry representatives. While some positions are vacant, we anticipate the positions will be filled during the year. The request for the updated CV and consent will be made through email communications by the Designated Federal Officer of the committee. We anticipate that the burden to the respondent will be the same as that for new nominations. We estimate each response will require 15 minutes (0.25) for a total of 16 annual hours.

Dated: May 18, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10531 Filed 5–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2010–N–0588]

Agency Information Collection Activities; Proposed Collection; Comment Request; Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice

solicits comments on the information collection requirements related to the exceptions or alternatives to labeling requirements for products held by the Strategic National Stockpile (SNS).

DATES: Submit either electronic or written comments on the collection of information by July 24, 2017.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before July 24, 2017. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of July 24, 2017. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2010–N–0588 for ''Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: JonnaLynn Capezzuto, Office of Operations, Food and Drug Administration, Three White Flint North, 10A63, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–3794.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Exceptions or Alternatives to Labeling Requirements for Products Held by the Strategic National Stockpile—OMB Control Number 0910–0614—Extension

Under the Public Health Service Act (PHS Act), the Department of Health and Human Services stockpiles medical products that are essential to the health security of the Nation (see the PHS Act, 42 U.S.C. 247d–6b). This collection of medical products for use during national health emergencies, known as the SNS, is to ''provide for the emergency health security of the United States, including the emergency health security of children and other

vulnerable populations, in the event of a bioterrorist attack or other public health emergency.''

It may be appropriate for certain medical products that are or will be held in the SNS to be labeled in a manner that would not comply with certain FDA labeling regulations given their anticipated circumstances of use in an emergency. However, noncompliance with these labeling requirements could render such products misbranded under section 502 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 352).

Under 21 CFR 201.26, 610.68, 801.128, and 809.11 (§§ 201.26, 610.68, 801.128, and 809.11), the appropriate FDA Center Director may grant a request for an exception or alternative to certain regulatory provisions pertaining to the labeling of human drugs, biological products, medical devices, and in vitro diagnostics that currently are or will be included in the SNS if certain criteria are met. The appropriate FDA Center Director may grant an exception or alternative to certain FDA labeling requirements if compliance with these labeling requirements could adversely affect the safety, effectiveness, or availability of products that are or will be included in the SNS. An exception or alternative granted under the regulations may include conditions or safeguards so that the labeling for such products includes appropriate information necessary for the safe and effective use of the product given the product's anticipated circumstances of use. Any grant of an exception or alternative will only apply to the specified lots, batches, or other units of medical products in the request. The appropriate FDA Center Director may also grant an exception or alternative to the labeling provisions specified in the regulations on his or her own initiative.

Under §§ 201.26(b)(1)(i) (human drug products), 610.68(b)(1)(i) (biological products), 801.128(b)(1)(i) (medical devices), and 809.11(b)(1)(i) (in vitro diagnostic products for human use), an SNS official or any entity that manufactures (including labeling, packing, relabeling, or repackaging), distributes, or stores such products that are or will be included in the SNS may submit, with written concurrence from a SNS official, a written request for an exception or alternative to certain labeling requirements to the appropriate FDA Center Director. Except when initiated by an FDA Center Director, a request for an exception or alternative must be in writing and must:

- Identify the specified lots, batches, or other units of the affected product;
- Identify the specific labeling provisions under the regulations that are the subject of the request;
- Explain why compliance with the specified labeling provisions could adversely affect the safety, effectiveness, or availability of the product subject to the request;
- Describe any proposed safeguards or conditions that will be implemented so that the labeling of the product includes appropriate information necessary for the safe and effective use of the product given the anticipated circumstances of use of the product;
- Provide copies of the proposed labeling of the specified lots, batches, or other units of the affected product that will be subject to the exception or alternative; and
- Provide any other information requested by the FDA Center Director in support of the request.

If the request is granted, the manufacturer may need to report to FDA any resulting changes to the new drug application, biologics license application, premarket approval application, or premarket notification (510(k)) in effect, if any. The submission and grant of an exception or an alternative to the labeling requirements specified in the regulations may be used to satisfy certain reporting obligations relating to changes to product applications under §§ 314.70, 601.12, 814.39 and 807.81 (21 CFR 314.70 (human drugs), 21 CFR 601.12 (biological products), 21 CFR 814.39 (medical devices subject to premarket approval), or 21 CFR 807.81 (medical devices subject to 510(k) clearance requirements)). The information collection provisions in §§ 314.70, 601.12, 807.81, and 814.39 have been approved under OMB control numbers 0910–0001, 0910–0338, 0910–0120, and 0910–0231, respectively. On a case-by-case basis, the appropriate FDA Center Director may also determine when an exception or alternative is granted that certain safeguards and conditions are appropriate, such as additional labeling on the SNS products, so that the labeling of such products would include information needed for safe and effective use under the anticipated circumstances of use.

Respondents to this collection of information are entities that manufacture (including labeling, packing, relabeling, or repackaging), distribute, or store affected SNS products. Based on data from fiscal years 2014 and 2015, FDA estimates an average of one request annually for an exception or alternative received by FDA. FDA estimates an average of 24 hours preparing each request. The average burden per response for each submission is based on the estimated time that it takes to prepare a supplement to an application, which may be considered similar to a request for an exception or alternative. To the extent that labeling changes not already required by FDA regulations are made in connection with an exception or alternative granted under the regulations, FDA is estimating one occurrence annually in the event FDA would require any additional labeling changes not already covered by FDA regulations. FDA estimates 8 hours to develop and revise the labeling to make such changes. The average burden per response for each submission is based on the estimated time to develop and revise the labeling to make such changes.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR section	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	24	24
201.26(b)(1)(i), 610.68(b)(1)(i), 801.128(b)(1)(i), and 809.11(b)(1)(i)	1	1	1	8	8
Total					32

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: May 18, 2017.

Anna K. Abram,

Deputy Commissioner for Policy, Planning, Legislation, and Analysis.

[FR Doc. 2017–10535 Filed 5–22–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases: Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Arthritis and Musculoskeletal and Skin Diseases Advisory Council.

Date: June 21, 2017.

Open: 8:30 a.m. to 1:00 p.m.

Agenda: To discuss program policies and issues.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Closed: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892.

Contact Person: Melinda Nelson, Acting Director, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Grants Management Branch, 45 Center Drive, Natcher Building, Room 5A49, Bethesda, MD 20892, (301) 594–3535, *mn23z@nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: May 17, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10458 Filed 5–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; 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 material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NIH-DoD–VA Pain Management Collaboratory—Coordinating Center (U24).

Date: June 23, 2017.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20817.

Contact Person: Viatcheslav A Soldatenkov, MD, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, *soldatenkovv@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Integrative Health, National Institutes of Health, HHS)

Dated: May 17, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10454 Filed 5–22–17; 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 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 material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; U41 Genomic Resources.

Date: June 12, 2017.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 5635 Fishers Lane, Conference Room 3146, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Keith McKenney, Ph.D., Scientific Review Officer, National Human Genome Research Institute, 5635 Fishers Lane, Suite 4076, Bethesda, MD 20814, 301–594–4280, *mckenneyk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: May 17, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10455 Filed 5–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Pilot Clinical Trials in Pediatric Chronic Kidney Disease (U01 and U24).

Date: June 16, 2017.

Time: 10:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Xiaodu Guo, MD, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7023, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Research Project Grants.

Date: June 23, 2017.

Time: 9:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK Ancillary Studies.

Date: June 27, 2017

Time: 9:00 a.m. to 10:00 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Elena Sanovich, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7351, 6707 Democracy Boulevard, Bethesda, MD 20892–2542, 301–594–8886, *sanoviche@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: May 17, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10459 Filed 5–22–17; 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: Cell Biology Integrated Review Group; Cellular Mechanisms in Aging and Development Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: St. Gregory Hotel, 2033 M Street NW., Washington, DC 20036.

Contact Person: John Burch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institute of Health, 6701 Rockledge Drive, Room 3213, MSC 7808, Bethesda, MD 20892, 301–408–9519, *burchjb@csr.nih.gov*.

Name of Committee: Molecular, Cellular and Developmental Neuroscience Integrated Review Group; Synapses, Cytoskeleton and Trafficking Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: The Warwick Allerton Hotel, 701 North Michigan Avenue, Chicago, IL 60611.

Contact Person: Christine A. Piggee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4186, MSC 7850, Bethesda, MD 20892, 301–435–0657, *christine.piggee@nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Ritz-Carlton Hotel, 1700 Tysons Boulevard, McLean, VA 22102.

Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, (301) 408–9072, *jollieda@csr.nih.gov*.

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Gene and Drug Delivery Systems Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Doubletree Hotel Bethesda, (Formerly Holiday Inn Select), 8120 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Kee Hyang Pyon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5148, MSC 7806, Bethesda, MD 20892, 301–272–4865, *pyonkh2@csr.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Cancer Immunopathology and Immunotherapy Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Denise R. Shaw, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6158, MSC 7804, Bethesda, MD 20892, 301–435–0198, *shawdeni@csr.nih.gov*.

Name of Committee: Immunology Integrated Review Group; Immunity and Host Defense Study Section.

Date: June 15–16, 2017.

Time: 8:00 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: Scott Jakes, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4198, MSC 7812, Bethesda, MD 20892, 301–435–1506, *jakesse@mail.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.

Date: June 15–16, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Fairmont Hotel San Francisco, 950 Mason Street, San Francisco, CA 94108.

Contact Person: Sharon K. Gubanich, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214,

MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov*.

Name of Committee: Genes, Genomes, and Genetics Integrated Review Group; Molecular Genetics A Study Section.

Date: June 15–16, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Michael M. Sveda, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1114, MSC 7890, Bethesda, MD 20892, 301–435–3565, *svedam@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Cancer, Heart, and Sleep Epidemiology A Study Section.

Date: June 15–16, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott Georgetown, 1221 22nd Street NW., Washington, DC 20037.

Contact Person: Denise Wiesch, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3138, MSC 7770, Bethesda, MD 20892, (301) 437–3478, *wieschd@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: May 17, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10452 Filed 5–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; Health Care and Behavioral Economics.

Date: June 13, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Gateway, 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20708 (Telephone Conference Call).

Contact Person: Kimberly Firth, Ph.D., National Institutes of Health, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7702, *firthkm@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; Supplement Requests for Active Alzheimer's Disease Centers.

Date: June 15, 2017.

Time: 12:01 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Maurizio Grimaldi, MD, Ph.D., Scientific Review Officer, National Institute on Aging, National Institutes of Health, 7201 Wisconsin Avenue, Room 2C218, Bethesda, MD 20892, 301–496–9374, *grimaldim2@mail.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; Aging Clinical Trials.

Date: June 16, 2017.

Time: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institute on Aging, Gateway Building, 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Carmen Moten, Ph.D., MPH, Scientific Review Officer, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7703, *cmoten@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 17, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10457 Filed 5–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Complementary & Integrative Health; 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 material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Complementary and Integrative Health Special Emphasis Panel; NIH–DoD–VA Pain Management Collaboratory—Pragmatic Clinical Trials Demonstration Projects (UG3/UH3).

Date: June 22–23, 2017.

Time: 5:00 p.m. to 1:30 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott, 5151 Pooks Hill Road, Bethesda, MD 20817.

Contact Person: Viatcheslav A. Soldatenkov, MD, Ph.D., Scientific Review Officer, Office of Scientific Review, Division of Extramural Activities, NCCIH/NIH, 6707 Democracy Blvd., Suite 401, Bethesda, MD 20892, *soldatenkovv@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.213, Research and Training in Complementary and Integrative Health, National Institutes of Health, HHS)

Dated: May 17, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10453 Filed 5–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; 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 Institute of Mental Health.

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 Institute of Mental Health, 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 Institute of Mental Health.

Date: June 20–21, 2017.

Time: June 20, 2017, 10:30 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, Porter Neuroscience Research Center, Rooms GE 620/630/640, Building 35A Convent Drive, Bethesda, MD 20892.

Time: June 21, 2017, 9:00 a.m. to 5:50 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Porter Neuroscience Research Center, Rooms GE 620/630/640, Building 35A Convent Drive, Bethesda, MD 20892.

Contact Person: Jennifer E. Mehren, Ph.D., Scientific Advisor, Division of Intramural Research Programs, National Institute of Mental Health, NIH, 35A Convent Drive, Room GE 412, Bethesda, MD 20892–3747, 301–496–3501, *mehrenj@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No. 93.242, Mental Health Research Grants, National Institutes of Health, HHS)

Dated: May 17, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10460 Filed 5–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Aging Special Emphasis Panel; AD Sequencing.

Date: June 14, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Nijaguna Prasad, MS, Ph.D., Scientific Review Officer, Scientific Review Branch, National Institute of Aging, National Institutes of Health, Bethesda, MD 20892, 301–496–9667, *nijaguna.prasad@nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: National Institute on Aging Special Emphasis Panel; TAME Trial.

Date: June 16, 2017.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building, Suite 2W200, 7201 Wisconsin Avenue, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Isis S. Mikhail, MD, MPH, DRPH, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7704, *MIKHAILI@MAIL.NIH.GOV*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: May 17, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–10456 Filed 5–22–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Accreditation and Approval of Inspectorate America Corporation, as a Commercial Gauger and Laboratory

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of accreditation and approval of Inspectorate America Corporation as a commercial gauger and laboratory.

SUMMARY: Notice is hereby given, pursuant to CBP regulations, that Inspectorate America Corporation has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes for the next three years as of August 3, 2016.

DATES: *Effective Dates:* The accreditation and approval of Inspectorate America Corporation as commercial gauger and laboratory became effective on August 3, 2016. The next triennial inspection date will be scheduled for August 2019.

FOR FURTHER INFORMATION CONTACT: Dr. Justin Shey, Approved Gauger and Accredited Laboratories Manager, Laboratories and Scientific Services Directorate, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Suite 1500N, Washington, DC 20229, tel. 202–344–1060.

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to 19 CFR 151.12 and 19 CFR 151.13, that Inspectorate America Corporation, 1404 Joliet Road, Suite G, Romeoville, IL 60446 has been approved to gauge petroleum and certain petroleum products and accredited to test petroleum and certain petroleum products for customs purposes, in accordance with the provisions of 19 CFR 151.12 and 19 CFR 151.13. Inspectorate America Corporation is approved for the following gauging procedures for petroleum and certain petroleum products from the American Petroleum Institute (API):

API chapters	Title
3	Tank Gauging.
7	Temperature Determination.
8	Sampling.
12	Calculations.
17	Marine Measurement.

Inspectorate America Corporation is accredited for the following laboratory analysis procedures and methods for petroleum and certain petroleum products set forth by the U.S. Customs and Border Protection Laboratory Methods (CBPL) and American Society for Testing and Materials (ASTM):

CBPL No.	ASTM	Title
27–01	D 287	Standard Test Method for API Gravity of Crude Petroleum and Petroleum Products (Hydrometer Method).
27–03	D 4006	Standard Test Method for Water in Crude Oil by Distillation.

CBPL No.	ASTM	Title
27–05	D 4928	Standard Test Method for Water in Crude Oils by Coulometric Karl Fischer Titration.
27–06	D 473	Standard Test Method for Sediment in Crude Oils and Fuel Oils by the Extraction Method.
27–13	D 4294	Standard Test Method for Sulfur in Petroleum and Petroleum Products by Energy Dispersive X-ray Fluorescence Spectrometry.

Anyone wishing to employ this entity to conduct laboratory analyses and gauger services should request and receive written assurances from the entity that it is accredited or approved by the U.S. Customs and Border Protection to conduct the specific test or gauger service requested. Alternatively, inquiries regarding the specific test or gauger service this entity is accredited or approved to perform may be directed to the U.S. Customs and Border Protection by calling (202) 344–1060. The inquiry may also be sent to *CBPGaugersLabs@cbp.dhs.gov.* Please reference the Web site listed below for a complete listing of CBP approved gaugers and accredited laboratories. http://www.cbp.gov/about/labs-scientific/commercial-gaugers-and-laboratories

Dated: May 11, 2017.

Ira S. Reese,

Executive Director, Laboratories and Scientific Services Directorate.

[FR Doc. 2017–10055 Filed 5–22–17; 8:45 am]

BILLING CODE 9111–14–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–968]

Certain Radiotherapy Systems and Treatment Planning Software, and Components Thereof; Commission Determination To Grant a Joint Motion To Terminate the Investigation on the Basis of a Settlement Agreement; Termination of the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (the ''Commission'') has determined to grant a joint motion to terminate the above-captioned investigation based on a settlement agreement.

FOR FURTHER INFORMATION, CONTACT: Ron Traud, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3427. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*https://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 30, 2015, based on a complaint filed by Varian Medical Systems, Inc. of Palo Alto, California; and Varian Medical Systems International AG of ZG, Switzerland (collectively, ''Varian''). 80 FR 66934 (Oct. 30, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 (''section 337''), in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain radiotherapy systems and treatment planning software, and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,945,021 (''the '021 patent''); 8,116,430 (''the '430 patent''); 8,867,703 (''the '703 patent''); 7,880,154 (''the '154 patent''); 7,906,770 (''the '770 patent''); and 8,696,538 (''the '538 patent''). *Id.* The notice of investigation named as respondents Elekta AB of Stockholm, Sweden; Elekta Ltd. of Crawley, United Kingdom; Elekta GmbH of Hamburg, Germany; Elekta Inc. of Atlanta, Georgia; IMPAC Medical Systems, Inc. of Sunnyvale, California; Elekta Instrument (Shanghai) Limited of Shanghai, China; and Elekta Beijing Medical Systems Co. Ltd. of Beijing, China (collectively, ''Elekta''). The Office of Unfair Import Investigations (''OUII'') also was named as a party to the investigation. *Id.*

Prior to the evidentiary hearing, Varian withdrew its allegations as to certain patent claims and also added additional claims. *See* Notice of Commission Determination Not to Review an Initial Determination Granting a Motion to Amend the Complaint and Notice of Investigation (Apr. 4, 2016). Varian proceeded at the evidentiary hearing on the following patents and claims: claims 1, 4, 9, and 15 of the '021 patent; claims 6 and 18 of the '430 patent; claim 1 of the '703 patent; claims 23 and 26 of the '154 patent; claims 61, 67, and 68 of the '770 patent; and claims 26 and 41 of the '538 patent.

On October 27, 2016, the administrative law judge (the ''ALJ'') issued his final initial determination (the ''Final ID''), which found a violation of section 337 by Elekta as to claims 23 and 26 of the '154 patent; claims 26 and 41 of the '538 patent; and claim 67 of the '770 patent. The Final ID found no violation of section 337 in connection with claim 61 of the '770 patent; claims 1, 4, 9, and 15 of the '021 patent; claims 6 and 18 of the '430 patent; and claim 1 of the '703 patent. *See* Final ID at 462–63. The parties each petitioned for review of the Final ID. On January 13, 2017, the Commission determined to review the Final ID's conclusion that the claims asserted for infringement and/or domestic industry of the '154 patent, the '770 patent, and the '538 patent are not invalid as obvious. 82 FR 7856 (Jan. 23, 2017). As to this issue, the Commission remanded the investigation to the ALJ. *Id.* The Commission also determined to review the Final ID's determinations regarding (1) the obviousness of the asserted claims of the '021 patent, the '430 patent, and the '703 patent; (2) the claim construction of the claim term ''communications network,'' as found in the asserted claims of the '021 and '430 patents; (3) the anticipation of claim 18 of the '430 patent by the Jaffray MICCAI 2001 reference; and (4) the infringement of claim 18 of the '430 patent and the asserted claims of the '154, '538, and '770 patents. *Id.* On March 31, 2017, the ALJ issued his remand initial determination (the ''Remand ID''), finding the claims subject to the remand to be nonobvious. Remand ID at 27.

On April 14, 2017, the private parties filed a Joint Motion to Terminate the Investigation Based on a Settlement Agreement (the ''Motion'') and a confidential and a public version of the settlement agreement (the

''Agreement''). On April 25, 2017, OUII filed a response supporting the Motion.

The Commission has determined that the Motion complies with the requirements of section 210.21(b)(1) of the Commission's Rules of Practice and Procedure (19 CFR 210.21(b)(1)), and that there are no extraordinary circumstances that would prevent the requested termination. The Commission also finds that granting the Motion would not be contrary to the public interest pursuant to section 210.50(b)(2) of the Commission's Rules of Practice and Procedure (19 CFR 210.50(b)(2)). Accordingly, the Commission hereby grants the Motion. This investigation is terminated.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 18, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–10518 Filed 5–22–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–561 and 731–TA–1317–1318, 1321–1325, and 1327 (Final)]

Carbon and Alloy Steel Cut-to-Length Plate From Austria, Belgium, France, Germany, Italy, Japan, Korea, and Taiwan

Determination

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of carbon and alloy steel cut-to-length plate from Austria, Belgium, France, Germany, Italy, Japan, Korea, and Taiwan, provided for in subheadings 7208.40.30, 7208.51.00, 7208.52.00, 7211.13.00, 7211.14.00, 7225.40.11, 7225.40.30, 7226.20.00, and 7226.91.50 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (''Commerce'') to be sold in the United States at less than fair value (''LTFV'') and imports of the subject merchandise subsidized by the government of Korea.[2]

Background

The Commission, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), instituted these investigations effective April 8, 2016, following receipt of petitions filed with the Commission and Commerce by ArcelorMittal USA LLC (Chicago, Illinois), Nucor Corporation (Charlotte, North Carolina), and SSAB Enterprises, LLC (Lisle, Illinois). The Commission scheduled the final phase of the investigations following notification of preliminary determinations by Commerce that imports of carbon and alloy steel cut-to-length plate from Austria, Belgium, France, Germany, Italy, Japan, Korea, and Taiwan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of October 12, 2016 (81 FR 70440). The hearing was held in Washington, DC, on November 30, 2016, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on May 18, 2017. The views of the Commission are contained in USITC Publication 4691 (May 2017), entitled *Carbon and Alloy Cut-to-Length Plate from Austria, Belgium, France, Germany, Italy, Japan, Korea, and Taiwan: Investigation Nos. 701–TA–561 and 731–TA–1317–1318, 1321–1325, and 1327 (Final).*

By order of the Commission.

Issued: May 18, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–10517 Filed 5–22–17; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The Commission also finds that imports subject to Commerce's affirmative critical circumstances determination are not likely to undermine seriously the remedial effect of the antidumping duty order on Austria, Belgium or Italy.

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1057]

Certain Robotic Vacuum Cleaning Devices and Components Thereof Such as Spare Parts; Institution of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 18, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of iRobot Corporation of Bedford, Massachusetts. A supplement was filed on April 28, 2017. The complaint, as supplemented, alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain vacuum cleaning devices and components thereof such as spare parts by reason of infringement of certain claims of U.S. Patent No. 6,809,490 (''the '490 patent''); U.S. Patent No. 7,155,308 (''the '308 patent''); U.S. Patent No. 8,474,090 (''the '090 patent''); U.S. Patent No. 8,600,553 (''the '553 patent''); U.S. Patent No. 9,038,233 (''the '233 patent''); and U.S. Patent No. 9,486,924 (''the '924 patent''). The complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Room 112, Washington, DC 20436, telephone (202) 205–2000. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be

viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of the Secretary, Docket Services Division, U.S. International Trade Commission, telephone (202) 205–1802.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337 and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2017).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on May 17, 2017, *ORDERED THAT*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain vacuum cleaning devices and components thereof such as spare parts by reason of infringement of one or more of claims 1–3, 7, 12, and 42 of the '490 patent; claims 1–3, 7, 11, 12, 17, 19, 20, 28, and 34 of the '308 patent; claims 1–3, 7, 8, 10, 11, 14, 15, and 17–19 of the '090 patent; claims 1, 2, 4, 8, 11, 12, 21, 22, and 25 of the '553 patent; claims 1, 10, 11, and 14–16 of the '233 patent; and claims 1, 2, 8, 9, 12, and 13 of the '924 patent, and whether an industry in the United States exists as required by subsection (a)(2) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

iRobot Corporation, 8 Crosby Drive, Bedford, Massachusetts 01730.

(b) The respondents are the following entities alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Bissell Homecare, Inc., 2345 Walker Ave. NW., Grand Rapids, Michigan 49544.

Hoover Inc., 7005 Cochran Road, Glenwillow, Ohio 44139.

Royal Appliance Manufacturing Co. Inc., d/b/a TTI Floor Care North America, Inc., 7005 Cochran Road, Glenwillow, Ohio 44139.

Bobsweep, Inc., 1121 Bay St., Suite 709, Toronto, Ontario M5S3L9, Canada.

Bobsweep USA, 2360 Corporate Circle, Suite 400, Henderson, Nevada 89074.

The Black & Decker Corporation, 701 E. Joppa Rd., Towson, Maryland 21286.

Black & Decker (U.S.) Inc., 701 E. Joppa Rd., Towson, Maryland 21286.

Shenzhen ZhiYi Technology Co., Ltd., d/b/a iLife, 3rd Floor Bld B, Hytera Technology Park, No. 3, 4th of Baolong Road, Longgang, Shenzhen 518000, China.

Matsutek Enterprises Co., Ltd., 2F, 2, Lane 15 Tzu Chiang Street, New Taipei City, Taiwan 23678.

Suzhou Real Power Electric Appliance Co., Ltd., No 9 Shi Yang Rd, Suzhou New District, Suzhou 215151, China.

Shenzhen Silver Star Intelligent Technology Co., Ltd., Building D, Huiqing Technology Park, DAFU Industrial Area, Guanguang Road, Guanlan Town, Shenzhen, China.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in the investigation.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.

Issued: May 17, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–10477 Filed 5–22–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–971]

Certain Air Mattress Systems, Components Thereof, and Methods of Using the Same; Commission Final Determination of Violation of Section 337; Issuance of a Limited Exclusion Order; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''the Commission'') has determined that there is a violation of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337) (''section 337'') by respondents Sizewise Rentals LLC of Kansas City, Missouri; American National Manufacturing Inc. of Corona, California; and Dires LLC and Dires LLC d/b/a Personal Comfort Beds of Orlando, Florida (collectively, ''Respondents'') in the above-captioned investigation. The Commission has issued a limited exclusion order (''LEO'') directed to products of the Respondents and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Michael Liberman, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–3115. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on November 20, 2015, based on a complaint filed by Select Comfort Corporation of Minneapolis, Minnesota and Select Comfort SC Corporation of Greenville, South Carolina (collectively, ''Select Comfort,'' or ''Complainants''). 80 FR 72738 (Nov. 20, 2015). The complaint alleges violations of section 337 of the Tariff Act of 1930, as

amended, 19 U.S.C. 1337, in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain air mattress systems, components thereof, and methods of using the same by reason of infringement of certain claims of U.S. Patent Nos. 5,904,172 (''the '172 patent'') and 7,389,554 (''the '554 patent''). *Id.* In addition to the private parties named as respondents, the Commission named the Office of Unfair Import Investigations as a party in this investigation. *Id.*

Pursuant to Commission Rule 210.50(b)(1), 19 CFR 210.50(b)(1), the Commission ordered that the presiding administrative law judge (''ALJ''):

> [S]hall take evidence or other information and hear arguments from the parties and other interested persons with respect to the public interest in this investigation, as appropriate, and provide the Commission with findings of fact and a recommended determination on this issue, which shall be limited to the statutory public interest factors set forth in 19 U.S.C. 1337(d)(1), (f)(1), (g)(1).

80 FR 72738 (Nov. 20, 2015).

The evidentiary hearing on the question of violation of section 337 was held August 8–12, 2016. The final ID on violation was issued on November 18, 2016. The ALJ issued his recommended determination on remedy, the public interest and bonding on the same day. The ALJ found no violation of section 337 in this investigation. The ALJ recommended that should the Commission find a violation of section 337 in the present investigation, it issue an LEO prohibiting the importation of Respondents' air controllers and air mattress systems found to infringe the asserted patents. The ALJ also recommended the inclusion of a provision for the '554 patent, whereby Respondents could certify that certain imports are not covered by the LEO. The ALJ did not recommend that the Commission issue a cease and desist order in this investigation. The ALJ further recommended a zero bond during the period of Presidential review.

All parties to this investigation filed timely petitions for review of various portions of the final ID, as well as timely responses to the petitions.

On December 13, 2016, Respondents filed a ''Motion For a Limited Re-Opening of the Record for Consideration of Prior Art Not Identified By Complainants During Discovery.'' Both the IA and Complainants filed timely responsive pleadings opposing Respondents' motion. The Commission has determined to deny Respondents' motion to re-open the record.

On December 19, 2016, both Complainants and Respondents filed their respective Public Interest Statement pursuant to 19 CFR 210.50(a)(4). Responses from the public were likewise received by the Commission pursuant to notice. *See* Notice of Request for Statements on the Public Interest (Nov. 29, 2016).

The Commission determined to review various portions of the final ID and issued a Notice to that effect dated January 23, 2017 (''Notice of Review''). 82 *FR* 8623 (Jan. 27, 2017). In the Notice of Review, the Commission also set a schedule for the filing of written submissions on the issues under review, including certain questions posed by the Commission, and on remedy, the public interest, and bonding. The parties have briefed, with initial and reply submissions, the issues under review and the issues of remedy, the public interest, and bonding.

Having examined the record in this investigation, including the parties' submissions filed in response to the Notice of Review, the Commission has determined as follows:

(1) To reverse (a) the ID's finding that Respondents' P5000, P6000, and Arco products do not meet the ''guides'' and ''stops'' limitation of claim 2 of the '172 patent; (b) the ID's finding that the Gen 3 Arco and Platinum 5000/6000 controllers do not meet the ''guides'' and ''stops'' limitation of claim 12 of the '172 patent; and (c) the ID's finding that the Gen 3 Arco and Platinum 5000/6000 controllers do not infringe claim 12 of the '172 patent;

(2) To affirm the ID's finding that the '172 Accused Products do not meet the claim limitation ''pressure monitor means being operably coupled to the processor and being in fluid communication with the at least one bladder for continuously monitoring the pressure in the at least one bladder'' in claims 2, 6, 20, 22, and 24 of the '172 patent;

(3) To (a) modify the ID's finding that the '172 Accused Products do not infringe claim 9 of the '172 patent by striking the words ''For the reasons stated above in the discussion of claim 2'' in the first full paragraph on page 23 of the ID and, instead, find that the Accused Products do not meet the ''continuously monitoring'' limitation of claim 9 and therefore do not infringe claim 9 for the reasons detailed in the accompanying Commission Opinion; and (b) affirm the ID's finding of no induced infringement of claim 9 of the '172 patent;

(4) To take no position on the ID's discussion in the last paragraph on page 20 and the first paragraph on page 21 of the ID. *See Beloit Corporation* v. *Valmet Oy,* 742 F.2d 1421, 1423 (Fed. Cir.1984) (''*Beloit*'');

(5) To modify the ID's finding regarding non-infringement of claim 16 of the '554 patent by striking the words ''For the reasons stated above in the discussion of claim 1,'' in the fourth paragraph on page 70 of the ID and instead find that the '554 Accused Products do not meet the ''air posturizing sleep surface'' limitation of claim 16 and therefore do not infringe claim 16 for the reasons detailed in the accompanying Commission Opinion;

(6) To reverse the ID's determination that the '554 Domestic Industry Products do not practice the '554 patent and thus do not satisfy the technical prong of the domestic industry requirement with respect to the '554 patent and, instead, determine that for the reasons detailed in the accompanying Commission Opinion, Complainants have satisfied the technical prong with respect to the '554 patent based only on the U15 and U11 products practicing claim 16 of the '554 patent;

(7) To take no position on the ID's determination on whether Complainants satisfied the economic prong with regard to the '554 patent. *See Beloit,* 742 F.2d at 1423.

(8) To reverse the ID's determination regarding the economic prong of the domestic industry requirement with respect to the '172 patent, and find that the economic prong of the domestic industry requirement is satisfied for the '172 patent.

Accordingly, the Commission finds that there is a violation of section 337 with respect to the '172 patent in this investigation. The Commission has determined that the appropriate relief in this investigation includes an LEO prohibiting the unlicensed entry of infringing air mattress systems, components thereof, and methods of using the same that are covered by claims 12 or 16 of the '172 patent and that are manufactured abroad by or on behalf of, or imported by or on behalf of Respondents, or their affiliated companies, parents, subsidiaries, or other related business entities, or their successors or assigns.

The Commission has further determined that the public interest factors enumerated in section 337(d)(l) (19 U.S.C. 1337(d)(l)) do not preclude issuance of the LEO. Finally, the Commission has determined that the amount of a bond should be set to zero (0) percent of entered value during the period of Presidential review (19 U.S.C. 1337(j)). The Commission's order was delivered to the President and the

United States Trade Representative on the day of its issuance.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: May 17, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–10476 Filed 5–22–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Foreign Claims Settlement Commission

[F.C.S.C. Meeting and Hearing Notice No. 5–17]

Sunshine Act Meeting

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR part 503.25) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings as follows:

WEDNESDAY, MAY 31, 2017: 10:00 a.m.—Issuance of Proposed Decisions in claims against Iraq.

STATUS: Open.

All meetings are held at the Foreign Claims Settlement Commission, 600 E Street NW., Washington, DC. Requests for information, or advance notices of intention to observe an open meeting, may be directed to: Patricia M. Hall, Foreign Claims Settlement Commission, 600 E Street NW., Suite 6002, Washington, DC 20579. Telephone: (202) 616–6975.

Brian M. Simkin,

Chief Counsel.

[FR Doc. 2017–10665 Filed 5–19–17; 4:45 pm]

BILLING CODE 4410–BA–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On May 17, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the Southern District of Texas in the lawsuit entitled *United States and State of Texas* v. *Vopak Terminal Deer Park Inc. and Vopak Logistics Services USA Inc.,* Civil Action No. 4:17–cv–1518.

In this action, the United States, on behalf of the U.S. Environmental Protection Agency, together with the State of Texas, filed a Complaint and proposed Consent Decree pertaining to Clean Air Act violations at a bulk chemical storage tank facility located on the Houston Ship Channel that is owned and operated by Vopak Terminals North America Inc. and Vopak Logistic Services USA Inc. (collectively, ''Vopak''). In the joint Complaint, the U.S. and the State of Texas allege violations of (1) the New Source Performance Standards (''NSPS'') requirements under Section 111 of the Clean Air Act (''CAA'') and the implementing regulations, promulgated at 40 CFR part 60, subparts A, Ka, and Kb; (2) the National Emission Standards for Hazardous Air Pollutants requirements under Section 112 of the CAA, 42 U.S.C. 7412, and the implementing regulations promulgated at 40 CFR part 63, subparts A, DD, and EEEE; (3) the operating permit requirements of Title V of the CAA, and the implementing regulations; (4) the federally enforceable Texas State Implementation Plan; and (5) the Facility's operating permit, issued by the Texas Commission on Environmental Quality.

Under the proposed settlement, Vopak agrees to pay $2.5 million in civil penalties, split evenly between the United States and the State of Texas and $40,000 in attorney's fees to the State of Texas. In addition, the settlement requires Vopak to implement a range of injunctive relief measures, including: (1) Constructing and operating a flare and other emission controls at its wastewater treatment system; (2) implementing an advanced tank inspection program at its tank terminal; (3) engaging a third party auditor to review Vopak's waste minimization practices and to monitor Vopak's compliance with the settlement; and (4) undertaking various other measures to bring the facility into compliance with the Clean Air Act.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Acting Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Texas* v. *Vopak Terminal Deer Park Inc. and Vopak Logistics Services USA Inc.,* Civil Action No. 4:17–cv–1518, D.J. Ref. No. 90–5–2–1–11406. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $24.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas P. Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–10467 Filed 5–22–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Innovation and Opportunity Act (WIOA) 2017; Lower Living Standard Income Level (LLSIL)

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: Title I of the Workforce Innovation and Opportunity Act (WIOA) requires the U.S. Secretary of Labor (Secretary) to update and publish the LLSIL tables annually, for uses described in the law (including determining eligibility for youth). WIOA defines the term ''low income individual'' as one who qualifies under various criteria, including an individual in a family with total family income for a six-month period that does not exceed the higher level of the poverty line or 70 percent of the LLSIL. This issuance provides the Secretary's annual LLSIL for 2017 and references the current 2017 Health and Human Services ''Poverty Guidelines.''

DATES: This issuance is effective May 23, 2017.

For Further Information or Questions on LLSIL: Please contact Samuel Wright,

Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room C–4526, Washington, DC 20210; Telephone: 202–693–2870; Fax: 202–693–3015 (these are not toll-free numbers); Email address: *wright.samuel.e@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via Text Telephone (TTY/TDD) by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

For Further Information Or Questions On Federal Youth Employment Programs: Please contact Sara Hastings, Department of Labor, Employment and Training Administration, 200 Constitution Avenue NW., Room N–4508, Washington, DC 20210; Telephone: 202–693–3377; Fax: 202–693–3599 (these are not toll-free numbers); Email:*hastings.sara@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD).

SUPPLEMENTARY INFORMATION: The purpose of WIOA (Pub. L. 113–128) is to provide workforce investment activities through statewide and local workforce investment systems that increase the employment, retention, and earnings of participants. WIOA programs are intended to increase the occupational skill attainment by participants and the quality of the workforce, thereby reducing welfare dependency and enhancing the productivity and competitiveness of the Nation.

LLSIL is used for several purposes under the WIOA. Specifically, WIOA SEC.3(36)(A)(B) defines the term ''low income individual'' for eligibility purposes, and SEC.127(b)(2)(c), SEC.132(b)(1)(B)(IV), (V)(bb) define the terms ''disadvantaged youth'' and ''disadvantaged adult'' in terms of the poverty line or LLSIL for State formula allotments. The governor and state/local workforce development boards (WDB) use the LLSIL for determining eligibility for youth and adults for certain services. ETA encourages governors and State/local boards to consult the WIOA Final Rule, for more specific guidance in applying LLSIL to program requirements. The U.S. Department of Health and Human Services (HHS) published the most current poverty-level guidelines in the **Federal Register** on January 31, 2017 (Volume 82, Number 19), pp. 8831–8832. The HHS 2017 Poverty guidelines may also be found on the Internet at *https://aspe.hhs.gov/poverty-guidelines.* ETA plans to have the 2017 LLSIL available on its Web site at *http://www.doleta.gov/llsil.*

WIOA Section 3(36)(B) defines LLSIL as ''that income level (adjusted for regional, metropolitan, urban and rural differences and family size) determined annually by the Secretary [of Labor] based on the most recent lower living family budget issued by the Secretary.'' The most recent lower living family budget was issued by the Secretary in fall 1981. The four-person urban family budget estimates, previously published by the U.S. Bureau of Labor Statistics (BLS), provided the basis for the Secretary to determine the LLSIL. BLS terminated the four-person family budget series in 1982, after publication of the fall 1981 estimates. Currently, BLS provides data to ETA, which ETA then uses to develop the LLSIL tables, as provided in the Appendices to this **Federal Register** notice.

ETA published the 2016 updates to the LLSIL in the **Federal Register** of March 25, 2016, at Vol. 81, No. 58 pp. 16217–16223. This notice updates the LLSIL to reflect cost of living increases for 2016, by calculating the percentage change in the most recent 2015 Consumer Price Index for All Urban Consumers (CPI–U) for an area to the 2016 CPI–U, and then applying this calculation to each of the March 25, 2016 LLSIL figures.

The updated figures for a four-person family are listed in Appendix A, Table 1, by region for both metropolitan and non-metropolitan areas. Numbers in all of the Appendix tables are rounded up to the nearest dollar. Since program eligibility for low-income individuals, ''disadvantaged adults,'' and ''disadvantaged youth'' may be determined by family income at 70 percent of the LLSIL, pursuant to WIOA Section 3(36)(A)(ii) and Section 3(36)(B), respectively, those figures are listed as well.

I. Jurisdictions

Jurisdictions included in the various regions, based generally on the Census Regions of the U.S. Department of Commerce, are as follows:

A. Northeast

Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania,, Rhode Island, Vermont, Virgin Islands.

B. Midwest

Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin.

C. South

Alabama, American Samoa, Arkansas, Delaware, District of Columbia, Florida, Georgia, Northern Marianas, Oklahoma, Palau, Puerto Rico, South Carolina, Kentucky, Louisiana, Marshall Islands, Maryland, Micronesia, Mississippi, North Carolina, Tennessee, Texas, Virginia, West Virginia.

D. West

Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, Wyoming.

Additionally, separate figures have been provided for Alaska, Hawaii, and Guam as indicated in Appendix B, Table 2.

For Alaska, Hawaii, and Guam, the year 2017 figures were updated from the 2016 ''State Index'' based on the ratio of the urban change in the state (using Anchorage for Alaska and Honolulu for Hawaii and Guam) compared to the West regional metropolitan change, and then applying that index to the West regional metropolitan change.

Data on 23 selected Metropolitan Statistical Areas (MSAs) are also available. These are based on annual average CPI–U changes for a 12-month period ending in December 2016. The updated LLSIL figures for these MSAs and 70 percent of LLSIL are reported in Appendix C, Table 3.

Appendix D, Table 4 lists each of the various figures at 70 percent of the updated 2016 LLSIL for family sizes of one to six persons. Because Tables 1–3 only list the LLSIL for a family of four, Table 4 can be used to separately determine the LLSIL for families of between one and six persons. For families larger than six persons, an amount equal to the difference between the six-person and the five-person family income levels should be added to the six-person family income level for each additional person in the family. Where the poverty level for a particular family size is greater than the corresponding 70 percent of the LLSIL figure, the figure is shaded. On the ETA LLSIL Web site at *http://www.doleta.gov/llsil,* a modified Microsoft Excel version of Appendix D, Table 4, with the area names and the LLSILs, that are lower than the Poverty level at a given family size will be shaded; will be available. Appendix E, Table 5, indicates 100 percent of LLSIL for family sizes of one to six, and is used to determine self-sufficiency as noted at Section 3(36)(a)(ii) and Section 3 (36)(B), (C)(ii) in WIOA.

II. Use of These Data

Governors should designate the appropriate LLSILs for use within the

State from Appendices A, B, and C, containing Tables 1 through 3. Appendices D and E, which contain Tables 4 and 5, which adjust a family of four figure for larger and smaller families, may be used with any LLSIL designated area. The governor's designation may be provided by disseminating information on MSAs and metropolitan and non-metropolitan areas within the state or it may involve further calculations. For example, the State of New Jersey may have four or more LLSIL figures for Northeast metropolitan, Northeast non-metropolitan, portions of the state in the New York City MSA, and those in the Philadelphia MSA. If a workforce investment area includes areas that would be covered by more than one LLSIL figure, the governor may determine which is to be used.

A state's policies and measures for the workforce investment system shall be accepted by the Secretary to the extent that they are consistent with WIOA and WIOA regulations.

III. Disclaimer on Statistical Uses

It should be noted that publication of these figures is only for the purpose of meeting the requirements specified by WIOA as defined in the law and regulations. BLS has not revised the lower living family budget since 1981, and has no plans to do so. The four-person urban family budget estimates series has been terminated. The CPI–U adjustments used to update LLSIL for this publication are not precisely comparable, most notably because certain tax items were included in the 1981 LLSIL, but are not in the CPI–U. Thus, these figures should not be used for any statistical purposes, and are valid only for those purposes under WIOA as defined in the law and regulations.

Appendix A

TABLE 1—LOWER LIVING STANDARD INCOME LEVEL (FOR A FAMILY OF FOUR PERSONS) BY REGION [1]

Region [1]	2017 adjusted LLSIL	70 percent LLSIL
Northeast: [2]		
Metro	$42,965	$30,075
Non-Metro [3]	42,370	29,659
Midwest:		
Metro	37,679	26,376
Non-Metro	36,312	25,418
South:		
Metro	36,555	25,588
Non-Metro	35,995	25,197
West:		
Metro	42,033	29,423
Non-Metro [4]	41,838	29,287

[1] For ease of use, these figures are rounded to the next highest dollar.
[2] Metropolitan area measures were calculated from the weighted average CPI–U's for city size classes A and B/C. Non-metropolitan area measures were calculated from the CPI–U's for city size class D.
[3] Non-metropolitan area percent changes for the Northeast region are no longer available. The Non-metropolitan percent change was calculated using the U.S. average CPI–U for city size class D.
[4] Non-metropolitan area percent changes for the West region are based on unpublished BLS data.

Appendix B

TABLE 2—LOWER LIVING STANDARD INCOME LEVEL (FOR A FAMILY OF FOUR PERSONS), FOR ALASKA, HAWAII AND GUAM [1]

Region [1]	2017 adjusted LLSIL	70 percent LLSIL
Alaska:		
Metro	$48,090	$33,663
Non-Metro [2]	54,109	37,876
Hawaii, Guam:		
Metro	53,638	37,547
Non-Metro [2]	57,765	40,436

[1] For ease of use, these figures are rounded to the next highest dollar.
[2] Non-Metropolitan percent changes for Alaska, Hawaii and Guam were calculated from the CPI–U's for all urban consumers for city size class D in the Western Region. Generally the non-metro areas LLSIL is lower than the LLSIL in metro areas. This year the non-metro area LLSIL incomes were larger because the change in CPI–U was smaller in the metro areas compared to the change in CPI–U in the non-metro areas of Alaska, Hawaii and Guam.

Appendix C

TABLE 3—LOWER LIVING STANDARD INCOME LEVEL (FOR A FAMILY OF FOUR PERSONS), FOR 23 SELECTED MSAS [1]

Metropolitan Statistical Areas (MSAs) [1]	2017 adjusted LLSIL	70 percent LLSIL
Anchorage, AK	$49,293	$34,505
Atlanta, GA	34,954	24,468
Boston-Brockton-Nashua, MA/NH/ME/CT	46,026	32,218

TABLE 3—LOWER LIVING STANDARD INCOME LEVEL (FOR A FAMILY OF FOUR PERSONS), FOR 23 SELECTED MSAS [1]—Continued

Metropolitan Statistical Areas (MSAs) [1]	2017 adjusted LLSIL	70 percent LLSIL
Chicago-Gary-Kenosha, IL/IN/WI	38,045	26,632
Cincinnati-Hamilton, OH/KY/IN	36,945	25,862
Cleveland-Akron, OH	37,876	26,513
Dallas-Ft. Worth, TX	34,653	24,257
Denver-Boulder-Greeley, CO	40,002	28,002
Detroit-Ann Arbor-Flint, MI	35,765	25,035
Honolulu, HI	54,603	38,222
Houston-Galveston-Brazoria, TX	35,399	24,779
Kansas City, MO/KS	35,441	24,808
Los Angeles-Riverside-Orange County, CA	42,947	30,063
Milwaukee-Racine, WI	36,926	25,848
Minneapolis-St. Paul, MN/WI	37,533	26,273
New York-Northern NJ-Long Island, NY/NJ/CT/PA	45,503	31,852
Philadelphia-Wilmington-Atlantic City, PA/NJ/DE/MD	41,101	28,770
Pittsburgh, PA	45,659	31,962
St. Louis, MO/IL	34,834	24,384
San Diego, CA	47,861	33,502
San Francisco-Oakland-San Jose, CA	46,750	32,725
Seattle-Tacoma-Bremerton, WA	46,008	32,206
Washington-Baltimore, DC/MD/VA/WV [2]	46,097	32,268

[1] For ease of use, these figures are rounded to the next highest dollar.
[2] Baltimore and Washington are calculated as a single metropolitan statistical area.

Appendix D

Table 4: 70 Percent of Updated 2016 Lower Living Standard Income Level (LLSIL), by Family Size

To use the 70 percent LLSIL value, where it is stipulated for the WIOA programs, begin by locating the region or metropolitan area where the program applicant resides. These are listed in Tables 1, 2 and 3. After locating the appropriate region or metropolitan statistical area, find the 70 percent LLSIL amount for that location. The 70 percent LLSIL figures are listed in the last column to the right on each of the three tables. These figures apply to a family of four. Larger and smaller family eligibility is based on a percentage of the family of four. To determine eligibility for other size families consult Table 4 and the instructions below.

To use Table 4, locate the 70 percent LLSIL value that applies to the individual's region or metropolitan area from Tables 1, 2 or 3. Find the same number in the ''family of four'' column of Table 4. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the maximum household income the individual is permitted in order to qualify as economically disadvantaged under the WIOA.

Where the HHS poverty level for a particular family size is greater than the corresponding LLSIL figure, the LLSIL figure appears in a shaded block. Individuals from these size families may consult the 2017 HHS poverty guidelines found on the Health and Human Services Web site at *https://aspe.hhs.gov/poverty-guidelines* to find the higher eligibility standard. Individuals from Alaska and Hawaii should consult the HHS guidelines for the generally higher poverty levels that apply in their States.

Family Of One	Family of Two	Family of Three	Family of Four	Family of Five	Family of Six
8738	14319	19654	24257	28630	33480
8785	14392	19755	24384	28777	33650
8810	14438	19826	24468	28876	33767
8928	14626	20075	24779	29244	34200
8931	14640	20101	24808	29278	34241
9016	14771	20282	25035	29543	34548
9078	14872	20411	25197	29734	34773
9159	14997	20591	25418	30002	35086
9216	15101	20727	25588	30201	35321
9305	15252	20940	25848	30504	35673
9313	15264	20954	25862	30521	35693
9462	15505	21287	26273	31009	36263
9496	15566	21365	26376	31124	36406
9547	15650	21478	26513	31290	36589
9588	15719	21571	26632	31430	36759
10085	16526	22687	28002	33044	38646
10363	16979	23307	28770	33956	39706
10545	17282	23727	29287	34565	40425
10593	17360	23835	29423	34720	40610
10679	17505	24031	29659	35004	40930
10824	17737	24352	30063	35475	41493
10831	17752	24363	30075	35495	41507
11469	18797	25801	31852	37586	43963
11512	18865	25895	31962	37721	44112
11601	19003	26091	32206	38007	44446
11602	19012	26104	32218	38023	44463

Family Of One	Family of Two	Family of Three	Family of Four	Family of Five	Family of Six
11622	19045	26142	32268	38084	44539
11787	19315	26509	32725	38620	45168
12067	19768	27142	33502	39537	46240
12125	19863	27272	33663	39726	46463
12428	20365	27953	34505	40723	47618
13524	22155	30419	37547	44309	51822
13642	22348	30683	37876	44696	52269
13765	22553	30960	38222	45104	52754
14562	23863	32756	40436	47717	55803

Appendix E

Table 5: Updated 2015 LLSIL (100 percent), by Family Size

To use the LLSIL to determine the minimum level for establishing self-sufficiency criteria at the State or local level, begin by locating the metropolitan area or region from Table 1, 2 or 3. Then locate the appropriate region or metropolitan statistical area and then find the 2017 adjusted LLSIL amount for that location. These figures apply to a family of four. Locate the corresponding number in the family of four in the column below. Move left or right across that row to the size that corresponds to the individual's family unit. That figure is the minimum figure that States must set for determining whether employment leads to self-sufficiency under WIOA programs.

Family of one	Family of two	Family of three	Family of four	Family of five	Family of six
12482	20455	28077	34653	40901	47828
12550	20560	28221	34834	41110	48072
12585	20626	28324	34954	41251	48239
12754	20895	28678	35399	41777	48857
12759	20914	28716	35441	41825	48915
12880	21102	28974	35765	42205	49354
12968	21245	29159	35995	42478	49676
13085	21425	29416	36312	42861	50123
13166	21573	29609	36555	43144	50459
13293	21789	29914	36926	43577	50962
13304	21806	29935	36945	43602	50989
13517	22150	30410	37533	44298	51804
13566	22237	30522	37679	44463	52008
13638	22357	30684	37876	44700	52270
13697	22456	30816	38045	44900	52513
14407	23609	32411	40002	47205	55209
14805	24255	33296	41101	48509	56723
15064	24688	33896	41838	49378	57750
15133	24800	34050	42033	49600	58014
15256	25008	34330	42370	50006	58471
15462	25339	34789	42947	50678	59275
15473	25359	34805	42965	50707	59295
16384	26853	36859	45503	53694	62805
16446	26950	36993	45659	53888	63018
16572	27160	37292	46026	54318	63518
16573	27148	37272	46008	54295	63495
16602	27207	37345	46097	54405	63627
16839	27592	37870	46750	55171	64526
17239	28240	38774	47861	56481	66057
17321	28376	38960	48090	56752	66376
17754	29093	39932	49293	58175	68026
19321	31650	43456	53638	63299	74032
19488	31925	43833	54109	63852	74670
19665	32218	44229	54603	64434	75363

Family of one	Family of two	Family of three	Family of four	Family of five	Family of six
20802	34090	46794	57765	68167	79719

Signed at Washington, DC, this 14 of April, 2017.

Byron Zuidema,

Deputy Assistant Secretary for Employment and Training Administration.

[FR Doc. 2017–10496 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–FT–P

DEPARTMENT OF LABOR

Employment and Training Administration

Workforce Information Advisory Council

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice of meeting.

SUMMARY: Pursuant to Section 308 of the Workforce Innovation and Opportunity Act of 2014 (WIOA) notice is hereby given that the Workforce Information Advisory Council (WIAC) will meet on June 21 and 22, 2017. The meeting will take place at the Bureau of Labor Statistics (BLS) Janet Norwood Training and Conference Center in Washington, DC. The WIAC was established in accordance with provisions of the Federal Advisory Committee Act (FACA), as amended, and will act in accordance with the applicable provisions of FACA and its implementing regulation. The meeting will be open to the public.

DATES: The meeting will take place on Wednesday, June 21, and Thursday, June 22, 2017 from 8:30 a.m. to 4:30 p.m. Public statements and requests for special accommodations or to address the Advisory Council must be received by June 12, 2017.

ADDRESSES: The meeting will be held at the BLS Janet Norwood Training and Conference Center, Rooms 9 and 10, in the Postal Square Building at 2 Massachusetts Ave. NE., Washington, DC 20212.

FOR FURTHER INFORMATION CONTACT: Steven Rietzke, Chief, Division of National Programs, Tools, and Technical Assistance, Employment and Training Administration, U.S. Department of Labor, Room C–4510, 200 Constitution Ave. NW., Washington, DC 20210; Telephone: 202–693–3912. Mr. Rietzke is the Designated Federal Officer for the WIAC.

SUPPLEMENTARY INFORMATION:

Background: The WIAC is an important component of the Workforce Innovation and Opportunity Act (Pub. L. 113–128), which amends section 15 of the Wagner-Peyser Act of 1933 (29 U.S.C. 491–2). The WIAC is a Federal Advisory Committee of workforce and labor market information experts representing a broad range of national, State, and local data and information users and producers. The purpose of the WIAC is to provide recommendations to the Secretary of Labor, working jointly through the Assistant Secretary for Employment and Training and the Commissioner of Labor Statistics, to address: (1) The evaluation and improvement of the nationwide workforce and labor market information (WLMI) system and statewide systems that comprise the nationwide system; and (2) how the Department and the States will cooperate in the management of those systems. These systems include programs to produce employment-related statistics and State and local workforce and labor market information.

The Department of Labor anticipates the WIAC will accomplish its objectives by: (1) Studying workforce and labor market information issues; (2) seeking and sharing information on innovative approaches, new technologies, and data to inform employment, skills training, and workforce and economic development decision making and policy; and (3) advising the Secretary on how the workforce and labor market information system can best support workforce development, planning, and program development. Additional information is available at *www.doleta.gov/wioa/wiac/.*

Purpose: The WIAC is currently in the process of identifying and reviewing issues and aspects of the WLMI system and statewide systems that comprise the nationwide system and how the Department and the States will cooperate in the management of those systems. As part of this process, the Advisory Council meets to gather information and to engage in deliberative and planning activities to facilitate the development and provision of its recommendations to the Secretary in a timely manner.

Agenda: Beginning at 8:30 a.m. on June 21, 2017, the Advisory Council will briefly review the minutes of the previous meeting held February 8, 2017. The Advisory Council will then hear briefings from the sub-committees and their proposed recommendations for the entire WIAC to consider. The meeting will end for the day 4:30 p.m.

The meeting will resume at 8:30 a.m. on June 22, 2017. The second day will continue the previous day's discussions, with the goal of all four sub-committees presenting their proposed recommendations. The WIAC chair will open the floor for public comment at 1:00 p.m. on June 22, 2017. However, the precise schedule of events is subject to change and an up-to-date agenda will be available on WIAC's Web page (see URL below) prior to the meeting. The second day will conclude with a discussion of next steps, including action items and planning for the next meeting of the Advisory Council. The meeting will adjourn at 4:30 p.m. The full agenda for the meeting, and changes or updates to the agenda, will be posted on the WIAC's Web page, *www.doleta.gov/wioa/wiac/.*

Attending the meeting: BLS is located in the Postal Square Building, the building that also houses the U.S. Postal Museum, at 2 Massachusetts Ave. NE., Washington, DC. You must have a picture ID to be admitted to the BLS offices at Postal Square Building, and you must enter through the Visitors' Entrance. The BLS Visitors' Entrance is on First Street NE., mid-block, across from Union Station. Members of the public who require reasonable accommodations to attend the meeting may submit requests for accommodations by mailing them to the person and address indicated in the **FOR FURTHER INFORMATION CONTACT** section by the date indicated in the **DATES** section or transmitting them as email attachments in PDF format to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line ''June WIAC Meeting Accommodations'' by the date indicated in the **DATES** section. Please include a specific description of the accommodations requested and phone number or email address where you may be contacted if additional information is needed to meet your request.

Public statements: Organizations or members of the public wishing to submit written statements may do so by mailing them to the person and address indicated in the **FOR FURTHER INFORMATION CONTACT** section by the date indicated in the **DATES** section or transmitting them as email attachments

in PDF format to the email address indicated in the **FOR FURTHER INFORMATION CONTACT** section with the subject line ''June WIAC Meeting Public Statements'' by the date indicated in the **DATES** section. Submitters may include their name and contact information in a cover letter for mailed statements or in the body of the email for statements transmitted electronically. Relevant statements received before the date indicated in the **DATES** section will be included in the record of the meeting. No deletions, modifications, or redactions will be made to statements received, as they are public records. Please do not include personally identifiable information (PII) in your public statement.

Requests to Address the Advisory Council: Members of the public or representatives of organizations wishing to address the Advisory Council should forward their requests to the contact indicated in the **FOR FURTHER INFORMATION CONTACT** section, or contact the same by phone, by the date indicated in the **DATES** section. Oral presentations will be limited to 10 minutes, time permitting, and shall proceed at the discretion of the Council chair. Individuals with disabilities, or others, who need special accommodations, should indicate their needs along with their request.

Byron Zuidema,

Deputy Assistant Secretary for Employment and Training Administration.

[FR Doc. 2017–10564 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; ETA 902 Disaster Unemployment Assistance Activities

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), Employment and Training Administration (ETA) is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''ETA 902 Disaster Unemployment Assistance Activities.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995.

DATES: Consideration will be given to all written comments received by July 24, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting David King by telephone at 202–693–2698, TTY 1–877–889–5627, (these are not toll-free numbers) or by email at *King.David.H@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Room S–4519, Washington, DC 20210; by email: *King.David.H@dol.gov;* or by Fax 202–693–3975.

Authority: 44 U.S.C. 3506(c)(2)(A).

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Robert T. Stafford Disaster Relief and Emergency Assistance Act sections 410 and 423 provide for assistance to eligible individuals who are unemployed due to a major disaster. State Workforce Agencies through individual agreements with the Secretary of Labor, act as agents of the Federal government in providing Disaster Unemployment Assistance (DUA) to eligible applicants who are unemployed as a result of a major disaster. The ETA 902 Report, Disaster Unemployment Assistance Activities, is a monthly report submitted by an impacted state when a major disaster is declared by the President that provides for individual assistance (including DUA). The report contains data on DUA claims and payment activities associated with administering the DUA program. The information is used by ETA's Office of Unemployment Insurance (OUI) to determine workload counts, for example, the number of individuals determined eligible or ineligible for DUA, the number of appeals filed, and the number of overpayments issued. The report also allows OUI to track states' administrative costs for the DUA program.

Social Security Act section 303(a)(6) authorizes this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. See 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0051.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

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

Agency: DOL–ETA.

Type of Review: Extension Without Changes.

Title of Collection: Disaster Unemployment Assistance Activities.

Form: ETA 902.

OMB Control Number: 1205–0051.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 30.

Frequency: Approximately six (6) months of reporting and a final report per disaster declared.

Total Estimated Annual Responses: 210.

Estimated Average Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 210 hours.

Total Estimated Annual Other Cost Burden: $0.

Byron Zuidema,

Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2017–10501 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Alien Claims Activity Report

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), Employment and Training Administration (ETA), is soliciting comments concerning a proposed extension for the authority to conduct the information collection request (ICR) titled, ''Alien Claims Activity Report.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

DATES: Consideration will be given to all written comments received by July 24, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free by contacting Ericka Parker by telephone at 202–693–3208, TTY 1–877–889–5627 (these are not toll-free numbers) or by email at *parker.ericka@dol.gov.*

Submit written comments about, or requests for a copy of, this ICR by mail or courier to the U.S. Department of Labor, Employment and Training Administration, Office of Unemployment Insurance, 200 Constitution Avenue NW., Room S–4519, Washington, DC 20210; by email: *parker.ericka@dol.gov;* or by Fax 202–693–3975.

SUPPLEMENTARY INFORMATION: The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Section 432 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (also referred to as the Welfare Reform Act of 1996) (Pub. L. 104–193), requires that aliens applying for certain entitlement programs, including unemployment insurance, have their immigration status verified by the U.S. Citizenship and Immigration Service (USCIS). If an unemployment insurance applicant is not a United States citizen or national, he/she must provide the state agency with documentation from the USCIS that contains his/her Alien Registration Number (commonly called the A-number) or other documents that provide reasonable evidence of current immigration status. This documentation must be verified by the USCIS through the system known as the Systematic Alien Verification for Entitlement. To comply with its responsibilities under the Social Security Administration (SSA), the Department of Labor (Department) must gather information from state agencies concerning alien claimant activities. The Alien Claims Activity Report (ACAR) is the only source available for collecting this information. The following explains the Department's responsibilities under the SSA and the necessity for approval of the attached ACAR.

The ETA 9016 report allows the Department to determine the number of aliens filing for unemployment insurance (UI), the number of benefit issues detected, and the denials resulting from the USCIS SAVE system. From these data, the Department can determine the extent to which state agencies use the system, and the overall effectiveness and cost efficiency of the USCIS SAVE verification system.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6.

Interested parties are encouraged to provide comments to the contact shown in the **ADDRESSES** section. Comments must be written to receive consideration, and they will be summarized and included in the request for OMB approval of the final ICR. In order to help ensure appropriate consideration, comments should mention OMB control number 1205–0268.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. The DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

The DOL is particularly interested in comments that:

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

Agency: DOL–ETA.

Type of Review: Extension Without Changes.

Title of Collection: Alien Claims Activity Report.

Form: ETA 9016.

OMB Control Number: 1205–0268.

Affected Public: State Workforce Agencies.

Estimated Number of Respondents: 53.

Frequency: Quarterly.

Total Estimated Annual Responses: 212.

Estimated Average Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 212 hours.

Total Estimated Annual Other Cost Burden: $0.

Authority: 44 U.S.C. 3506(c)(2)(A).

Byron Zuidema,

Deputy Assistant Secretary for Employment and Training, Labor.

[FR Doc. 2017–10490 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Employment and Training Administration

Agency Information Collection Activities; Comment Request; Workforce Innovation and Opportunity Act (WIOA) DOL-Only Performance Accountability, Information, and Reporting System

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), Employment and Training Administration (ETA) is soliciting comments concerning proposed extension for the authority to conduct the information collection request (ICR) titled, ''Workforce Innovation and Opportunity Act (WIOA) Performance Accountability, Information and Reporting System.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA).

DATES: Submit written comments to the office listed in the addresses section below on or before July 24, 2017.

ADDRESSES: Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at *http://www.regulations.gov* by selecting Docket ID number ETA–2017–0002 or via postal mail, commercial delivery, or hand delivery. A copy of the ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from *http://www.regulations.gov* or by contacting Herman L. Quilloin III by telephone at 202–693–3994 (this is not a toll-free number) or by email at *Quilloin.Herman@dol.gov.* Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627 (TTY/TDD). Fax: 202–693–2766.

Mail and hand delivery/courier: Send written comments to Herman L. Quilloin III, Office of Policy Development and Research, Room N5641, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Due to security-related concerns, there may be a significant delay in the receipt of submissions by United States Mail. You must take this into consideration when preparing to meet the deadline for submitting comments.

Comments submitted in response to this comment request will become a matter of public record and will be summarized and included in the request for Office of Management and Budget (OMB) approval of the information collection request. In addition, comments, regardless of the delivery method, will be posted without change on the *http://www.regulations.gov* Web site; consequently, the Department recommends commenters not include personal information such as a Social Security Number, personal address, telephone number, email address, or confidential business information that they do not want made public. It is the responsibility of the commenter to determine what to include in the public record.

FOR FURTHER INFORMATION CONTACT: Herman L. Quilloin III by telephone at 202–693–3994 (this is not a toll-free number) or by email at *Quilloin.Herman@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The DOL, as part of continuing efforts to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies an opportunity to comment on proposed and/or continuing collections of information before submitting them to the OMB for final approval. This program helps to ensure requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements can be properly assessed.

Section 116 of WIOA requires States that operate core programs of the publicly-funded workforce system to comply with common performance accountability requirements. As such, States that operate core programs must submit common performance data to demonstrate that specified performance levels are achieved.

The data collections in this ICR fulfill requirements in WIOA Sec. 116(d)(1) which mandates that the Secretaries of Labor and Education develop a template for the annual performance reports to be used by States, local boards, and of training services for reporting on outcomes achieved by the WIOA programs. Pursuant to WIOA sec. 116(d)(2), required annual data for the core programs include, among others, those related to primary performance indicators, participant counts and costs, and barriers to employment. The Department proposes to amend the information collection by making changes to the *Participant Individual Record Layout (ETA–9172),* (*Program) Performance Report (ETA–9173)* and the *Pay-for-Performance Report (ETA–9174)* to facilitate State quarterly performance reporting.

This notice includes several documents—the ETA (Program) Performance Report, the WIOA Pay-for-Performance Report, the Participant Individual Record Layout (PIRL), and the WIOA Data Element Specifications. The Department requires states to certify and submit the ETA (Program) Performance Report to ETA on a quarterly basis and the Pay-for-Performance report(s) will be collected annually. ETA will aggregate the information the States submit through the PIRL to populate the ETA (Program) Performance Report, which ETA will then send to the States to confirm their accuracy. Each program included in this ICR will generate its own quarterly Performance Report.

The ETA (Program) Performance Report and WIOA Pay-for-Performance Report have been designed to maximize the value of the reports for workers, jobseekers, employers, local elected officials, State officials, Federal policymakers, and other key stakeholders. The PIRL has been designed to reflect the specific requirements of the annual reports as described in WIOA section 116(d)(2) through (4).

ETA will use the data to track total participants, characteristics, services, training strategies and outcomes for employed, unemployed and long-term unemployed participants. This data collection format permits program offices to evaluate program

effectiveness, monitor compliance with statutory requirements, and analyze participant activity and grantee performance while complying with OMB efforts to streamline Federal performance reporting.

Under WIOA section 116(d)(6), the Secretary of Labor is required to annually make available (including by electronic means), in an easily understandable format, (a) the State Annual Performance Reports containing the information described in WIOA section 116 (d)(2) and (b) a summary of the reports, and the reports required under WIOA section 116 (d)(6) (the State Performance, Local Area, and Eligible Training Provider Reports), to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate.

The reports and other analyses of the data will be made available to the public through publication and other appropriate methods and to the appropriate congressional committees through copies of such reports. In addition, information obtained through the Workforce Performance Accountability, Information, and Reporting System will be used at the national level during budget and allocation hearings for DOL compliance with the Government Performance and Results Act and other legislative requirements, and during legislative authorization proceedings.

Under this collection, participation will be measured based on the count of individuals who meet the definition of a ''participant''—*e.g.,* those who have received staff-level services within the program year. An individual should be considered to have exited after they have gone 90 days without service, and with no future services scheduled. Should they return for additional services after the 90 days—within the same program year and exit in that same program year—the individual's exit date will be changed to reflect only the last exit date in that program year. If the individual exits in a subsequent program year, they would be counted as a new participant for purposes of that subsequent program year. Counting unique individuals in this manner will allow an unduplicated count of participants in the accountability and reporting system. The Department understands that this may affect quarterly reporting results and counts of services rendered early in the program year, particularly for programs whose current reporting practices differ from what is described above. As such, we greatly encourage your comments on the potential impact on individual states and local areas of this and all other items discussed in this package.

As mentioned above, as part of its effort to streamline program performance reporting, the Department added the performance information collection requirements for the SCSEP to this information collection. The Older Americans Act Reauthorization Act of 2016 (OAA–2016) amended the SCSEP core indicators of performance, and it requires those amended indicators to be implemented by regulation by December 31, 2017. SCSEP will retain its current ICR (under OMB Control Number 1205–0040) for non-performance data elements and will implement the OAA–2016 performance measures' information collection under this ICR upon completion of rulemaking. This ICR may receive OMB approval before Final Rules implementing the OAA–2016 SCSEP measures are published. If this occurs, the Department will submit another ICR for this collection to OMB to incorporate the Final Rule citations, as required by 5 CFR 1320.11(h). Those citations currently do not exist and, therefore, cannot be included at this time. The Department plans to review and analyze any comments received in response to this **Federal Register** Notice in order to finalize the substantive information collection requirements to the extent legally possible.

II. Review Focus

The Department as part of its effort to streamline program performance reporting is (1) making grammar edits, code fields, and instructions revisions; (2) deleting data elements no longer required by ETA, (3) adding data elements needed by ETA, and (4) adding the performance information collection requirements for the Senior Community Service Employment Program (SCSEP).

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- can further help to create an integrated data element layout between ETA-funded programs;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (*e.g.,* permitting electronic submissions of responses).

III. Current Actions

Type of Review: Revision.

Title: Workforce Performance Accountability, Information, and Reporting System.

OMB Number: 1205–0521.

Affected Public: State, Local, and Tribal Governments; Individuals or Households; and Private Sector—businesses or other for-profits and not-for-profit institutions.

Frequency: Quarterly, Annually.

Estimated Total Annual Respondents: 947.

Estimated Total Annual Responses: 17,360,446.

Estimated Total Annual Burden Hours: 4,495,212.

Total Estimated Annual Other Costs Burden: $17,100,000.

Approval of this information collection request is required so that the states, locals, and other entities can begin programming their management information systems in order to enable them to collect the necessary data to implement the data collection and reporting requirements of section 116 in accordance with the WIOA statute.

Byron Zuidema,

Deputy Assistant Secretary for Employment and Training Administration, Labor.

[FR Doc. 2017–10500 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Comment Request: Survey of Employer Policies on the Employment of People With Disabilities

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized,

collection instruments are clearly understood, and the impact of collection requirements on respondents is properly assessed. Currently, the Department of Labor is soliciting comments concerning the collection of data about the Survey of Employer Policies on the Employment of People with Disabilities. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed in the addressee section of this notice.

DATES: The OMB will consider all written comments that the agency receives on or before July 24, 2017.

ADDRESSES: You may submit comments by either one of the following methods: *Email: ChiefEvaluationOffice@dol.gov; Mail or Courier:* Juston Locks, Office of Disability Employment Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–1303 Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION: Contact Juston Locks by email at *chiefevaluationoffice@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Chief Evaluation Office (CEO) of the U.S. Department of Labor in partnership with the Office of Disability Employment Policy (ODEP) seeks to conduct a Survey of Employer Policies on the Employment of People with Disabilities to examine employer perceptions of their efforts to employ individuals with disabilities. Knowing this information will enhance the ability of ODEP to engage employers on how to hire, retain and promote individuals with disabilities. ODEP has the ability to reach out to employers through its public education campaigns and technical assistance centers, as well as engage the business community directly. Assessing employer attitudes towards hiring and retaining individuals with disabilities will allow ODEP to better understand employer successes and concerns, as well as more effectively share best practices in hiring, retaining, and promoting individuals with disabilities. This study will answer research questions with regard to current employer practices and attitudes towards employment of people with disabilities ('disability employment'); barriers and facilitators of disability employment; the impact of accommodations and technology on employer perceptions and attitudes towards disability employment; and sources of disability employment-related information for employers.

To answer the research questions, the study will include three data collection strategies: (1) A telephone survey with employers; (2) case studies with representatives of six companies; and (3) qualitative interviews with supervisors from companies with disability employment experience.

This **Federal Register** Notice provides the opportunity to comment on proposed data collection instruments that will be used in the study:

- *Employer Survey (n=4,800).* Westat will contact each sampled HR managers to complete a 20-minute computer-assisted telephone interview (CATI). This survey will cover topics such as company policies and practices on disability employment, successes and challenges of disability employment, information on employment policies and best practices, and the use of technology and accommodations.
- *Case Studies (n=120).* Westat will conduct six site visits at companies demonstrating experience with disability employment. Westat will interview individuals from a sample across the spectrum of involvement in disability employment, including: Human Resource (HR) managers, hiring managers, disabled employees, colleagues of disabled employees, and senior leadership tasked with creating diversity and inclusion policy. Westat will conduct approximately 20 interviews per case study, with each interview lasting between 20–30 minutes.
- *Qualitative Interviews with HR Managers (n=90).* Westat will purposefully select a subsample of employers with significant experience with disability employment and interview mid-level managers from those companies to collect more in-depth information. These interviews will cover questions about the employer's current practices and attitudes towards employment of people with disabilities; barriers and facilitators towards disability employment; accommodations and technology available for employees with disabilities; and information flow about disability employment. These interviews will last approximately 30 minutes.

II. Review Focus

Currently, the Department of Labor is soliciting comments concerning the above data collection for a study of employer policies and practices on the employment of people with disabilities. DOL is particularly interested in comments that:

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

III. Current Action

At this time, DOL is requesting clearance for the SEED Implementation Evaluation Survey.

Type of Review: New Information Collection.

OMB Control Number: 1230–0NEW.

Title: Survey of Employer Policies on the Employment of People with Disabilities.

ESTIMATED TOTAL BURDEN HOURS—SURVEY OF EMPLOYER POLICIES ON THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

Respondents	Total number of respondents	Number of responses per respondent	Total annual responses	Average burden hours per response	Total annual burden hours
Telephone Survey	4,800	1	1,600	.33	533.33
Case Study	120	1	40	.50	20
Qualitative Interviews	90	1	30	.50	15
Total	5,010		1,670		568.33

Affected Public: Approximately 5,010 respondents will be contacted to participate in this data collection, including hiring managers; HR managers; employees with disabilities; colleagues of employees with disabilities; and diversity/inclusion officers.

Annual Frequency: One time.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 28, 2017.

Molly Irwin,

Chief Evaluation Officer, U.S. Department of Labor.

[FR Doc. 2017–10503 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Comment Request: Survey of Employer Policies on the Employment of People With Disabilities

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents is properly assessed. Currently, the Department of Labor is soliciting comments concerning the collection of data about the Survey of Employer Policies on the Employment of People with Disabilities. A copy of the proposed Information Collection Request (ICR) can be obtained by contacting the office listed in the addressee section of this notice.

DATES: The OMB will consider all written comments that the agency receives on or before July 24, 2017.

ADDRESSES: You may submit comments by either one of the following methods: *Email: ChiefEvaluationOffice@dol.gov; Mail or Courier:* Juston Locks, Office of Disability Employment Policy, U.S. Department of Labor, 200 Constitution Avenue NW., Room S–1303, Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and OMB Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Juston Locks by email at *chiefevaluationoffice@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Chief Evaluation Office (CEO) of the U.S. Department of Labor in partnership with the Office of Disability Employment Policy (ODEP) seeks to conduct a Survey of Employer Policies on the Employment of People with Disabilities to examine employer perceptions of their efforts to employ individuals with disabilities. Knowing this information will enhance the ability of ODEP to engage employers on how to hire, retain and promote individuals with disabilities. ODEP has the ability to reach out to employers through its public education campaigns and technical assistance centers, as well as engage the business community directly. Assessing employer attitudes towards hiring and retaining individuals with disabilities will allow ODEP to better understand employer successes and concerns, as well as more effectively share best practices in hiring, retaining, and promoting individuals with disabilities. This study will answer research questions with regard to current employer practices and attitudes towards employment of people with disabilities ('disability employment'); barriers and facilitators of disability employment; the impact of accommodations and technology on employer perceptions and attitudes towards disability employment; and sources of disability employment-related information for employers.

To answer the research questions, the study will include three data collection strategies: (1) A telephone survey with employers; (2) case studies with representatives of six companies; and (3) qualitative interviews with supervisors from companies with disability employment experience.

This **Federal Register** Notice provides the opportunity to comment on proposed data collection instruments that will be used in the study:

- *Employer Survey (n=4,800).* Westat will contact each sampled HR managers to complete a 20-minute computer-assisted telephone interview (CATI). This survey will cover topics such as company policies and practices on disability employment, successes and challenges of disability employment, information on employment policies and best practices, and the use of technology and accommodations.
- *Case Studies (n=120).* Westat will conduct six site visits at companies demonstrating experience with disability employment. Westat will interview individuals from a sample across the spectrum of involvement in disability employment, including: Human Resource (HR) managers, hiring managers, disabled employees, colleagues of disabled employees, and

senior leadership tasked with creating diversity and inclusion policy. Westat will conduct approximately 20 interviews per case study, with each interview lasting between 20–30 minutes.

• *Qualitative Interviews with HR Managers (n=90).* Westat will purposefully select a subsample of employers with significant experience with disability employment and interview mid-level managers from those companies to collect more in-depth information. These interviews will cover questions about the employer's current practices and attitudes towards employment of people with disabilities; barriers and facilitators towards disability employment; accommodations and technology available for employees with disabilities; and information flow about disability employment. These interviews will last approximately 30 minutes.

II. Review Focus

Currently, the Department of Labor is soliciting comments concerning the above data collection for a study of employer policies and practices on the employment of people with disabilities. DOL is particularly interested in comments that:

• Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

• Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

• Enhance the quality, utility, and clarity of the information to be collected; and

• Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Action

At this time, DOL is requesting clearance for the SEED Implementation Evaluation Survey.

Type of Review: New Information Collection.

OMB Control Number: 1230–0NEW.

Title: Survey of Employer Policies on the Employment of People with Disabilities.

ESTIMATED TOTAL BURDEN HOURS—SURVEY OF EMPLOYER POLICIES ON THE EMPLOYMENT OF PEOPLE WITH DISABILITIES

Respondents	Total number of respondents	Number of responses per respondent	Total annual responses	Average burden hours per response	Total annual burden hours
Telephone Survey	4,800	1	1,600	.33	533.33
Case Study	120	1	40	.50	20
Qualitative Interviews	90	1	30	.50	15
Total	5,010	.....	1,670	.....	568.33

Affected Public: Approximately 5,010 respondents will be contacted to participate in this data collection, including hiring managers; HR managers; employees with disabilities; colleagues of employees with disabilities; and diversity/inclusion officers.

Annual Frequency: One time.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 28, 2017.

Molly Irwin,

Chief Evaluation Officer, U.S. Department of Labor.

[FR Doc. 2017–10502 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Request for Information on Earnings, Dual Benefits, Dependents, and Third-Party Settlements

ACTION: Notice.

SUMMARY: On May 31, 2017, the Department of Labor (DOL) will submit the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Request for Information on Earnings, Dual Benefits, Dependents, and Third-Party Settlements,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before June 30, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the RegInfo.gov Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201701-1240-003* (this link will only become active on June 1, 2017) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Request for Information on Earnings, Dual Benefits, Dependents, and Third-Party Settlements (Form CA–1032, Form EN–1032) information collection. The OWCP uses this collection to obtain information from a Federal Employees' Compensation Act (FECA) claimant receiving workers' compensation benefits over an extended period. The OWCP uses the response to determine whether the claimant is entitled to continue receiving benefits and whether the benefit amount should be adjusted. The collection is necessary to ensure the beneficiary receives correct compensation. This information collection has been classified as a revision, because OWCP has made several clarifications to the data collection. The FECA authorizes this information collection. *See* 5 U.S.C. 8124 and 8149.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0016. The current approval is scheduled to expire on May 31, 2017; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 27, 2017 (82 FR 11946).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section by June 30, 2017. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240–0016. The OMB is particularly interested in comments that:

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

Agency: DOL–OWCP.

Title of Collection: Request for Information on Earnings, Dual Benefits, Dependents, and Third-Party Settlements.

OMB Control Number: 1240–0016.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 45,161.

Total Estimated Number of Responses: 45,161.

Total Estimated Annual Time Burden: 15,054 hours.

Total Estimated Annual Other Costs Burden: $9,935.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: May 17, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–10565 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–CH–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2010–0025]

The Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard; Extension of the Office of Management and Budget's (OMB) Approval of the Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comments.

SUMMARY: OSHA solicits comments concerning its proposal to extend the Office of Management and Budget's (OMB) approval of the information collection requirements contained in the Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard for General Industry.

DATES: Comments must be submitted (postmarked, sent, or received) by July 24, 2017.

ADDRESSES: *Electronically:* You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit a copy of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2010–0025, Occupational Safety and Health Administration, U.S. Department of Labor, Room N–3653, 200 Constitution Avenue NW., Washington, DC 20210. Deliveries (hand, express mail, messenger, and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 10:00 a.m. to 3:00 p.m., e.t.

Instructions: All submissions must include the Agency name and OSHA docket number for the Information Collection Request (ICR) (OSHA–2010–0025). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov.* For further information on submitting comments, see the ''Public Participation'' heading in the section of this notice titled ''Supplementary Information.''

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You may contact Theda Kenney at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Theda Kenney or Todd Owen,

Directorate of Standards and Guidance, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.,* employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

The collections of information contained in the Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard are necessary to reduce workers' risk of death or serious injury by ensuring that portable fire extinguishers are in safe operating condition. The following section describes who uses the information in the certification record, as well as how they use it.

Test records (§ 1910.157(f)(16))

Paragraph (f)(16) requires employers to develop and maintain a certification record of hydrostatic testing of portable fire extinguishers. The certification record must include the date of inspection, the signature of the person who performed the test, and the serial number (or other identifier) of the fire extinguisher that was tested.

Disclosure of Test Certification Records

The certification record must be made available to the Assistant Secretary or his/her representative upon request. The certification record provides assurance to employers, workers, and OSHA compliance officers that the fire extinguishers have been hydrostatically tested in accordance with and at the intervals specified in § 1910.157(f)(16), thereby, ensuring that they will operate properly in the event that workers need to use them. These records also provide the most efficient means for the compliance officers to determine that an employer is complying with the hydrostatic testing provision.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply—for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting that OMB extend its approval of the information collection requirements contained in the Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard for General Industry (29 CFR 1910.157(f)(16)). OSHA is proposing to increase the burden hours in the currently approved information collection request from 125,986 burden hours to 519,161 burden hours (a total increase of 393,175 hours). This increase is due to updated data showing an increase in the number of firms affected by the Standard. The Agency will summarize the comments submitted in response to this notice and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: The Hydrostatic Testing Provision of the Portable Fire Extinguishers Standard (29 CFR 1910.157(f)(16)).

OMB Control Number: 1218–0218.

Affected Public: Business or other for-profits; Federal Government; State, Local, or Tribal Government.

Number of Respondents: 39,132,832.

Number of Responses: 5,217,699.

Frequency of Response: On occasion.

Average Time Per Response: Various.

Estimated Total Burden Hours: 519,161 hours.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile (fax); or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for the ICR (Docket No. OSHA–2010–0025). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and the docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures affecting the delivery of materials by hand, express delivery, messenger, or courier service, please contact the OSHA Docket Office at (202) 693–2350, (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and dates of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (*e.g.,* copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2007 (72 FR 31160).

Signed at Washington, DC, on April 21, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–10494 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2009–0026]

Curtis-Strauss LLC: Application for Expansion of Recognition and Proposed Modification to the NRTL Program's List of Appropriate Test Standards

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: In this notice, OSHA announces the application of Curtis-Strauss LLC for expansion of its recognition as a Nationally Recognized Testing Laboratory (NRTL) and presents the Agency's preliminary finding to grant the application. Additionally, this notice proposes to add a new recognized testing standard to the NRTL Program's List of Appropriate Test Standards.

DATES: Submit comments, information, and documents in response to this notice, or requests for an extension of time to make a submission, on or before June 7, 2017.

ADDRESSES: Submit comments by any of the following methods:

1. *Electronically:* Submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for making electronic submissions.

2. *Facsimile:* If submissions, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

3. *Regular or express mail, hand delivery, or messenger (courier) service:* Submit comments, requests, and any attachments to the OSHA Docket Office, Docket No. OSHA–2009–0026, Technical Data Center, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3508, Washington, DC 20210; telephone: (202) 693–2350 (TTY number: (877) 889–5627). Note that security procedures may result in significant delays in receiving comments and other written materials by regular mail. Contact the OSHA Docket Office for information about security procedures concerning delivery of materials by express mail, hand delivery, or messenger service. The hours of operation for the OSHA Docket Office are 10:00 a.m.–2:30 p.m., e.t.

4. *Instructions:* All submissions must include the Agency name and the OSHA docket number (OSHA–2009–0026). OSHA places comments and other materials, including any personal information, in the public docket without revision, and these materials will be available online at *http://www.regulations.gov.* Therefore, the Agency cautions commenters about submitting statements they do not want made available to the public, or submitting comments that contain personal information (either about themselves or others) such as Social Security numbers, birth dates, and medical data.

5. *Docket:* To read or download submissions or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket are listed in the *http://www.regulations.gov* index; however, some information (*e.g.,* copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection at the OSHA Docket Office. Contact the OSHA Docket Office for assistance in locating docket submissions.

6. *Extension of comment period:* Submit requests for an extension of the comment period on or before June 7, 2017 to the Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210, or by fax to (202) 693–1644.

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3647, Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.francis2@dol.gov.*

General and technical information: Contact Mr. Kevin Robinson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N–3655, Washington, DC 20210; phone: (202) 693–2110 or email: *robinson.kevin@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Notice of the Application for Expansion

The Occupational Safety and Health Administration is providing notice that Curtis-Strauss LLC (CSL), is applying for expansion of its current recognition as an NRTL. CSL requests the addition of one test standard to its NRTL scope of recognition.

OSHA recognition of an NRTL signifies that the organization meets the requirements specified in 29 CFR 1910.7. Recognition is an acknowledgment that the organization can perform independent safety testing and certification of the specific products covered within its scope of recognition. Each NRTL's scope of recognition includes (1) the type of products the NRTL may test, with each type specified by its applicable test standard; and (2) the recognized site(s) that has/have the technical capability to perform the product-testing and product-certification activities for test standards within the NRTL's scope. Recognition is not a delegation or grant of government authority; however, recognition enables employers to use products approved by the NRTL to meet OSHA standards that require product testing and certification.

The Agency processes applications by an NRTL for initial recognition and for an expansion or renewal of this recognition, following requirements in Appendix A to 29 CFR 1910.7. This appendix requires that the Agency publish two notices in the **Federal Register** in processing an application. In the first notice, OSHA announces the application and provides its preliminary finding. In the second notice, the Agency provides its final decision on the application. These notices set forth the NRTL's scope of recognition or modifications of that scope. OSHA maintains an informational Web page for each NRTL, including CSL, which details the NRTL's scope of recognition. These pages are available from the OSHA Web site at *http://www.osha.gov/dts/otpca/nrtl/index.html.*

CSL currently has one facility (site) recognized by OSHA for product testing and certification, with its headquarters located at: Curtis-Strauss LLC, Littleton Distribution Center, One Distribution Center Circle, Suite #1, Littleton, MA 01460. A complete list of CSL's scope of recognition is available at *https://www.osha.gov/dts/otpca/nrtl/csl.html.*

II. General Background on the Application

CSL submitted an application on April 7, 2016 (OSHA–2009–0026–0072), to expand its recognition to include one

additional test standard. OSHA staff performed a detailed analysis of the application packet and reviewed other pertinent information. OSHA did not perform any on-site reviews in relation to this application.

Table 1 below lists the appropriate test standard found in CSL's application for expansion for testing and certification of products under the NRTL Program.

TABLE 1—PROPOSED LIST OF APPROPRIATE TEST STANDARD FOR INCLUSION IN CSL'S NRTL SCOPE OF RECOGNITION

Test standard	Test standard title
UL 61010–2–010	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.

III. Proposal To Add New Test Standards to the NRTL Program's List of Appropriate Test Standards

Periodically, OSHA will propose to add new test standards to the NRTL Program's List of Appropriate Test Standards following an evaluation of the test standard document. To qualify as an appropriate test standard, the Agency evaluates the document to (1) verify it represents a product category for which OSHA requires certification by an NRTL, (2) verify the document represents an end product and not a component, and (3) verify the document defines safety test specifications (not installation or operational performance specifications). OSHA becomes aware of new test standards through various avenues. For example, OSHA may become aware of new test standards to consider adding to the NRTL Program's List of Appropriate Standards by: (1) Monitoring notifications issued by certain SDOs; (2) reviewing applications by NRTLs or applicants seeking recognition to include a new test standard in their scopes of recognition; and (3) obtaining notification from manufacturers, manufacturing organizations, government agencies, or other parties. OSHA may determine to include a new test standard in the list, for example, if the test standard is for a particular type of product that another test standard also covers or it covers a type of product that no standard previously covered.

In this notice, OSHA proposes to add a new test standard to the NRTL Program's List of Appropriate Test Standards. Table 2, below, lists the test standard new to the NRTL Program. OSHA preliminarily determined that this test standard is an appropriate test standard and proposes to include this test standard in the NRTL Program's List of Appropriate Test Standards. OSHA seeks public comment on this preliminary determination.

TABLE 2—TEST STANDARD OSHA IS PROPOSING TO ADD TO THE NRTL PROGRAM'S LIST OF APPROPRIATE TEST STANDARDS

Test standard	Test standard title
UL 61010–2–010	Safety Requirements for Electrical Equipment for Measurement, Control and Laboratory Use—Part 2–010: Particular Requirements for Laboratory Equipment for the Heating of Materials.

IV. Preliminary Findings on the Application

CSL submitted an acceptable application for expansion of its scope of recognition. OSHA's review of the application file, and pertinent documentation, indicates that CSL can meet the requirements prescribed by 29 CFR 1910.7 for expanding its recognition to include the addition of this one test standard for NRTL testing and certification listed above. This preliminary finding does not constitute an interim or temporary approval of CSL's application.

OSHA welcomes public comment as to whether CSL meets the requirements of 29 CFR 1910.7 for expansion of its recognition as an NRTL. Comments should consist of pertinent written documents and exhibits. Commenters needing more time to comment must submit a request in writing, stating the reasons for the request. Commenters must submit the written request for an extension by the due date for comments. OSHA will limit any extension to 10 days unless the requester justifies a longer period. OSHA may deny a request for an extension if the request is not adequately justified. To obtain or review copies of the exhibits identified in this notice, as well as comments submitted to the docket, contact the Docket Office, Room N–3508, Occupational Safety and Health Administration, U.S. Department of Labor, at the above address. These materials also are available online at *http://www.regulations.gov* under Docket No. OSHA–2009–0026.

OSHA staff will review all comments to the docket submitted in a timely manner and, after addressing the issues raised by these comments, will recommend to the Assistant Secretary for Occupational Safety and Health whether to grant CSL's application for expansion of its scope of recognition. The Assistant Secretary will make the final decision on granting the application. In making this decision, the Assistant Secretary may undertake other proceedings prescribed in Appendix A to 29 CFR 1910.7.

OSHA will publish a public notice of its final decision in the **Federal Register**.

V. Authority and Signature

Dorothy Dougherty, Deputy Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue NW., Washington, DC 20210, authorized the preparation of this notice. Accordingly, the Agency is issuing this notice pursuant to 29 U.S.C. 657(g)(2), Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012), and 29 CFR 1910.7.

Signed at Washington, DC, on April 21, 2017.

Dorothy Dougherty,

Deputy Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2017–10493 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Wage and Hour Division

Agency Information Collection Activities; Comment Request; Information Collections: Requirements of a Bona Fide Thrift or Savings Plan (29 CFR Part 547) and Requirements of a Bona Fide Profit-Sharing Plan or Trust (29 CFR Part 549)

AGENCY: Wage and Hour Division, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Wage and Hour Division is soliciting comments concerning its proposal to extend Office of Management and Budget (OMB) approval of the Information Collection: Requirements of a Bona Fide Thrift or Savings Plan and Requirements of a Bona Fide Profit-Sharing Plan or Trust. A copy of the proposed information request may be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before July 24, 2017.

ADDRESSES: You may submit comments identified by Control Number 1235–0013, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for OMB approval of the information collection request.

FOR FURTHER INFORMATION CONTACT: Robert Waterman, Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

I. Background

Section 7(e)(3)(b) of the Fair Labor Standards Act permits the exclusion from an employee's regular rate of pay, payments on behalf of an employee to a ''bona fide'' thrift or savings plan, profit-sharing plan or trust. Regulations, 29 CFR parts 547 and 549 set forth the requirements for what constitutes a ''bona fide'' thrift or savings plan, profit-sharing plan or trust. The maintenance of the records required by the regulations enables Department of Labor investigators to determine whether contributions to a given thrift or savings plan, profit-sharing plan or trust may be excluded in calculating the regular rate of pay for overtime purposes in compliance with section 7(e)(3)(b) of the FLSA. Without these records, such a determination could not be made. This information collection is currently approved for use through February 2018.

II. Review Focus

The Department of Labor is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The DOL seeks an approval for the extension of this information collection that requires the keeping of records by employers as necessary or appropriate for the administration of the Act.

Type of Review: Extension without change of a currently approved collection.

Agency: Wage and Hour Division.

Title: Requirements of a Bona Fide Thrift or Savings Plan (29 CFR part 547) and Requirements of a Bona Fide Profit-Sharing Plan or Trust (29 CFR part 549).

OMB Control Number: 1235–0013.

Affected Public: Business or other for-profit, Not-for-profit institutions, Farms.

Total Respondents: 1,110,448.

Total Annual Responses: 1,110,448.

Estimated Total Burden Hours: 463.

Estimated Time per Response: 2 seconds.

Frequency: Annually.

Total Burden Cost (capital/startup): $0.

Total Burden Costs (operation/maintenance): $0.

Dated: May 5, 2017.

Melissa Smith,

Director, Division of Regulation, Legislation, and Interpretation.

[FR Doc. 2017–10492 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–27–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Proposed Extension of Existing Collection; Comment Request

AGENCY: Division of Federal Employees' Compensation, Office of Workers' Compensation Programs, Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in

the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Office of Workers' Compensation Programs is soliciting comments concerning the proposed collection: Notice of Recurrences (CA–2a). A copy of the proposed information collection request can be obtained by contacting the office listed below in the **ADDRESSES** section of this Notice.

DATES: Written comments must be submitted to the office listed in the addresses section below on or before July 24, 2017.

ADDRESSES: Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210, telephone/fax (202) 354–9647, Email *Ferguson.Yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

SUPPLEMENTARY INFORMATION:

I. Background

The Office of Workers' Compensation Programs administers the Federal Employees' Compensation Act (5 U.S.C. 8101, *et seq.*), which provides for continuation of pay or compensation for work related injuries or disease that result from federal employment. Regulation 20 CFR 10.104 designates form CA–2a as the form to be used to request information from claimants with previously-accepted injuries, who claim a recurrence of disability, and from their supervisors. The form requests information relating to the specific circumstances leading up to the recurrence as well as information about their employment and earnings.

The information provided is used by OWCP claims examiners to determine whether a claimant has sustained a recurrence of disability related to an accepted injury and, if so, the appropriate benefits payable. This information collection is currently approved for use through August 31, 2017.

II. Review Focus

The Department of Labor is particularly interested in comments which:

* Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

* evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

* enhance the quality, utility and clarity of the information to be collected; and

* minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

III. Current Actions

The Department of Labor seeks the approval for the extension of this currently approved information collection in order to ensure the accurate payment of benefits to current and former Federal employees with recurring work-related injuries.

Type of Review: Extension.

Agency: Office of Workers' Compensation Programs.

Title: Notice of Recurrences.

OMB Number: 1240–0009.

Agency Number: CA–2a.

Affected Public: Individuals or households.

Total Respondents: 289.

Total Annual Responses: 289.

Average Time per Response: 30 minutes.

Estimated Total Burden Hours: 145.

Frequency: Annually.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $134.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: April 28, 2017.

Yoon Ferguson,

Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.

[FR Doc. 2017–10491 Filed 5–22–17; 8:45 am]

BILLING CODE 4510–CH–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (17–026)]

Applied Sciences Advisory Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Applied Sciences Advisory Committee (ASAC). This Committee functions in an advisory capacity to the Director, Earth Science Division, in the NASA Science Mission Directorate. The meeting will be held for the purpose of soliciting, from the applied sciences community and other persons, scientific and technical information relevant to program planning.

DATES: Wednesday, June 7, 2017, 12:00 p.m.–3:00 p.m., Eastern Daylight Time (EDT).

FOR FURTHER INFORMATION CONTACT: Ms. KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public telephonically and via WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll free conference call number 1–888–677–3055 passcode 3321063 followed by the # sign, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/;* the meeting number is 993 697 679 and the password is SFAvDG?2.

The agenda for the meeting includes the following topics:

- Overview of 2017 Applied Sciences Program budget
- Continuity Study
- Applied Sciences Program Updates
- Update on Applied Sciences Program Communications

It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–10451 Filed 5–22–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (17–027)]

NASA Advisory Council Science Committee Ad Hoc Task Force on Big Data; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Ad Hoc Task Force on Big Data. This task force reports to the NASA Advisory Council's Science Committee. The meeting will be held for the purpose of soliciting and discussing, from the scientific community and other persons, scientific and technical information relevant to big data.

DATES: Thursday, June 22, 2017, 11:00 a.m.–6:00 p.m., and Friday, June 23, 2017, 11:00 a.m.–6:00 p.m., Eastern Daylight Time. (EDT).

FOR FURTHER INFORMATION CONTACT: Ms. Karshelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or *khenderson@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public telephonically and via WebEx. You must use a touch tone phone to participate in this meeting. Any interested person may call the USA toll free conference call number 1–888–324–9653 or toll number 1–312–470–7237, passcode 3883300 followed by the # sign, to participate in this meeting by telephone on both days. The WebEx link is *https://nasa.webex.com/;* the meeting number is 991 071 373 and the password is BDTFmtg#5 (case sensitive). The agenda for the meeting includes the following topics:

—NASA Data Science Program

—NASA Science Mission Directorate Data Archives Assessment

—NASA's Participation in Federal Big Data Initiatives

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2017–10499 Filed 5–22–17; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0120]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a.(2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly 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 biweekly notice includes all notices of amendments issued, or proposed to be issued, from April 25, 2017, to May 8, 2017. The last biweekly notice was published on May 9, 2017.

DATES: Comments must be filed by June 22, 2017. A request for a hearing must be filed by July 24, 2017.

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

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0120. 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: T–8–D36M, 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: Paula Blechman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2242, email: *Paula.Blechman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0120, 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–2017–0120.
- *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–2017–0120, 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. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), 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 in the **Federal Register** a notice of issuance. 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 which 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 24, 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 for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, 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's 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.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For

additional direction on obtaining information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station (CNS), Units 1 and 2, York County, South Carolina

Date of amendment request: December 15, 2016. A publicly-available version is in ADAMS under Accession No. ML16350A422.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.9.4, ''Residual Heat Removal (RHR) and Coolant Circulation—High Water Level,'' and TS 3.9.5, ''Residual Heat Removal (RHR) and Coolant Circulation—Low Water Level.'' Condition A of TS 3.9.4 applies when RHR requirements are not met, and includes four required actions. Required Action A.4 requires, within 4 hours, the closure of all containment penetrations providing direct access from containment atmosphere to outside atmosphere. The proposed changes revise Required Action A.4 and add new Required Actions A.5, A.6.1, and A.6.2 to clarify that the intent of the required actions is to establish containment closure. Each of these required actions will have a completion time of 4 hours. Condition B of TS 3.9.5 applies when no RHR loop is in operation, and includes three required actions. Required Action B.3 requires the closure of all containment penetrations providing direct access from containment atmosphere to outside atmosphere. The proposed changes are the same as the proposed changes to TS 3.9.4, consisting of a revision to Required Action B.3 and the addition of new Required Actions B.4, B.5.1, and B.5.2. These proposed changes are consistent with Technical Specification Task Force (TSTF) Traveler TSTF–197–A, Revision 2, ''Require Containment Closure When Shutdown Cooling Requirements Are Not Met.''

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 changes revise the CNS TS to ensure that the appropriate actions are taken to establish containment closure in the event that Residual Heat Removal requirements are not met during refueling operations. Containment closure would be appropriate for mitigation of a loss of shutdown cooling accident, but it does not affect the initiation of the accident. The containment purge system isolation valves will be capable of being closed automatically on a high containment radiation signal, such that there will be no significant increase in the radiological consequences of a loss of shutdown cooling.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The containment purge system isolation valves will remain capable of being closed automatically on a high containment radiation signal.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

Currently the Technical Specifications are vague and overly restrictive concerning the requirement for containment closure when shutdown cooling is lost. The proposed changes eliminate unclear requirements and provide a clear way to establish containment closure that meets the [TS] Bases description, which is to prevent radioactive gas from being released from the containment during a loss of shutdown cooling incident. The containment purge system isolation valves will remain capable of being closed automatically on a high containment radiation signal.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification 3.1.2, ''Core Reactivity,'' to revise the Completion Times of Required Action A.1 and A.2 from 72 hours to 7 days. This proposed change is consistent with Technical Specification Task Force (TSTF) Traveler TSTF–142–A, Revision 0, ''Increase the Completion Time when the Core Reactivity Balance is Not Within Limit.''

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 changes extend the Completion Time to take the Required Actions when measured core reactivity is not within the specified limit of the predicted values. The Completion Time to respond to a difference between predicted and measured core reactivity is not an initiator to any accident previously evaluated. The radiological consequences of an accident during the proposed Completion Time are no different from the consequences of an accident during the existing Completion Time.

Therefore, the proposed changes do not involved a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The changes do not alter the assumptions made in the safety analysis.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed changes provide additional time to investigate and to implement appropriate operating restrictions when

measured core reactivity is not within the specified limit of the predicted values. The additional time will not have a significant effect on plant safety due to the conservatisms used in designing the reactor core and performing the safety analyses, and the low probability of an accident or transient which would approach the core design limits during the additional time.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Corporation, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station (MNS), Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.9.5, ''Residual Heat Removal (RHR) and Coolant Circulation—High Water Level,'' and TS 3.9.6, ''Residual Heat Removal (RHR) and Coolant Circulation—Low Water Level.'' Condition A of TS 3.9.5 applies when RHR requirements are not met, and includes four required actions. Required Action A.4 requires, within 4 hours, the closure of all containment penetrations providing direct access from containment atmosphere to outside atmosphere. The proposed changes revise Required Action A.4 and add new Required Actions A.5, A.6.1, and A.6.2 to clarify that the intent of the required actions is to establish containment closure. Each of these required actions will have a completion time of 4 hours. Condition B of TS 3.9.6 applies when no RHR loop is in operation, and includes three required actions. Required Action B.3 requires the closure of all containment penetrations providing direct access from containment atmosphere to outside atmosphere. The proposed changes are the same as the proposed changes to TS 3.9.5, consisting of a revision to Required Action B.3 and the addition of new Required Actions B.4, B.5.1, and B.5.2. These proposed changes are consistent with Technical Specification Task Force (TSTF) Traveler TSTF–197–A, Revision 2, ''Require Containment Closure When Shutdown Cooling Requirements Are Not Met.''

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 changes revise the MNS TS to ensure that the appropriate actions are taken to establish containment closure in the event that Residual Heat Removal requirements are not met during refueling operations. Containment closure would be appropriate for mitigation of a loss of shutdown cooling accident, but it does not affect the initiation of the accident. The containment purge system isolation valves will be capable of being closed automatically on a high containment radiation signal, such that there will be no significant increase in the radiological consequences of a loss of shutdown cooling.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The containment purge system isolation valves will remain capable of being closed automatically on a high containment radiation signal.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

Currently the Technical Specifications are vague and overly restrictive concerning the requirement for containment closure when shutdown cooling is lost. The proposed changes eliminate unclear requirements and provide a clear way to establish containment closure that meets the [TS] Bases description, which is to prevent radioactive gas from being released from the containment during a loss of shutdown cooling incident. The containment purge system isolation valves will remain capable of being closed automatically on a high containment radiation signal.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station (MNS), Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.6.3, ''Containment Isolation Valves,'' to add a Note to TS Limiting Condition for Operation (LCO) 3.6.3 Required Actions A.2, C.2 and E.2 to allow isolation devices that are locked, sealed or otherwise secured to be verified by use of administrative means. This proposed change is consistent with Technical Specification Task Force (TSTF) Traveler TSTF–269–A, Revision 2, ''Allow Administrative Means of Position Verification for Locked or Sealed Valves.''

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 changes modify MNS TS 3.6.3, ''Containment Isolation Valves''. This TS currently includes actions that require penetrations to be isolated and periodically verified to be isolated. A Note is proposed to be added to TS 3.6.3 Required Actions A.2, C.2, and E.2, to allow isolation devices that are locked, sealed, or otherwise secured to be verified by use of administrative means. The proposed changes do not affect any plant equipment, test methods, or plant operation, and is not an initiator of any analyzed accident sequence. The inoperable containment penetrations will continue to be isolated, and hence perform their isolation

function. Operation in accordance with the proposed TSs will ensure that all analyzed accidents will continue to be mitigated as previously analyzed.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The changes do not alter the assumptions made in the safety analysis.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed changes will not affect the operation of plant equipment or the function of any equipment assumed in the accident analysis. Affected containment penetrations will continue to be isolated as required by the existing TS.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.8.1, ''AC [Alternating Current] Sources—Operating,'' to allow greater flexibility in performing Surveillance Requirements (SRs) by modifying Mode restriction notes in TS SRs 3.8.1.8, 3.8.1.11, 3.8.1.16, 3.8.1.17, and 3.8.1.19. This proposed change is consistent with Technical Specification Task Force (TSTF) Traveler TSTF–283–A, Revision 3, ''Modify Section 3.8 Mode Restriction Notes.''

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 changes modify Mode restriction Notes in TS SRs 3.8.1.8, 3.8.1.11, 3.8.1.16, 3.8.1.17, and 3.8.1.19 to allow performance of the Surveillance in whole or in part to reestablish Diesel Generator (DG) Operability, and to allow the crediting of unplanned events that satisfy the Surveillance(s) [Requirements]. The emergency diesel generators and their associated emergency loads are accident mitigating features, and are not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. To manage any increase in risk, the proposed changes require an assessment to verify that plant safety will be maintained or enhanced by performance of the Surveillance in the current prohibited Modes. The radiological consequences of an accident previously evaluated during the period that the DG is being tested to reestablish operability are no different from the radiological consequences of an accident previously evaluated while the DG is inoperable. As a result, the consequences of any accident previously evaluated are not increased.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The changes do not alter the assumptions made in the safety analysis.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

The purpose of Surveillances is to verify that equipment is capable of performing its assumed safety function. The proposed changes will only allow the performance of the Surveillances to reestablish operability, and the proposed changes may not be used to remove a DG from service. In addition, the proposed changes will potentially shorten the time that a DG is unavailable because testing to reestablish operability can be performed without a plant shutdown. The proposed changes also require an assessment to verify that plant safety will be maintained or enhanced by performance of the Surveillance in the current prohibited Modes.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.4.12, ''Low Temperature Overpressure Protection (LTOP) System,'' to increase the time allowed for swapping charging pumps to 1 hour. Additionally, an existing note in the Applicability section of TS 3.4.12 is being reworded and relocated to the Limiting Condition for Operation section of TS 3.4.12 as Note 2. These proposed changes are consistent with Technical Specification Task Force (TSTF) Traveler TSTF–285–A, Revision 1, ''Charging Pump Swap LTOP Allowance.''

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 changes increase the time allowed for swapping charging pumps from 15 minutes to one hour, and make several other associated administrative changes and clarifications to the TS. These changes do not affect event initiators or precursors. Thus, the proposed changes do not involve a

significant increase in the probability of an accident previously evaluated. In addition, the proposed changes do not alter any assumptions previously made in the radiological consequence evaluations nor affect mitigation of the radiological consequences of an accident described in the Updated Final Safety Analysis Report (UFSAR). As such, the consequences of accidents previously evaluated in the UFSAR will not be increased and no additional radiological source terms are generated. Therefore, there will be no reduction in the capability of those structures, systems, and components (SSCs) in limiting the radiological consequences of previously evaluated accidents, and reasonable assurance that there is no undue risk to the health and safety of the public will continue to be provided. Thus, the proposed changes do not involve a significant increase in the consequences of an accident previously evaluated.

Therefore, the proposed changes do 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 changes do not involve physical changes to analyzed SSCs or changes to the modes of plant operation defined in the technical specification. The proposed changes do not involve the addition or modification of plant equipment (no new or different type of equipment will be installed) nor do they alter the design or operation of any plant systems. No new accident scenarios, accident or transient initiators or precursors, failure mechanisms, or limiting single failures are introduced as a result of the proposed changes. The proposed changes do not cause the malfunction of safety-related equipment assumed to be operable in accident analyses. No new or different mode of failure has been created and no new or different equipment performance requirements are imposed for accident mitigation. As such, the proposed changes have no effect on previously evaluated accidents.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed changes do not adversely affect any current plant safety margins or the reliability of the equipment assumed in the safety analysis. Therefore, there are no changes being made to any safety analysis assumptions, safety limits or limiting safety system settings that would adversely affect plant safety as a result of the proposed changes.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.1.8, ''PHYSICS TESTS Exceptions,'' to allow the numbers of channels required by the Limiting Condition for Operation (LCO) section of TS 3.3.1, ''Reactor Trip System (RTS) Instrumentation,'' to be reduced from ''4'' to ''3'' to allow one nuclear instrumentation channel to be used as an input to the reactivity computer for physics testing without placing the nuclear instrumentation channel in a tripped condition. This proposed change is consistent with Technical Specification Task Force (TSTF) Traveler TSTF–315–A, Revision 0, ''Reduce Plant Trips Due to Spurious Signals to the Nuclear Instrumentation System (NIS) During Physics Testing.''

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 changes revise TS 3.1.8, ''PHYSICS TESTS Exceptions,'' to allow the number of channels required by LCO 3.3.1, ''RTS Instrumentation,'' to be reduced from ''4'' to ''3'', to allow one nuclear instrumentation channel to be used as an input to the reactivity computer for physics testing without placing the nuclear instrumentation channel in a tripped condition. A reduction in the number of required nuclear instrumentation channels is not an initiator to any accident previously evaluated. With the nuclear instrumentation channel placed in bypass instead of in trip, reactor protection is still provided by the nuclear instrumentation system operating in a two-out-of-three channel logic. As a result, the ability to mitigate any accident previously evaluated is not significantly affected. The proposed changes will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The changes do not alter the assumptions made in the safety analysis.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed changes reduce the probability of a spurious reactor trip during physics testing. The reactor trip system continues to be capable of protecting the reactor utilizing the power range neutron flux trips operating in a two-out-of-three trip logic. As a result, the reactor is protected and the probability of a spurious reactor trip is significantly reduced.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.7.5, ''Auxiliary Feedwater (AFW) System,'' to expand the TS 3.7.5 Limiting

Condition for Operation, Condition A to include the situation when one turbine driven AFW pump is operable in MODE 3, immediately following a refueling outage (if MODE 2 has not been entered), with a 7-day Completion Time. This proposed change is consistent with Technical Specification Task Force (TSTF) Traveler TSTF–340–A, Revision 3, ''Allow 7 Day Completion Time for a Turbine-Driven AFW Pump Inoperable.''

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 changes revise TS 3.7.5, ''Auxiliary Feedwater (AFW) System,'' to allow a 7 day Completion Time to restore an inoperable AFW turbine-driven pump in MODE 3 immediately following a refueling outage, if MODE 2 has not been entered. An inoperable AFW turbine-driven pump is not an initiator of any accident previously evaluated. The ability of the plant to mitigate an accident is no different while in the extended Completion Time than during the existing Completion Time. The proposed changes will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The changes do not alter the assumptions made in the safety analysis.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed changes revise TS 3.7.5, ''Auxiliary Feedwater (AFW) System,'' to allow a 7 day Completion Time to restore an inoperable turbine-driven AFW pump in Mode 3, immediately following a refueling outage, if Mode 2 has not been entered. In Mode 3 immediately following a refueling outage, core decay heat is low and the need for AFW is also diminished. The two operable motor driven AFW pumps are available and there are alternate means of decay heat removal if needed. As a result, the risk presented by the extended Completion Time is minimal.

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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station (MNS), Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.4.10, ''Pressurizer Safety Valves,'' TS 3.4.12, ''Low Temperature Overpressure Protection (LTOP) System,'' and TS 3.7.4, ''Steam Generator Power Operated Relief Valves (SG PORVs),'' to revise the Completion Times for Limiting Condition for Operation (LCO) 3.4.10 Required Action B.2, and LCO 3.7.4 Required Action C.2 from 12 to 24 hours and LCO 3.4.12 Required Action G.1 from 8 to 12 hours. The proposed changes are consistent with Technical Specification Task Force (TSTF) Traveler TSTF–352–A, Revision 1, ''Provide Consistent Completion Time to Reach MODE 4.''

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 changes allow a more reasonable time to plan and execute required actions, and will not adversely affect accident initiators or precursors nor alter the design assumptions, conditions, and configuration of the facility or the manner in which the plant is operated and maintained. The proposed changes will not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended functions to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not physically alter safety-related systems nor affect the way in which safety-related systems perform their functions. All accident analysis acceptance criteria will continue to be met with the proposed changes. The proposed changes will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. The proposed changes will not alter any assumptions or change any mitigation actions in the radiological consequence evaluations in the MNS Updated Final Safety Analysis Report (UFSAR). The applicable radiological dose acceptance criteria will continue to be met.

Therefore, the proposed changes do 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.

There are no proposed design changes nor are there any changes in the method by which any safety-related plant SSC performs its safety function. The proposed changes will not affect the normal method of plant operation or change any operating parameters. No equipment performance requirements will be affected. The proposed changes will not alter any assumptions made in the safety analyses.

No new accident scenarios, transient precursors, failure mechanisms, or limiting single failures will be introduced as a result of this amendment. There will be no adverse effect or challenges imposed on any safety-related system as a result of this amendment.

Therefore, the proposed changes do not create the possibility of a new or different accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their intended functions. These barriers include the fuel cladding, the reactor coolant system pressure boundary, and the containment barriers. The proposed changes will not have any impact on these barriers. No accident mitigating equipment will be adversely impacted.

Therefore, existing safety margins will be preserved. None of the proposed changes will 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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station (MNS), Units 1 and 2, Mecklenburg County, North Carolina

Date of amendment request: January 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17025A069.

Description of amendment request: The amendments would modify Technical Specification (TS) 3.9.6, ''Residual Heat Removal (RHR) and Coolant Circulation—Low Water Level,'' to add Note 1 to the Limiting Condition for Operation (LCO) Section of TS 3.9.6 to allow the securing of the operating train of RHR for up to 15 minutes to support switching operating trains. The allowance is restricted to three conditions: (a) The core outlet temperature is maintained greater than 10 degrees Fahrenheit below saturation temperature; (b) no operations are permitted that would cause an introduction of coolant into the Reactor Coolant System (RCS) with boron concentration less than that required to meet the minimum required boron concentration of LCO 3.9.1; and (c) no draining operations to further reduce RCS water volume are permitted. Additionally, the amendments would modify the LCO Section of TS 3.9.6 to add Note 2 which would allow one required RHR loop to be inoperable for up to 2 hours for surveillance testing, provided that the other RHR loop is operable and in operation. These proposed changes are consistent with Technical Specification Task Force (TSTF) Travelers TSTF–349–A, Revision 1, ''Add Note to LCO 3.9.5 Allowing Shutdown Cooling Loops Removal from Operation,'' TSTF–361–A, Revision 2, ''Allow Standby SDC [Shutdown Cooling]/RHR/DHR [Decay Heat Removal] Loop to be Inoperable to Support Testing,'' and TSTF–438–A, Revision 0, ''Clarify Exception Notes to be Consistent with the Requirement Being Excepted.''

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 changes add two notes to MNS TS LCO 3.9.6. Note 1 would allow securing the operating train of Residual Heat Removal (RHR) for up to 15 minutes to support switching operating trains, subject to certain restrictions. Note 2 to would allow one RHR loop to be inoperable for up to 2 hours for surveillance testing provided the other RHR loop is Operable and in operation. These provisions are operational allowances. Neither operational allowance is an initiator to any accident previously evaluated. In addition, the proposed changes will not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of any accident previously evaluated.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of any 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 changes do not involve a physical alteration to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the methods governing normal plant operation. The changes do not alter the assumptions made in the safety analysis.

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 amendment involve a significant reduction in the margin of safety?

Response: No.

An operational allowance is proposed which would allow securing the operating train of RHR for up to 15 minutes to support switching operating trains, subject to certain restrictions. Considering these restrictions, combined with the short time frame allowed to swap operating RHR trains, and the ability to start an operating RHR train, if needed, the occurrence of an event that would require immediate operation of an RHR train is extremely remote.

An operational allowance is also proposed which would allow one RHR loop to be inoperable for up to 2 hours for surveillance testing provided the other RHR loop is operable and in operation. A similar allowance currently appears in MNS TS 3.4.7, ''Reactor Coolant System (RCS) Loops—MODE 5, Loops Filled,'' and MNS TS 3.4.8, ''RCS Loops—MODE 5, Loops Not Filled,'' and the conditions under which the operational allowance would be applied in TS 3.9.6 are not significantly different from those specifications. This operational allowance provides the flexibility to perform surveillance testing, while ensuring that there is reasonable time for operators to respond to and mitigate any expected failures. The purpose of the RHR System is to remove decay and sensible heat from the Reactor Coolant System, to provide mixing of borated coolant, and to prevent boron stratification. Removal of system components from service as described above, and with limitations in place to maintain the ability of the RHR System to perform its safety function, does not significantly impact the margin of safety. Operators will continue to have adequate time to respond to any off-normal events. Removing the system from service, for a limited period of time, with other operational restrictions, limits the consequences to those already assumed in the Updated Final Safety Analysis Report (UFSAR).

Therefore, the proposed changes do not involve a significant reduction in the 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: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A, Charlotte, NC 28202–1802.

NRC Branch Chief: Michael T. Markley.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant (PNP), Van Buren County, Michigan

Date of amendment request: March 30, 2017. A publicly-available version is in ADAMS under Accession No. ML17089A380.

Description of amendment request: The proposed amendment would revise the PNP Cyber Security Plan (CSP) Milestone 8 full implementation date from December 15, 2017, to May 31, 2020. This amendment request is in support of PNP's transition, starting on October 1, 2018, from an operating power plant to a decommissioned plant.

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 to the CSP implementation schedule is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any

plant modifications which affect the performance capability of the structures, system, and components relied upon to mitigate the consequences of postulated accidents, and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does 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 to the CSP implementation schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does 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.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed changes to the CSP implementation schedule is administrative in nature. In addition, the milestone date delay for full implementation of the CSP has no substantive impact because other measures have been taken which provide adequate protection during this period of time. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change 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: Jeanne Cho, Senior Counsel, Entergy Services, Inc., 440 Hamilton Ave., White Plains, NY 10601.

NRC Branch Chief: David J. Wrona.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: March 30, 2017. A publicly-available version is in ADAMS under Accession No. ML17101A608.

Description of amendment request: The amendment would revise the renewed facility operating license Paragraph 3.G, ''Physical Protection.'' The amendment would revise the Pilgrim Nuclear Power Station Cyber Security Plan (CSP) implementation schedule for Milestone 8 full implementation date from December 15, 2017, to December 31, 2020.

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 change to the CSP implementation schedule is administrative in nature. The change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents, and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does 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 change to the CSP implementation schedule is administrative in nature. The proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents, and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the CSP implementation schedule is administrative in nature. In addition, the milestone date delay for full implementation of the CSP has no substantive impact because other measures have been taken which provide adequate protection during this period of time. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Douglas A. Broaddus.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc. (the licensees), Docket Nos. 50–416 and 72–50, Grand Gulf Nuclear Station, Unit 1 (Grand Gulf), and Independent Spent Fuel Storage Installation (ISFSI), Claiborne County, Mississippi

Date of amendment request: March 29, 2017. A publicly-available version is in ADAMS under Accession No. ML17093A729.

Description of amendment request: The proposed amendment would make an administrative change to the name of South Mississippi Electric Power Association, one of the licensees for Grand Gulf and its ISFSI. Effective November 10, 2016, South Mississippi Electric Power Association changed its corporate name from ''South Mississippi Electric Power Association'' to ''Cooperative Energy, a Mississippi Electric Cooperative.'' The corporate name was changed for commercial reasons. The changes proposed herein to the Grand Gulf operating license solely reflects the changed licensee name. This name change is purely administrative in nature. This request does not involve a transfer of control or of an interest in the license.

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. Do the proposed changes ''involve a significant increase in the probability or consequences of an accident previously evaluated''?

Response: No.

The proposed amendments simply change the name of a licensee. The name change is purely administrative. None of the functions or responsibility of any of the Grand Gulf licensees will change as a result of the amendments. The proposed amendments do not alter the design, function, or operation of any plant equipment. As such, the accident and transient analyses contained in the facility updated final safety analysis report will not be affected.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Do the proposed changes ''create the possibility of a new or different kind of accident from any accident previously evaluated''?

Response: No.

The proposed amendments simply change the name of a licensee. The proposed name change is purely administrative. None of the functions or responsibility of any of the Grand Gulf licensees will change as a result of the amendments. The proposed amendments do not alter the design, function, or operation of any plant equipment. As such, the accident and transient analyses contained in the facility updated final safety analysis report will not be affected.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Do the proposed changes ''involve a significant reduction in the margin of safety''?

Response: No.

The proposed amendments simply change the name of a licensee. The name change is purely administrative. None of the functions or responsibility of any of the Grand Gulf licensees will change as a result of the amendments. The proposed amendments do not alter the design, function, or operation of any plant equipment. As such, the accident and transient analyses contained in the facility updated final safety analysis report will not be affected.

Therefore, the proposed changes do not involve a significant reduction in the 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: William B. Glew, Jr., Associate General Counsel—Entergy Services, Inc., 440 Hamilton Avenue, White Plains, New York 10601.

NRC Branch Chief: Robert J. Pascarelli.

Entergy Operations, Inc., System Energy Resources, Inc., South Mississippi Electric Power Association, and Entergy Mississippi, Inc., Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1 (GGNS), Claiborne County, Mississippi

Date of amendment request: December 29, 2016. A publicly-available version is in ADAMS under Accession No. ML16364A338.

Description of amendment request: The proposed amendment would revise the Technical Specifications (TSs) for GGNS. The amendment would allow for a one cycle extension to the 10-year frequency of the GGNS containment integrated leakage rate test (ILRT) or Type A test and the drywell bypass leak rate test (DWBT). These tests are required by TS 5.5.12, ''10 CFR part 50, Appendix J [Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors], Testing Program,'' and TS Surveillance Requirement 3.6.5.1.1, respectively. The proposed change would permit the existing ILRT and DWBT frequency to be extended from 10 years to 11.5 years.

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, with NRC edits in [brackets]:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment to the Technical Specifications (TS) involves the extension of the Grand Gulf Nuclear Station, Unit 1 (GGNS) Type A integrated leakage rate test and the drywell bypass leakage rate test intervals to 11.5 years.

The proposed extension does not involve either a physical change to the plant or a change in the manner in which the plant is operated or controlled. The containment is designed to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. Type B and C testing ensures that individual containment isolation valves are essentially leak tight. In addition, aggregate Type B and C leakage rates support the leakage tightness of primary containment by minimizing potential leakage paths. The assessment of the [leak-tightness] of the drywell will continue to be performed at least once each operating cycle. The proposed amendment will not change the leakage rate acceptance requirements. As such, the containment will continue to perform its design function as a barrier to fission product releases. In addition, the containment and the testing requirements invoked to periodically demonstrate the integrity of the containment and the assessment of the [leak-tightness] of the drywell exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve the prevention or identification of any precursors of an accident. Therefore, this proposed extension does not involve a significant increase in the probability of an accident previously evaluated.

Therefore, the proposed change does not result in 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 amendment to the Technical Specifications (TS) involves the extension of the Grand Gulf Nuclear Station, Unit 1 (GGNS) Type A integrated leakage rate test and the drywell bypass leakage rate test intervals to 11.5 years. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in the margin of safety?

Response: No.

The proposed amendment to the Technical Specifications (TS) involves the extension of the Grand Gulf Nuclear Station, Unit 1 (GGNS) Type A integrated leakage rate test and the drywell bypass leakage rate test intervals to 11.5 years. This amendment does not alter the manner in which safety limits, limiting safety system set points, or limiting conditions for operation are determined. The specific requirements and conditions of the TS 10 CFR part 50, Appendix J, Testing Program for containment leak rate testing exist to ensure that the degree of containment structural integrity and leak-tightness that is considered in the plant safety analysis is maintained. The overall containment leak rate limit specified by TS is maintained.

The proposed change involves the extension of the interval for only the Type A containment leakage rate test and the drywell bypass leakage rate test for GGNS. The proposed surveillance interval extension is bounded by the 15-year Type A test interval currently authorized within NEI 94–01, Revision 3–A. The design, operation, testing methods, and acceptance criteria for Types A, B, and C containment leakage tests specified in applicable codes and standards would continue to be met with the

acceptance of this proposed change, since these are not affected by the proposed changes to the Type A test interval. In addition to the scheduled performance of DWBT GGNS will continue to monitor the drywell for significant leakage during operation.

Therefore, the proposed change 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: William B. Glew, Jr., Associate General Counsel—Entergy Services, Inc., 440 Hamilton Avenue, White Plains, New York 10601.

NRC Branch Chief: Robert J. Pascarelli.

Exelon Generation Company, LLC, Docket No. 50–219, Oyster Creek Nuclear Generating Station (OCNGS), Ocean County, New Jersey

Date of amendment request: April 10, 2017. A publicly-available version is available in ADAMS under Accession No. ML17100A844.

Description of amendment request: The amendment would revise the OCNGS Cyber Security Plan (CSP) Milestone 8 (MS8) full implementation completion date, as set forth in the CSP implementation schedule, and revise the physical protection license condition in the renewed facility operating license. The licensee proposes to revise the CSP MS8 completion date from December 31, 2017, to August 31, 2021.

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. The NRC staff has reviewed the licensee's analysis against the standards of 10 CFR 50.92(c). The NRC staff's review 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 amendment request proposes a change to the OCNGS CSP MS8 completion date as set forth in the CSP implementation schedule and associated regulatory commitments. The NRC staff has concluded that the proposed change: (1) Does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected; (2) does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents; and (3) has no impact on the probability or consequences of an accident previously evaluated. In addition, the NRC staff has concluded that the proposed change to the CSP implementation schedule is administrative in nature.

Therefore, the proposed change 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 NRC staff has concluded the proposed change: (1) Does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected; and (2) does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated. In addition, the NRC staff has concluded that the proposed change to the OCNGS CSP MS8 implementation schedule is administrative in nature.

Therefore, the proposed change 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.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The delay of the full implementation date for the OCNGS CSP MS8 has no substantive impact because other measures have been taken which provide adequate protection for the plant during this period of time. Therefore, the NRC staff has concluded that there is no significant reduction in a margin of safety. In addition, the NRC staff has concluded that the proposed change to the OCNGS CSP MS8 implementation schedule is administrative in nature.

Therefore, the proposed change does not involve a significant reduction in the margin of safety.

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 Road, Warrenville, IL 60555.

NRC Branch Chief: Douglas A. Broaddus.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units 1 and 2, Berrien County, Michigan

Date of amendment request: March 24, 2017. A publicly-available version is in ADAMS under Accession No. ML17087A012.

Description of amendment request: The proposed changes would modify Technical Specifications (TS) Section 3.7.2, ''Steam Generator Stop Valves (SGSVs),'' to incorporate the SGSV actuator trains into the Limiting Condition for Operation and provide associated Conditions and Required Actions. In addition, Surveillance Requirement (SR) 3.7.2.2 would be revised to clearly identify that the SGSV actuator trains are required to be tested in accordance with the SR.

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 changes provide requirements for SGSVs that have dual actuators which receive signals from separate instrumentation trains. The design and functional performance requirements, operational characteristics, and reliability of the SGSVs and actuator trains are unchanged. There is no impact on the design safety function of the SGSVs to close (as an accident mitigator), nor is there any change with respect to inadvertent closure of an SGSV (as a potential transient initiator). Since no failure mode or initiating condition that could cause an accident (including any plant transient) is created or affected, the change cannot involve a significant increase in the probability of an accident previously evaluated.

With regard to the consequences of an accident and the equipment required for mitigation of the accident, the proposed changes involve no design or physical changes to the SGSVs or any other equipment required for accident mitigation. With respect to SGSV actuator train Completion Times, the consequences of an accident are independent of equipment Completion Times as long as adequate equipment availability is maintained. The proposed SGSV actuator Completion Times take into account the redundancy of the actuator trains and are limited in extent consistent with other Completion Times specified in the TS. Adequate equipment availability would therefore continue to be required by the TS. On this basis, the consequences of applicable, analyzed accidents are not significantly affected by the proposed changes.

Therefore, the proposed changes do 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 changes to incorporate requirements for the SGSV actuator trains in TS 3.7.2 do not involve any design or physical changes to the facility, including the SGSVs and actuator trains themselves. No physical alteration of the plant is involved, as no new or different type of equipment is to be installed. The proposed changes do not alter any assumptions made in the safety analyses, nor do they involve any changes to plant procedures for ensuring that the plant is operated within analyzed limits. As such, no new failure modes or mechanisms that could cause a new or different kind of accident from any previously evaluated are being introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes to incorporate requirements for the SGSV actuator trains do not alter the manner in which safety limits or limiting safety system settings are determined. No changes to instrument/system actuation setpoints are involved. The safety analysis acceptance criteria are not affected by this change and the proposed changes will not permit plant operation in a configuration outside the design basis.

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: Robert B. Haemer, Senior Nuclear Counsel, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: David J. Wrona.

NextEra Energy Duane Arnold, LLC, Docket No. 50–331, Duane Arnold Energy Center (DAEC), Linn County, Iowa

Date of amendment request: March 24, 2017. A publicly-available version is in ADAMS under Accession No. ML17086A442.

Description of amendment request: The proposed change would relocate cycle specific minimum critical power ratio (MCPR) values to the DAEC core operating limits report (COLR). The proposed amendment would revise the DAEC technical specifications (TS) to modify TS Table 3.3.2.1–1, ''Control Rod Block Instrumentation,'' Footnotes (a) through (e), and would relocate cycle specific MCPR values previously specified in TS Table 3.3.2.1–1, Footnotes (a) through (e) to TS 5.6.5(a)(4) by reference to the DAEC COLR.

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 change is an administrative change that does not affect any plant systems, structures, or components designed for the prevention or mitigation of previously evaluated accidents. No new equipment is added nor is installed equipment being changed or operated in a different manner.

Relocation of the Control Rod Block Instrumentation MCPR values to the COLR has no influence or impact on, nor does it contribute in any way to the probability or consequences of transients or accidents. The COLR will continue to be controlled by the NextEra programs and procedures that comply with TS 5.6.5. Transient analyses addressed in the Final Safety Analysis Report will continue to be performed in the same manner with respect to changes in the cycle-dependent parameters obtained from the use of NRC-approved reload design methodologies, which ensures that the transient evaluation of new reloads are bounded by previously accepted analyses.

Therefore, the proposed TS change does not involve an increase in the probability or consequences of a previously evaluated accident.

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 administrative change does not involve any changes to the operation, testing, or maintenance of any safety-related, or otherwise important to safety systems. All systems important to safety will continue to be operated and maintained within their design bases. Relocation of the Control Rod Block Instrumentation MCPR values to the COLR has no influence or impact on new or different kind of accidents.

Therefore, the proposed change does 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 margin of safety is not affected by the relocation of cycle-specific Control Rod Block Instrumentation MCPR values from the TS to the COLR. Appropriate measures exist to control the values of these cycle-specific limits since it is required by TS that only NRC-approved methods be used to determine the limits. The proposed change continues to require operation within the core thermal limits as obtained from NRC-approved reload design methodologies and the actions to be taken if a limit is exceeded remain unchanged, again, in accordance with existing TS.

Therefore, the proposed change has no impact to the 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: William Blair, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: David J. Wrona.

NextEra Energy Seabrook, LLC, Docket No. 50–443, Seabrook Station, Unit No. 1, Rockingham County, New Hampshire

Florida Power & Light Company, et al., Docket Nos. 50–335 and 50–389, St. Lucie Plant, Unit Nos. 1 and 2, St. Lucie County, Florida

Date of amendment request: March 30, 2017. A publicly-available version is in ADAMS under Accession No. ML17093A688.

Description of amendment request: The amendments would revise technical specification requirements to operate ventilation systems with charcoal filters from 10 hours to 15 minutes in accordance with Technical Specifications Task Force (TSTF) Traveler TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours per Month.''

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 change replaces an existing Surveillance Requirement to operate the CREMAFS [Control Room Emergency Makeup Air and Filtration System], FSBEACS [Fuel Storage Building Emergency Air Cleaning System], and SBVS [Shield Building Ventilation System] equipped with electric heaters for at least a continuous 10-hour period in accordance with the SFCP [Surveillance Frequency Control Program] with a requirement to operate the systems for 15 continuous minutes with heaters operating.

These systems are not accident initiators and therefore, these changes do not involve a significant increase in the probability of an accident. The proposed system and filter testing changes are consistent with current regulatory guidance for these systems and will continue to assure that these systems perform their design function which may include mitigating accidents. Thus, the change does not involve a significant increase in the consequences of an accident.

Therefore, it is concluded that this change does 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 change replaces an existing Surveillance Requirement to operate the CREMAFS, FSBEACS, and SBVS equipped with electric heaters for at least a continuous 10-hour period in accordance with the SFCP with a requirement to operate the systems for 15 continuous minutes with heaters operating.

The change proposed for these ventilation systems does not change any system operations or maintenance activities. Testing requirements will be revised and will continue to demonstrate that the Limiting Conditions for Operation are met and the system components are capable of performing their intended safety functions. The change does not create new failure modes or mechanisms and no new accident precursors are generated.

Therefore, it is concluded that this change does 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 change replaces an existing Surveillance Requirement to operate the CREMAFS, FSBEACS, and SBVS equipped with electric heaters for at least a continuous 10-hour period in accordance with the SFCP with a requirement to operate the systems for 15 continuous minutes with heaters operating.

The design basis for the ventilation systems' heaters is to heat the incoming air which reduces the relative humidity. The heater testing change proposed will continue to demonstrate that the heaters are capable of heating the air and will perform their design function. The proposed change is consistent with regulatory guidance.

Therefore, it is concluded that this change 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: William Blair, Managing Attorney—Nuclear, Florida Power & Light Company, P.O. Box 14000, Juno Beach, FL 33408–0420.

NRC Branch Chief: James G. Danna.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2 (PINGP), Goodhue County, Minnesota

Date of amendment request: March 29, 2017. A publicly-available version is in ADAMS under Accession No. ML17094A565.

Brief description of amendment request: The proposed amendments would revise the current emergency action levels (EAL) scheme used at PINGP to the EAL scheme contained in NEI 99–01, Revision 6, ''Development of Emergency Action Levels.''

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 change to the PINGP EAL scheme does not impact the physical function of plant structures, systems or components (SSC) or the manner in which the SSCs perform their design function. The proposed change neither adversely affects accident initiators or precursors, nor alters design assumptions. Therefore, the proposed change does not alter or prevent the ability of SSCs to perform their intended function to mitigate the consequences of an event. The Emergency Plan, including the associated EALs, is implemented when an event occurs and cannot increase the probability of an accident. Further, the proposed change does not reduce the effectiveness of the Emergency Plan to meet the emergency planning requirements established in 10 CFR 50.47 and 10 CFR part 50, Appendix E.

Therefore, the proposed EAL scheme change does 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 change does not involve any physical alteration to the plant, that is, no new or different type of equipment will be installed. The proposed change also does not change the method of plant operation and does not alter assumptions made in the safety analysis. Therefore, the proposed change will not create new failure modes or mechanisms that could result in a new or different kind of accident. The emergency plan, including the associated EAL scheme, is implemented when an event occurs and is not an accident initiator.

Therefore, the proposed EAL scheme change does 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 provided by the ability of accident mitigation SCCs to perform at their analyzed capability. The change proposed in this license amendment request does not modify any plant equipment and there is no impact to the capability of the equipment to perform its intended accident mitigation function. The proposed change does not impact operation of the plant or its response to transients or accidents. Additionally, the proposed changes will not change any criteria used to establish safety limits or any safety system settings. The applicable requirements of 10 CFR 50.47 and 10 CFR part 50, Appendix E will continue to be met.

Therefore, the proposed EAL scheme change 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 requests involve no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David J. Wrona.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: March 27, 2017, as supplemented by letter dated April 28, 2017. Publicly-available versions are in ADAMS under Accession Nos. ML17086A364 and ML17118A092, respectively.

Description of amendment request: The amendment would amend the Hope Creek Generating Station (Hope Creek) Technical Specifications (TSs) to revise and relocate the pressure-temperature (P–T) limit curves to a licensee-controlled pressure and temperature limits report (PTLR). The request was submitted in accordance with guidance provided in NRC Generic Letter 96–03, ''Relocation of the Pressure Temperature Limit Curves and Low Temperature Overpressure Protections System Limits,'' dated January 31, 1996.

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 license amendment adopts the NRC approved methodology described in Boiling Water Reactor Owner's Group (BWROG) Licensing Topical Report (LTR) (BWROG–TP–11–022–A, SIR–05–044), ''Pressure Temperature Limits Report Methodology for Boiling Water Reactors.'' The Hope Creek PTLR was developed based on the methodology and template provided in the BWROG LTR.

10 CFR part 50, Appendix G establishes requirements to protect the integrity of the reactor coolant pressure boundary (RCPB) in nuclear power plants.

Implementing this NRC approved methodology does not reduce the ability to protect the RCPB as specified in Appendix G, nor will this change increase the probability of malfunction of plant equipment, or the failure of plant structures, systems, or components. Incorporation of the new methodology for calculating P–T curves, and the relocation of the P–T curves from the TS to the PTLR provides an equivalent level of assurance that the RCPB is capable of performing its intended safety functions.

The proposed changes do not adversely affect accident initiators or precursors, and do not alter the design assumptions, conditions, or configuration of the plant or the manner in which the plant is operated and maintained. The ability of structures, systems, and components to perform their intended safety functions is not altered or prevented by the proposed changes, and the assumptions used in determining the radiological consequences of previously evaluated accidents are not affected.

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 change in methodology for calculating P–T limits and the relocation of those limits to the PTLR do not alter or involve any design basis accident initiators. RCPB integrity will continue to be maintained in accordance with 10 CFR part 50, Appendix G, and the assumed accident performance of plant structures, systems and components will not be affected. The proposed changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed), and the installed equipment is not being operated in a new or different manner.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not affect the function of the RCPB or its response during plant transients. Calculating the Hope Creek P–T limits using the NRC approved SI methodology ensures adequate margins of safety relating to RCPB integrity are maintained. The proposed changes do not alter the manner in which the Limiting Conditions for Operation P–T limits for the RCPB are determined. There are no changes to the setpoints at which protective actions are initiated, and the operability requirements for equipment assumed to operate for accident mitigation are not affected.

Therefore, it is concluded that the proposed change 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: Jeffrie J. Keenan, PSEG Nuclear LLC—N21, P.O. Box 236, Hancocks Bridge, NJ 08038.

NRC Branch Chief: James G. Danna.

South Carolina Electric & Gas Company, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station, Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: April 12, 2017. A publicly-available version is in ADAMS under Accession No. ML17102B032.

Description of amendment request: The requested amendment proposes changes to combined license (COL) Appendix C (and plant-specific Tier 1) and Updated Final Safety Analysis Report (UFSAR) Tier 2 that describe: (1) The inspection and analysis of, and specifies the maximum calculated flow resistance acceptance criteria for, the fourth-stage automatic depressurization system loops; (2) revises licensing basis text in COL Appendix C (and plant-specific Tier 1) and UFSAR Tier 2 that describes the testing of, and specifies the allowable flow resistance acceptance criteria for, the in-containment refueling water storage tank (IRWST) injection line; (3) revises licensing basis text in COL Appendix C (and plant-specific Tier 1) and UFSAR Tier 2 that describes the testing of, and specifies the maximum flow resistance acceptance criteria for, the containment recirculation line; (4) revises licensing basis text in COL Appendix C (and plant-specific Tier 1) and UFSAR Tier 2 that specifies acceptance criteria for the maximum flow resistance between the IRWST drain line and the containment; and 5) removes licensing basis text from UFSAR Tier 2 that discusses the operation of swing check valves in current operating plants.

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 changes do not adversely 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 proposed changes do not adversely affect the physical design and operation of the in-containment refueling water storage tank (IRWST) injection, drain, containment recirculation, or fourth-stage automatic depressurization system (ADS) valves, including as-installed inspections and maintenance requirements as described in the Updated Final Safety Analysis Report (UFSAR). Inadvertent operation or failure of the fourth-stage ADS valves are considered as an accident initiator or part of an initiating sequence of events for an accident previously evaluated. However, the proposed change to the test methodology and calculated flow resistance for the fourth-stage ADS lines does not adversely affect the probability of inadvertent operation or failure. Therefore, the probabilities of the accidents previously evaluated in the UFSAR are not affected.

The proposed changes do not adversely affect the ability of IRWST injection, drain, containment recirculation, and fourth-stage ADS valves to perform their design functions. The designs of the IRWST injection, drain, containment recirculation, and fourth-stage ADS valves continue to meet the same regulatory acceptance criteria, codes, and standards as required by the UFSAR. In addition, the proposed changes maintain the capabilities of the IRWST injection, drain, containment recirculation, and fourth-stage ADS valves to mitigate the consequences of an accident and to meet the applicable regulatory acceptance criteria.

The proposed changes do not adversely affect the prevention and mitigation of other abnormal events, *e.g.,* anticipated operational occurrences, earthquakes, floods and turbine missiles, or their safety or design analyses. Therefore, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed 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 changes do not affect the operation of any systems or equipment that might 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 changes do

not adversely affect the physical design and operation of the IRWST injection, drain, containment recirculation, and fourth-stage ADS valves, including as-installed inspections, and maintenance requirements, as described in the UFSAR. Therefore, the operation of the IRWST injection, drain, containment recirculation, and fourth-stage ADS valves is not adversely affected. These proposed changes do not adversely affect 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. Therefore, 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 proposed 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 changes maintain existing safety margins. The proposed changes verify and maintain the capabilities of the IRWST injection, drain, containment recirculation, and fourth-stage ADS valves to perform their design functions. The proposed changes maintain existing safety margin through continued application of the existing requirements of the UFSAR, while updating the acceptance criteria for verifying the design features necessary to ensure the IRWST injection, drain, containment recirculation, and fourth-stage ADS valves perform the design functions required to meet the existing safety margins in the safety analyses. Therefore, the proposed changes satisfy the same design functions in accordance with the same codes and standards as stated in the UFSAR.

These changes do not adversely affect any design code function, design analysis, safety analysis input or result, or design/safety margin.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

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 Avenue NW., Washington, DC 20004–2514.

NRC Branch Chief: Jennifer Dixon-Herrity.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of 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 combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, 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. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

Arizona Public Service Company, et al., Docket Nos. STN 50–528, STN 50–529, and STN 50–530, Palo Verde Nuclear Generating Station, Units 1, 2, and 3 (PVNGS), Maricopa County, Arizona

Date of amendment request: April 1, 2016, as supplemented by letters dated July 21, September 9, and October 26, 2016.

Description of amendment request: The amendments revised the Technical Specifications (TSs) for PVNGS, by modifying the requirements regarding the degraded and loss of voltage relays that are planned to be modified to be more aligned with designs generally implemented in the industry. Specifically, the licensing basis for degraded voltage protection will be changed from reliance on a TS initial condition that ensures adequate post-trip voltage support of accident mitigation equipment to crediting automatic actuation of the degraded and loss of voltage relays to ensure proper equipment performance.

Date of issuance: April 27, 2017.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: Unit 1–201, Unit 2–201, and Unit 3–201. A publicly-available version is in ADAMS under Accession No. ML17090A164; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. NPF–41, NPF–51, and NPF–74: The amendment revised the Operating Licenses and TSs.

Date of initial notice in ***Federal Register****:* May 24, 2016 (81 FR 32803). The supplements dated July 21, September 9, and October 26, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 27, 2017.

No significant hazards consideration comments received: No.

Duke Energy Progress, Inc., Docket Nos. 50–325 and 50–324; Brunswick Steam Electric Plant, Units 1 and 2 (BSEP), Brunswick County, North Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2 (CNS), York County, South Carolina

Duke Energy Progress, Inc., Docket No. 50–400; Shearon Harris Nuclear Power Plant, Unit 1 (HNP), Wake County, North Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (MNS), Mecklenburg County, North Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3 (ONS), Oconee County, South Carolina

Duke Energy Progress, Inc., Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2 (RNP), Darlington County, South Carolina

Date of amendment request: June 23, 2016.

Brief description of amendments: The amendments modified the technical specification (TS) requirements for unavailable barriers by adding Limiting

Condition for Operation (LCO) 3.0.9 to the TS for BSEP, ONS, and RNP. The same changes were added as LCO 3.0.10 to the TS for CNS and MNS. For HNP, TS requirements for unavailable barriers were modified by adding LCO 3.0.6 to the TS. The changes are consistent with Technical Specification Task Force Traveler (TSTF)-427, Revision 2, ''Allowance for Non-Technical Specification Barrier Degradation on Supported System OPERABILITY,'' subject to stated variations.

Date of issuance: April 26, 2017.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos: 274/302 (BSEP), 288/284 (CNS), 155 (HNP), 295/274 (MNS), 402/404/403 (ONS), and 251 (RNP). A publicly-available version is in ADAMS under Accession No. ML17066A374; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–71 and DPR–62 (BSEP), NPF–35 and NPF–52 (CNS), NPF–63 (HNP), NPF–9 and NPF–17 (MNS), DPR–38, DPR–47, DPR–55 (ONS), and DPR–23 (RNP): Amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* August 16, 2016 (81 FR 54614).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 26, 2017.

No significant hazards consideration comments received: No.

Duke Energy Progress, LLC, Docket Nos. 50–325 and 50–324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–413 and 50–414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake County, North Carolina

Duke Energy Progress, LLC, Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: September 27, 2016, as supplemented by letters dated November 22, 2016, and April 20, 2017.

Description of amendment request: The amendments revised Technical Specification Surveillance Requirements to require operating ventilation systems with charcoal filters for 15 continuous minutes every 31 days or at a frequency controlled in accordance with the Surveillance Frequency Control Program. The amendments are consistent with NRC-approved Technical Specifications Task Force (TSTF) Traveler TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours per Month,'' as published in the **Federal Register** on September 20, 2012 (77 FR 58428), with variations due to plant-specific differences.

Date of issuance: May 8, 2017.

Effective date: As of the date of issuance and shall be implemented within 120 days from the date of issuance.

Amendment Nos.: 275 (Unit 1) and 303 (Unit 2) for the Brunswick Steam Electric Plant; 289 (Unit 1) and 285 (Unit 2) for the Catawba Nuclear Station; 296 (Unit 1) and 275 (Unit 2) for the McGuire Nuclear Station; 156 (Unit 1) for the Shearon Harris Nuclear Power Plant; and 252 (Unit No. 2) for the H. B. Robinson Steam Electric Plant. A publicly-available version is in ADAMS under Accession No. ML17055A647; documents related to these amendments are listed in the Safety Evaluations enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–71 and DPR–62, for the Brunswick Steam Electric Plant, Units 1 and 2; NPF–35 and NPF–52, for the Catawba Nuclear Station, Units 1 and 2; NPF–9 and NPF–17, for the McGuire Nuclear Station, Units 1 and 2; NPF–63, for the Shearon Harris Nuclear Power Plant, Unit 1; and DPR–23, for the H. B. Robinson Steam Electric Plant, Unit No. 2: The amendments revised the Renewed Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* January 17, 2017 (82 FR 4929). The supplemental letter dated April 20, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluations of the amendments are contained in Safety Evaluations dated May 8, 2017.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 10, 2016, as supplemented by letters dated October 10 and December 16, 2016; and January 31, February 7, February 16, and March 29, 2017.

Brief description of amendment: The amendment revised Technical Specification 5.5.11, ''Primary Containment Leakage Rate Testing Program,'' to increase the containment integrated leakage rate test program Test A interval from 10 to 15 years.

Date of issuance: April 25, 2017.

Effective date: As of the date of issuance and shall be implemented prior to the startup from the 2017 refueling outage.

Amendment No.: 193. A publicly-available version is in ADAMS under Accession No. ML17103A235; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–22: Amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* April 26, 2016 (81 FR 24663). The supplemental letters dated October 10 and December 16, 2016; and January 31, February 7, February 16, and March 29, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 2017.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant (DCPP), Units 1 and 2, San Luis Obispo County, California

Date of application for amendments: June 17, 2015, as supplemented by letters dated August 31, October 22, November 2, November 6, and December 17, 2015; and February 1, February 10, April 21, June 9, September 15, October 6, and December 27, 2016.

Brief description of amendments: The amendments revised the licensing bases to adopt the alternative source term (AST) as allowed by 10 CFR 50.67, ''Accident source term.'' The AST

methodology, as established in NRC Regulatory Guide 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' July 2000 (ADAMS Accession No. ML003716792), is used to calculate the offsite and control room radiological consequences of postulated accidents for DCPP, Units 1 and 2. The amendments revised Technical Specification (TS) 1.1, ''Definitions,'' for the definition of Dose Equivalent I–131; TS 3.4.16, ''RCS [Reactor Coolant System] Specific Activity,'' to revise the noble gas activity limit; TS 3.6.3, ''Containment Isolation Valves,'' to require the 48-inch containment purge supply and exhaust valves to be sealed closed during Modes 1, 2, 3, and 4; TS 5.5.11, ''Ventilation Filter Testing Program (VFTP),'' to change the allowable methyl iodide penetration testing criteria for the auxiliary building system charcoal filter; TS 5.5.19, ''Control Room Habitability Program,'' to replace ''whole body or its equivalent to any part of the body,'' with ''Total Effective Dose Equivalent,'' which is the dose criteria specified in 10 CFR 50.67, and Appendix D, ''Additional Conditions,'' for Facility Operating License Nos. DPR–80 and DPR–82 for DCPP, Units 1 and 2, to add additional license conditions.

Date of issuance: April 27, 2017.

Effective date: As of its date of issuance and shall be implemented within 365 days from the date of issuance.

Amendment Nos.: Unit 1–230; Unit 2–232. A publicly-available version is in ADAMS under Accession No. ML17012A246; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in ***Federal Register****:* The license amendment request was originally noticed in the **Federal Register** on October 13, 2015 (80 FR 61486). As a result of the supplemental letters dated October 22, November 2, November 6, and December 17, 2015; and February 1, February 10, April 21, June 9, and September 15, 2016, the notice was reissued in its entirety to include the revised scope, description of the amendment request, and proposed no significant hazards consideration determination on November 8, 2016 (81 FR 78664).

The supplemental letters dated October 6 and December 27, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 27, 2017.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: June 7, 2016.

Brief description of amendment: The amendment modified the Technical Specifications to allow the use of Component Cooling System (CCS) pump 2B–B to support Train 1B operability when the normally aligned CCS pump C–S is removed from service.

Date of issuance: April 27, 2017.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 113. A publicly-available version is in ADAMS under Accession No. ML17081A263; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–90: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* September 13, 2016 (81 FR 62932).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 27, 2017.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 11th day of May 2017.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Deputy Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–10570 Filed 5–22–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–305; NRC–2017–0121]

Dominion Energy Kewaunee, Inc.; Kewaunee Power Station

AGENCY: Nuclear Regulatory Commission.

ACTION: Exemption; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a partial exemption in response to an October 13, 2016, request from Dominion Energy Kewaunee, Inc. (the licensee or DEK). The issuance of the exemption would grant DEK a partial exemption from regulations that require the retention of records for certain systems, structures, and components associated with the Kewaunee Power Station (KPS) until the termination of the KPS operating license.

DATES: The exemption was issued on May 10, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0121 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–2017–0121. 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.
- *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: Ted H. Carter, Office of Nuclear Material Safety and Safeguards; U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5543; email: *Ted.Carter@nrc.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

By letter dated May 14, 2013, DEK submitted a certification of permanent removal of fuel from the KPS reactor vessel (ADAMS Accession No.

ML13135A209). Consequently, the part 50 of title 10 of the *Code of Federal Regulations* (10 CFR), license for KPS no longer authorizes operation of the reactor or emplacement or retention of fuel into the reactor vessel, as specified in 10 CFR 50.82(a)(2). The DEK's decommissioning plans for KPS are described in the Post Shutdown Decommissioning Activities Report (PSDAR) submitted on April 25, 2014 (ADAMS Accession No. ML14118A382).

According to its PSDAR, DEK plans to decommission KPS using a SAFSTOR method in which most fluid systems are drained and the plant is left in a stable condition until final decontamination and dismantlement activities begin. The irradiated fuel will be stored in the Independent Spent Fuel Storage Installation (ISFSI) until it is shipped off site. With the reactor and the spent fuel pool (SFP) emptied of fuel, the reactor, reactor coolant system, secondary system, and SFP (including its support systems) will no longer be in operation and will have no function related to the safe storage and management of irradiated fuel.

II. Request/Action

By letter dated October 13, 2016 (ADAMS Accession No. ML16291A494), DEK filed a request for NRC approval of an exemption from the record retention requirements of: (1) 10 CFR part 50, appendix B, Criterion XVII, ''Quality Assurance Records,'' which requires certain records (*e.g.,* results of inspections, tests, and materials analyses) be maintained consistent with applicable regulatory requirements; (2) 10 CFR 50.59(d)(3), which requires that records of changes in the facility must be maintained until termination of a license issued pursuant to 10 CFR part 50; and (3) 10 CFR 50.71(c), which requires certain records to be retained for the period specified by the appropriate regulation, license condition, or technical specification, or until termination of the license if not otherwise specified.

The licensee proposed to eliminate: (1) Records associated with structures, systems, and components (SSCs) and activities that were applicable to the nuclear unit, which are no longer required by the 10 CFR part 50 licensing basis (*i.e.,* removed from the Updated Safety Analysis Report and/or Technical Specifications by appropriate change mechanisms; and (2) records associated with the storage of spent nuclear fuel in the SFP once all fuel has been removed from the SFP and the KPS license no longer allows storage of fuel in the SFP. The licensee cites record retention exemptions granted to Zion Nuclear Power Station, Units 1 and 2 (ADAMS Accession No. ML111260277), Millstone Power Station, Unit 1 (ADAMS Accession No. ML070110567), Vermont Yankee Nuclear Power Station (ADAMS Accession No. ML15344A243), and San Onofre Nuclear Generating Station, Units 1, 2, and 3 (ADAMS Accession No. ML15355A055), as examples of the NRC granting similar requests.

Records associated with residual radiological activity and with programmatic controls necessary to support decommissioning, such as security and quality assurance, are not affected by the exemption request because they will be retained as decommissioning records until the termination of the KPS license. In addition, the licensee did not request an exemption associated with any other recordkeeping requirements for the storage of spent fuel at its ISFSI under 10 CFR part 50 or the general license requirements of 10 CFR part 72. No exemption was requested from the decommissioning records retention requirements of 10 CFR 50.75, or any other requirements of 10 CFR part 50 applicable to decommissioning and dismantlement.

III. Discussion

Pursuant to 10 CFR 50.12, the Commission may, upon application by any interested person or upon its own initiative, grant exemptions from the requirements of 10 CFR part 50 when the exemptions are authorized by law, will not present an undue risk to public health or safety, and are consistent with the common defense and security. However, the Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are described in 10 CFR 50.12(a)(2).

As described in the PSDAR, many of the KPS reactor facility SSCs are planned to be abandoned in place pending dismantlement. Abandoned SSCs are no longer operable or maintained. Following permanent removal of fuel from the SFP, those SSCs required to support safe storage of spent fuel in the SFP will also be abandoned. In its October 13, 2016, exemption request, the licensee stated that the basis for eliminating records associated with reactor facility SSCs and activities is that these SSCs have been (or will be) removed from service per regulatory change processes, dismantled or demolished, and no longer have any function regulated by the NRC.

The DEK recognizes that some records related to the nuclear unit will continue to be under NRC regulation primarily due to residual radioactivity. The radiological and other necessary programmatic controls (such as security, quality assurance, etc.) for the facility and the implementation of controls for the defueled condition and the decommissioning activities are and will continue to be appropriately addressed through the license and current plant documents such as the Updated Safety Analysis Report and Technical Specifications. Except for future changes made through the applicable change process defined in the regulations (*e.g.,* 10 CFR 50.48(f), 10 CFR 50.59, 10 CFR 50.90, 10 CFR 50.54(a), 10 CFR 50.54(p), 10 CFR 50.54(q), etc.), these programmatic elements and their associated records are unaffected by the requested exemption.

Records necessary for SFP SSCs and activities will continue to be retained through the period that the SFP is needed for safe storage of irradiated fuel. Analogous to other plant records, once the SFP is permanently emptied of fuel, there will be no need for retaining SFP related records.

The licensee's general justification for eliminating records associated with KPS SSCs that have been or will be removed from service under the NRC license, dismantled, or demolished, is that these SSCs will not in the future serve any KPS functions regulated by the NRC. The DEK's dismantlement plans involve evaluating SSCs with respect to the current facility safety analysis; progressively removing them from the licensing basis where necessary through appropriate change mechanisms (*e.g.,* 10 CFR 50.59 or via NRC-approved technical specification changes, as applicable); revising the Defueled Safety Analysis Report and/or Updated Safety Analysis Report as necessary; and then proceeding with an orderly dismantlement. Dismantlement of the plant structures will also include dismantling existing records storage facilities.

The DEK intends to retain the records required by its license as the facility's decommissioning transitions as described in the PSDAR. However, equipment abandonment will obviate the regulatory and business needs for maintenance of most records. As the SSCs are removed from the licensing basis, DEK asserts that the need for their records is, on a practical basis, eliminated. Therefore, DEK is requesting exemption from the associated records retention requirements for SSCs and historical activities that are no longer relevant. Approval of the requested exemption would eliminate the associated burden of creating alternative record storage locations, and relocating

records to, and retaining records in the alternative locations for those records relevant only to past power operations. The DEK is not requesting exemption from any recordkeeping requirements for storage of spent fuel at an ISFSI under 10 CFR part 50 or the general license requirements of 10 CFR part 72.

The Exemption Is Authorized by Law

The NRC staff has determined that granting the licensee's proposed exemption will not result in a violation of the Atomic Energy Act of 1954, as amended, other laws, or the Commission's regulations. Therefore, the exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) is authorized by law.

The Exemption Presents No Undue Risk to Public Health and Safety

Removal of the underlying SSCs associated with the records for which KPS has requested an exemption from recordkeeping requirements has been or will be determined by the licensee to have no adverse public health and safety impact, in accordance with 10 CFR 50.59 or an NRC-approved license amendment. These change processes involve either a determination by the licensee or an approval from the NRC that the affected SSCs no longer serve any safety purpose regulated by the NRC. Elimination of records associated with these removed SSCs can have no impact to public health and safety.

The partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the records described is administrative in nature and will have no impact on any remaining decommissioning activities or on radiological effluents. The exemption will only advance the schedule for disposition of the specified records. Considering the content of these records, the elimination of these records on an advanced timetable will have no reasonable possibility of presenting any undue risk to the public health and safety.

The Exemption Is Consistent With the Common Defense and Security

The elimination of the recordkeeping requirements does not involve information or activities that could potentially impact the common defense and security of the United States. Upon dismantlement of the affected SSCs, the records have no functional purpose relative to maintaining the safe operation of the SSCs, maintaining conditions that would affect the ongoing health and safety of workers or the public, or informing decisions related to nuclear security.

Rather, the exemption requested is administrative in nature and would only advance the current schedule for disposition of the specified records. Therefore, the partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the types of records described is consistent with the common defense and security.

Special Circumstances

Paragraph 50.12(a)(2) states, in part: ''The Commission will not consider granting an exemption unless special circumstances are present. Special circumstances are present whenever: . . . (ii) Application of the regulation in the particular circumstances would not serve the underlying purpose of the rule or is not necessary to achieve the underlying purpose of the rule; [and] (iii) Compliance would result in undue hardship or other costs that are significantly in excess of those contemplated when the regulation was adopted. . . .''

Criterion XVII of 10 CFR part 50, Appendix B, states in part: ''Sufficient records shall be maintained to furnish evidence of activities affecting quality.''

Paragraph 50.59(d)(3) states in part: ''The records of changes in the facility must be maintained until the termination of an operating license issued under this part. . . .''

Paragraph 50.71(c), states in part: ''Records that are required by the regulations in this part or part 52 of this chapter, by license condition, or by technical specifications must be retained for the period specified by the appropriate regulation, license condition, or technical specification. If a retention period is not otherwise specified, these records must be retained until the Commission terminates the facility license. . . .''

In the Statement of Considerations (SOC) for the final rulemaking, ''Retention Periods for Records'' (53 FR 19240; May 27, 1988), in response to public comments received during the rulemaking process, the NRC stated that records must be retained ''for NRC to ensure compliance with the safety and health aspects of the nuclear environment and for the NRC to accomplish its mission to protect the public health and safety.'' In the SOC the Commission also explained that requiring licensees to maintain adequate records assists the NRC ''in judging compliance and noncompliance, to act on possible noncompliance, and to examine facts as necessary following any incident.''

These regulations apply to licensees in decommissioning despite the fact that, during the decommissioning process, safety-related SSCs are retired or disabled and subsequently removed from NRC licensing basis documents by appropriate change mechanisms. Appropriate removal of an SSC from the licensing basis requires either a determination by the licensee or an approval from the NRC that the SSC no longer has the potential to cause an accident, event, or other problem which would adversely impact public health and safety.

The records subject to removal under this exemption are associated with SSCs that had been important to safety during power operation or operation of the SFP but are no longer capable of causing an event, incident, or condition that would adversely impact public health and safety, as evidenced by their appropriate removal from the licensing basis documents. If the SSCs no longer have the potential to cause these scenarios, then it is reasonable to conclude that the records associated with these SSCs would not reasonably be necessary to assist the NRC in determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Therefore, their retention would not serve the underlying purpose of the rule.

In addition, once removed from the licensing basis documents, SSCs are no longer governed by the NRC's regulations, and therefore are not subject to compliance with the safety and health aspects of the nuclear environment. As such, retention of records associated with SSCs that are or will no longer be part of the facility serves no safety or regulatory purpose, nor does it serve the underlying purpose of the rule of maintaining compliance with the safety and health aspects of the nuclear environment in order to accomplish the NRC's mission. Accordingly, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(ii), to grant the requested exemption.

Records which continue to serve the underlying purpose of the rule, that is, to maintain compliance and to protect public health and safety in support of the NRC's mission, will continue to be retained pursuant to the regulations in 10 CFR part 50 and 10 CFR part 72. These retained records not subject to the exemption include those associated with programmatic controls, such as those pertaining to residual radioactivity, security, and quality

assurance, as well as records associated with the ISFSI and spent fuel assemblies.

The retention of records required by 10 CFR 50.71(c); 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) provides assurance that records associated with SSCs will be captured, indexed, and stored in an environmentally suitable and retrievable condition. Given the volume of records associated with the SSCs, compliance with the records retention rule results in a considerable cost to the licensee. Retention of the volume of records associated with the SSCs during the operational phase is appropriate to serve the underlying purpose of determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident, as discussed.

However, the cost effect of retaining operational phase records beyond the operations phase until the termination of the license was not fully considered or understood when the records retention rule was put in place. For example, existing records storage facilities are often eliminated as decommissioning progresses. Retaining records associated with SSCs and activities that no longer serve a safety or regulatory purpose would therefore necessitate creation of new facilities and retention of otherwise unneeded administrative support personnel. As such, compliance with the rule would result in an undue cost in excess of that contemplated when the rule was adopted. Accordingly, special circumstances are present which the NRC may consider, pursuant to 10 CFR 50.12(a)(2)(iii), to grant the requested exemption.

Environmental Considerations

Pursuant to 10 CFR 51.22(b) and (c)(25), the granting of an exemption from the requirements of any regulation in Chapter I of 10 CFR is a categorical exclusion provided that: (1) There is no significant hazards consideration; (2) there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite; (3) there is no significant increase in individual or cumulative public or occupational radiation exposure; (4) there is no significant construction impact; (5) there is no significant increase in the potential for or consequences from radiological accidents; and (6) the requirements from which an exemption is sought are among those identified in 10 CFR 51.22(c)(25)(vi).

The NRC staff has determined that approval of the exemption request involves no significant hazards consideration because allowing the licensee exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) at the decommissioning Kewaunee Power Station does not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; (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 (10 CFR 50.92(c)). Likewise, there is no significant change in the types or significant increase in the amounts of any effluents that may be released offsite, and no significant increase in individual or cumulative public or occupational radiation exposure.

The exempted regulations are not associated with construction, so there is no significant construction impact. The exempted regulations do not concern the source term (*i.e.,* potential amount of radiation involved an accident) or accident mitigation; therefore, there is no significant increase in the potential for, or consequences from, radiological accidents. Allowing the licensee partial exemption from the record retention requirements for which the exemption is sought involves recordkeeping requirements, as well as reporting requirements of an administrative, managerial, or organizational nature.

Therefore, pursuant to 10 CFR 51.22(b) and 10 CFR 51.22(c)(25), no environmental impact statement or environmental assessment need be prepared in connection with the approval of this exemption request.

IV. Conclusions

The NRC staff has determined that the requested partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) will not present an undue risk to the public health and safety. The destruction of the identified records will not impact remaining decommissioning activities; plant operations, configuration, and/or radiological effluents; operational and/or installed SSCs that are quality-related or important to safety; or nuclear security. The NRC staff has determined that the destruction of the identified records is administrative in nature and does not involve information or activities that could potentially impact the common defense and security of the United States.

The purpose for the recordkeeping regulations is to assist the NRC in carrying out its mission to protect the public health and safety by ensuring that the licensing and design basis of the facility is understood, documented, preserved and retrievable in such a way that will aid the NRC in determining compliance and noncompliance, taking action on possible noncompliance, and examining facts following an incident. Since the KPS SSCs that were safety-related or important to safety have been or will be removed from the licensing basis and removed from the plant, the staff agrees that the records identified in the partial exemption will no longer be required to achieve the underlying purpose of the records retention rule.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. Also, special circumstances are present. Therefore, the Commission hereby grants the Dominion Energy Kewaunee, Inc., a partial exemption from the recordkeeping requirements of 10 CFR 50.71(c); 10 CFR part 50, appendix B, Criterion XVII; and 10 CFR 50.59(d)(3) for the Kewaunee Power Station to advance the schedule to remove records associated with SSCs that have been or will be removed from NRC licensing basis documents by appropriate change mechanisms.

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 10th day of May 2017.

For the Nuclear Regulatory Commission.

John R. Tappert,

Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–10431 Filed 5–22–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

President's Commission on White House Fellowships Advisory Committee: Closed Meeting

AGENCY: President's Commission on White House Fellowships, U.S. Office of Personnel Management.

ACTION: Notice of meeting.

SUMMARY: The President's Commission on White House Fellowships (PCWHF) was established by an Executive Order in 1964. The PCWHF is an advisory committee composed of Special Government Employees appointed by

the President. The Advisory Committee meets in June to interview potential candidates for recommendation to become a White House Fellow.

The meeting is closed.

Name of Committee: President's Commission on White House Fellowships Selection Weekend.

Date: June 8–11, 2017.

Time: 7:00 a.m.–9:30 p.m.

Place: St. Regis Hotel, 16th and K Street, Washington, DC 20006.

Agenda: The Commission will interview 30 National Finalists for the selection of the new class of White House Fellows.

FOR FURTHER INFORMATION CONTACT: Elizabeth D. Pinkerton, 712 Jackson Place NW., Washington, DC 20503, Phone: 202–395–4522.

President's Commission on White House Fellowships.

Elizabeth D. Pinkerton,

Director.

[FR Doc. 2017–10446 Filed 5–22–17; 8:45 am]

BILLING CODE 6325–44–P

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 25, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Commissioner Stein, 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; 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: May 18, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–10605 Filed 5–19–17; 11:15 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80707; File No. SR–NYSEArca–2017–54]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To Amend NYSE Arca Equities Rule 5.2(j)(6) Relating to Equity Index-Linked Securities

May 17, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on May 4, 2017, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6) to exclude Investment Company Units, securities defined in Section 2 of NYSE Arca Equities Rule 8 and Index-Linked Securities when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities. The proposed 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6) to exclude Investment Company Units (''Units'') and securities defined in Section 2 of NYSE Arca Equities Rule 8 (collectively, together with Units, ''Derivative Securities Products''),[4] as well as Index-Linked Securities [5] when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities.

Equity Index-Linked Securities are securities that provide for the payment at maturity (or earlier redemption) based on the performance of an underlying index or indexes of equity securities, securities of closed-end management investment companies registered under the Investment Company Act of 1940 [6] and/or Units.[7] In addition to certain other generic listing criteria, Equity Index-Linked Securities must satisfy the generic quantitative initial and continued listing criteria under NYSE Arca Equities Rule 5.2(j)(6)(B)(I) in order to become, and continue to be, listed and traded on the Exchange. Certain of the applicable quantitative criteria specify minimum or maximum thresholds that must be satisfied with respect to, for example, market value,

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Units are securities that represent an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity, that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities or securities in another registered investment company that holds such securities. *See* NYSE Arca Equities Rule 5.2(j)(3). The following securities currently are included in Section 2 of NYSE Arca Equities Rule 8: Portfolio Depositary Receipts (Rule 8.100); Trust Issued Receipts (Rule 8.200); Commodity-Based Trust Shares (Rule 8.201); Currency Trust Shares (Rule 8.202); Commodity Index Trust Shares (Rule 8.203); Commodity Futures Trust Shares (Rule 8.204); Partnership Units (Rule 8.300); Paired Trust Shares (Rule 8.400); Trust Units (Rule 8.500); Managed Fund Shares (Rule 8.600); and Managed Trust Securities (Rule 8.700).

[5] Index-Linked Securities are securities that qualify for Exchange listing and trading under NYSE Arca Equities Rule 5.2(j)(6). The securities described in Rule 5.2(j)(3), Rule 5.2(j)(6) and Section 2 of Rule 8, as referenced above, would include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

[6] 15 U.S.C. 80–1.

[7] *See* Rule 5.2(j)(6)(B)(I)(1).

trading volume, and dollar weight of the index represented by a single component or groups of components.

The applicable initial quantitative listing criteria include (i) that each underlying index is required to have at least ten component securities;[8] (ii) that each component security has a minimum market value of at least $75 million, except that for each of the lowest dollar weighted component securities in the index that in the aggregate account for no more than 10% of the dollar weight of the index, the market value can be at least $50 million; (iii) that component stocks that in the aggregate account for at least 90% of the weight of the index each have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (iv) that no underlying component security represents more than 25% of the dollar weight of the index, and the five highest dollar weighted component securities in the index do not in the aggregate account for more than 50% of the dollar weight of the index (60% for an index consisting of fewer than 25 component securities); and (v) that 90% of the index's numerical value and at least 80% of the total number of component securities meet the then current criteria for standardized option trading set forth in NYSE Arca Rule 5.3; except that an index will not be subject to this last requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index has a minimum of 20 components.[9] The applicable continued quantitative listing criteria require that component stocks that in the aggregate account for at least 90% of the weight of the index each have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of $12,500,000, averaged over the last six months.[10]

The Exchange proposes to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(a), which provides that each underlying index is required to have at least ten component securities, to provide that there shall be no minimum number of component securities if one or more issues of Derivative Securities Products or Index-Linked Securities constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities. The Exchange also proposes to exclude Derivative Securities Products and Index-Linked Securities from consideration when determining whether the applicable quantitative generic thresholds have been satisfied under the initial listing standards specified in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(i)–(iv) and the continued listing standards specified in NYSE Arca Equities Rules 5.2(j)(6)(B)(I)(2)(a)(i) and (ii).[11] Thus, for example, when determining compliance with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(ii), component stocks, excluding Derivative Securities Products or Index-Linked Securities, that in the aggregate account for at least 90% of the remaining index weight, excluding any Derivative Securities Products or Index-Linked Securities would be required to have a minimum global monthly trading volume of 1 million shares, or minimum global notional volume traded per month of 25 million, averaged over the last six months.

The Exchange believes that it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the generic listing and continued listing criteria specified above for Equity Index-Linked Securities because Derivative Securities Products and Index-Linked Securities that may be included in an index or portfolio underlying a series of Equity Index-Linked Securities are themselves subject to specific initial and continued listing requirements of the exchange on which they are listed. For example, Units listed and traded on the Exchange are subject to the listing standards specified under NYSE Arca Equities Rule 5.2(j)(3). Also, Derivative Securities Products and Index-Linked Securities would have been listed and traded on an exchange pursuant to a filing submitted under Sections 19(b)(2) or 19(b)(3)(A) of the Act,[12] or would have been listed by an exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[13] Derivative Securities Products and Index-Linked Securities are derivatively priced, and, therefore, the Exchange does not believe that it is necessary to apply the generic quantitative criteria (*e.g.,* market capitalization, trading volume, or component weighting) applicable to securities that are not Derivative Securities Products or Index-Linked Securities (*e.g.,* common stocks) to such products. Finally, by way of comparison, Derivative Securities Products are excluded from consideration when determining whether the components of Units satisfy the applicable listing criteria in Rule 5.2(j)(3),[14] and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Commentary .01 to Rule 8.600.[15]

The Exchange also proposes to replace ''investment company units'' with ''Investment Company Units'' in two places in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1) in order to conform to other usages of this term in Exchange rules. In addition, the Exchange proposes to replace the word ''Index'' with ''index'' in two places in Rule 5.2(j)(6)(B)(I)(2)(a)(i) to conform to other usages of this word in Rule 5.2(j)(6)(B)(I)(2).

The Exchange notes that the proposed change is not otherwise intended to address any other issues and that the Exchange is not aware of any problems that ETP Holders or issuers would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Section 6(b)(5) of the Act,[17] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to

[8] *See* Rule 5.2(j)(6)(B)(I)(1)(a).

[9] *See* Rule 5.2(j)(6)(B)(I)(1)(b)(i)–(iv).

[10] *See* Rule 5.2(j)(6)(B)(I)(2)(a)(ii).

[11] NYSE Arca Equities Rules 5.2(j)(6)(B)(I)(2)(a)(i) and (ii) provide that the Corporation will maintain surveillance procedures for securities listed under Rule 5.2(j)(6) and may halt trading in such securities and will initiate delisting proceedings pursuant to Rule 5.5(m) (unless the Commission has approved the continued trading of the subject Index-Linked Security), if any of the standards set forth in Rules 5.2(j)(6)(B)(I)(1)(a) and 5.2(j)(6)(B)(I)(1)(b)(2) are not continuously maintained, except that: (i) The criteria that no single component represent more than 25% of the dollar weight of the index and the five highest dollar weighted components in the index cannot represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the index, need only be satisfied at the time the index is rebalanced (Rule 5.2(j)(6)(B)(I)(2)(a)(i)), and (ii) component stocks that in the aggregate account for at least 90% of the weight of the index each shall have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of $12,500,000, averaged over the last six months (Rule 5.2(j)(6)(B)(I)(2)(a)(ii)).

[12] 15 U.S.C. 78s(b)(2); 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(e).

[14] See Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3). *See also,* Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (order approving amendments to the eligibility criteria for components of an index underlying Investment Company Units).

[15] *See* Commentary .01 to NYSE Arca Equities Rule 8.600. *See also,* Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (SR–NYSEArca–2015–110) (order approving amendments to NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(5).

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 change would facilitate the listing and trading of additional types of Equity Index-Linked Securities, which would enhance competition among market participants, to the benefit of investors and the marketplace. The proposed change would also result in greater efficiencies in the listing process with respect to Equity Index-Linked Securities by eliminating an unnecessary consideration regarding underlying components, which would therefore remove impediments to, and perfect the mechanism of, a free and open market. In addition, the proposed amendment to the Equity Index-Linked Securities listing criteria is intended to protect investors and the public interest in that it is consistent with the manner in which Derivative Securities Products are also excluded from consideration when determining whether the components of an index or portfolio underlying an issue of Units satisfy the applicable listing criteria,[18] and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Commentary .01 to Rule 8.600.[19] Additionally, Equity Index-Linked Securities would remain subject to all existing listing standards, thereby maintaining existing levels of investor protection. The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Equity Index-Linked Securities would continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 5.2(j)(6). Further, the proposed change would not impact the existing listing process for Derivative Securities Products and Index-Linked Securities, whereby the exchanges on which such securities are listed must, for example, submit proposed rule changes with the Commission prior to listing and trading.

The Exchange believes that it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the generic criteria specified above for Equity Index-Linked Securities because Derivative Securities Products and Index-Linked Securities that may be included in an index or portfolio underlying a series of Equity Index-Linked Securities are themselves subject to specific initial and continued listing requirements of the exchange on which they are listed. For example, Units listed and traded on the Exchange are subject to the listing standards specified under NYSE Arca Equities Rule 5.2(j)(3). Also, such Derivative Securities Products and Index-Linked Securities would have been listed and traded on an exchange pursuant to a filing submitted under Sections 19(b)(2) or 19(b)(3)(A) of the Act,[20] or would have been listed by an exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[21] The Exchange believes that quantitative factors—such as market value, global monthly trading volume, or weighting—when applied to index components (such as common stocks) underlying a series of Equity Index-Linked Securities, are relevant criteria in establishing that such series is sufficiently broad-based to minimize potential manipulation.[22] Derivative Securities Products and Index-Linked Securities, however, are derivatively priced, and, therefore, the Exchange does not believe that it is necessary to apply the generic quantitative criteria applicable to securities that are not Derivative Securities Products and Index-Linked Securities (*e.g.,* common stocks) to such products. As noted above, Derivative Securities Products are excluded from consideration on NYSE Arca when determining whether the components of Units satisfy the applicable listing criteria,[23] and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Commentary .01 to Rule 8.600. Moreover, for shares of Derivative Securities Products that are not listed on an exchange pursuant to an exchange's generic listing rules, the Commission must first approve an exchange's proposed rule change under Section 19(b) of the Act regarding a particular Derivative Securities Product or Index-Linked Securities, which is subject to the representations and restrictions included in such proposed rule change. The Exchange also believes it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the requirement under NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(b)(iv) that 90% of the applicable index's numerical value and at least 80% of the total number of component securities will meet the criteria for standardized option trading set forth in NYSE Arca Rule 5.3. Rule 5.3 includes criteria for securities underlying option contracts approved for listing and trading on the Exchange. Among such criteria are those applicable to ''Exchange-Traded Fund Shares'' (as referenced in NYSE Arca Rule 5.3(g)), Trust Issued Receipts (as referenced in NYSE Arca Rule 5.3(h)), Partnership Units (as referenced in NYSE Arca Rule 5.3(i)) and Index-Linked Securities (as referenced in NYSE Arca Rule 5.3(j)) that underlie Exchange-traded option contracts. The Exchange does not believe that criteria in Rule 5.3 should be applied to Derivative Securities Products and Index-Linked Securities because such securities are subject to separate numerical and other criteria included in the applicable exchange listing rules, including both generic listing rules permitting listing pursuant to Rule 19b–4(e) and non-generic listing rules. Derivative Securities Products and Index-Linked Securities that are the subject of a Commission approval order under Section 19(b) of the Act also are subject to specific representations made in the applicable Rule 19b–4 filing. These include representations regarding the existence of comprehensive surveillance agreements between the applicable exchange and the principal markets for certain financial instruments underlying Derivative Securities Products, or percentage limitations on assets (*e.g.,* non-U.S. stocks, futures and options) whose principal market is not a member of the Intermarket Surveillance Group

[18] *See supra,* note 14.

[19] *See supra,* note 15.

[20] 15 U.S.C. 78s(b)(2); 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(e).

[22] *See, e.g.,* Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66693 (SR–Amex–2006–78) (order approving generic listing standards for Portfolio Depositary Receipts and Index Fund Shares based on international or global indexes), in which the Commission stated that ''these standards are reasonably designed to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of any underlying index or portfolio, and that when applied in conjunction with the other applicable listing requirements, will permit the listing only of ETFs that are sufficiently broad-based in scope to minimize potential manipulation.''

[23] *See* Commentary .01 to NYSE Arca Equities Rule 5.2(j)(3). *See also* Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (order approving amendments to eligibility criteria for components of an index underlying Investment Company Units), in which the Commission noted that ''based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations. However, because Derivative Securities Products are themselves subject to specific initial and continued listing requirements, the Commission believes that it would be reasonable to exclude Derivative Securities Products, as components, from certain index component eligibility criteria for [Investment Company] Units.''

(''ISG'').[24] The proposed replacement of ''investment company units'' with ''Investment Company Units'' in two places in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1) is appropriate as such changes conform to other usages of this term in Exchange rules. The proposed replacement of the word ''Index'' with ''index'' in two places in Rule 5.2(j)(6)(B)(I)(2)(a)(i) is appropriate as such changes would conform to other usages of this word in Rule 5.2(j)(6)(B)(I)(2).

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Index-Linked Securities in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. All Index-Linked Securities listed pursuant to NYSE Arca Equities Rule 5.2(j)(6) are included within the definition of ''security'' or ''securities'' as such terms are used in the Exchange rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange. Trading in the securities will be halted under the conditions specified in NYSE Arca Equities Rule 5.2(j)(6)(E).

For these reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[25] 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. Instead, the Exchange believes that the proposed change will encourage competition by enabling additional types of Equity Index-Linked Securities to be listed on the Exchange and, by eliminating an unnecessary consideration regarding underlying components, create a more efficient process surrounding the listing of Equity Index-Linked Securities.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–NYSEArca–2017–54 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 No. SR–NYSEArca–2017–54. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–NYSEArca–2017–54, and should be submitted on or before June 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10463 Filed 5–22–17; 8:45 am]

BILLING CODE 8011–01–P

[24] *See, e.g.,* Securities Exchange Act Release No. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (order approving Exchange listing and trading of shares of the Guggenheim Total Return Bond ETF (''Fund'') under NYSE Arca Equities Rule 8.600), which filing stated: ''Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) will consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. In addition, not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts or exchange-traded options contracts will consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.''

[25] 15 U.S.C. 78f(b)(8).

[26] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80710; File No. SR–FINRA–2017–011]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Adopt a Fee Schedule To Establish the Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

May 17, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 8, 2017, Financial Industry Regulatory Authority, Inc. (''FINRA'') 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 FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

FINRA is proposing to adopt a fee schedule to establish the fees for Industry Members related to the National Market System Plan Governing the Consolidated Audit Trail (the ''CAT NMS Plan'' or ''Plan'').[5]

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA 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, FINRA 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. FINRA 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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

Bats BYX Exchange, Inc., Bats BZX Exchange, Inc., Bats EDGA Exchange, Inc., Bats EDGX Exchange, Inc., BOX Options Exchange LLC, C2 Options Exchange, Incorporated, Chicago Board Options Exchange, Incorporated, Chicago Stock Exchange, Inc., Financial Industry Regulatory Authority, Inc. (''FINRA''), Investors' Exchange LLC, Miami International Securities Exchange, LLC, MIAX PEARL, LLC, NASDAQ BX, Inc., Nasdaq GEMX, LLC, Nasdaq ISE, LLC, Nasdaq MRX, LLC,[6] NASDAQ PHLX LLC, The NASDAQ Stock Market LLC, New York Stock Exchange LLC, NYSE MKT LLC, NYSE Arca, Inc. and NYSE National, Inc.[7] (collectively, the ''Participants'') filed with the Commission, pursuant to Section 11A of the Exchange Act[8] and Rule 608 of Regulation NMS thereunder,[9] the CAT NMS Plan.[10] The Participants filed the Plan to comply with Rule 613 of Regulation NMS under the Exchange Act. The Plan was published for comment in the **Federal Register** on May 17, 2016,[11] and approved by the Commission, as modified, on November 15, 2016.[12] The Plan is designed to create, implement and maintain a consolidated audit trail (''CAT'') that would capture customer and order event information for orders in NMS Securities and OTC Equity Securities, across all markets, from the time of order inception through routing, cancellation, modification, or execution in a single consolidated data source. The Plan accomplishes this by creating CAT NMS, LLC (the ''Company''), of which each Participant is a member, to operate the CAT.[13] Under the CAT NMS Plan, the Operating Committee of the Company (''Operating Committee'') has discretion to establish funding for the Company to operate the CAT, including establishing fees that the Participants will pay, and establishing fees for Industry Members that will be implemented by the Participants (''CAT Fees'').[14] The Participants are required to file with the SEC under Section 19(b) of the Exchange Act any such CAT Fees applicable to Industry Members that the Operating Committee approves.[15] Accordingly, FINRA submits this fee filing to propose the Consolidated Audit Trail Funding Fees, which will require Industry Members that are FINRA members to pay the CAT Fees determined by the Operating Committee.

(1) Executive Summary

The following provides an executive summary of the CAT funding model approved by the Operating Committee, as well as Industry Members' rights and obligations related to the payment of CAT Fees calculated pursuant to the CAT funding model. A detailed description of the CAT funding model and the CAT Fees follows this executive summary.

(A) CAT Funding Model

- *CAT Costs.* The CAT funding model is designed to establish CAT-specific fees to collectively recover the costs of building and operating the CAT from all CAT Reporters, including Industry Members and Participants. The overall CAT costs for the calculation of the CAT Fees in this fee filing are comprised of Plan Processor CAT costs and non-Plan Processor CAT costs incurred, and estimated to be incurred, from November 21, 2016 through November 21, 2017. (*See* Section II.A.1.(2)(E) below)
- *Bifurcated Funding Model.* The CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the CAT would be borne by (1) Participants and Industry Members that are Execution Venues for Eligible Securities through fixed tier fees based on market share, and (2) Industry Members (other than alternative trading systems (''ATSs'') that execute transactions in Eligible Securities (''Execution Venue ATSs'')) through fixed tier fees based on message traffic for Eligible Securities. (*See* Section II.A.1.(2) below)
- *Industry Member Fees.* Each Industry Member (other than Execution Venue ATSs) will be placed into one of nine tiers of fixed fees, based on ''message traffic'' in Eligible Securities for a defined period (as discussed below). Prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months. After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT. Industry Members with lower levels of message traffic will pay a lower fee and Industry Members with higher levels of message traffic will pay a higher fee. (*See* Section II.A.1.(2)(B) below)
- *Execution Venue Fees.* Each Equity Execution Venue will be placed in one

[5] Unless otherwise specified, capitalized terms used in this fee filing are defined as set forth herein, the CAT Compliance Rule Series or in the CAT NMS Plan.

[6] ISE Gemini, LLC, ISE Mercury, LLC and International Securities Exchange, LLC have been renamed Nasdaq GEMX, LLC, Nasdaq MRX, LLC, and Nasdaq ISE, LLC, respectively. *See* Securities Exchange Act Release No. 80248 (March 15, 2017), 82 FR 14547 (March 21, 2017); Securities Exchange Act Release No. 80326 (March 29, 2017), 82 FR 16460 (April 4, 2017); and Securities Exchange Act Release No. 80325 (March 29, 2017), 82 FR 16445 (April 4, 2017).

[7] National Stock Exchange, Inc. has been renamed NYSE National, Inc. *See* Securities Exchange Act Release No. 79902 (January 30, 2017), 82 FR 9258 (February 3, 2017).

[8] 15 U.S.C. 78k–1.

[9] 17 CFR 242.608.

[10] *See* Letter from the Participants to Brent J. Fields, Secretary, Commission, dated September 30, 2014; and Letter from Participants to Brent J. Fields, Secretary, Commission, dated February 27, 2015. On December 24, 2015, the Participants submitted an amendment to the CAT NMS Plan. *See* Letter from Participants to Brent J. Fields, Secretary, Commission, dated December 23, 2015.

[11] Securities Exchange Act Release No. 77724 (April 27, 2016), 81 FR 30614 (May 17, 2016).

[12] Securities Exchange Act Release No. 79318 (November 15, 2016), 81 FR 84696 (November 23, 2016) (''Approval Order'').

[13] The Plan also serves as the limited liability company agreement for the Company.

[14] Section 11.1(b) of the CAT NMS Plan.

[15] *See supra* note 14.

of two tiers of fixed fees based on market share, and each Options Execution Venue will be placed in one of two tiers of fixed fees based on market share. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period. Equity Execution Venues with a larger market share will pay a larger CAT Fee than Equity Execution Venues with a smaller market share. Similarly, Options Execution Venues with a larger market share will pay a larger CAT Fee than Options Execution Venues with a smaller market share. (*See* Section II.A.1.(2)(C) below)

• *Cost Allocation.* For the reasons discussed below, in designing the model, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. In addition, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. (*See* Section II.A.1.(2)(D) below)

• *Comparability of Fees.* The CAT funding model requires that the CAT Fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venues and/or Industry Members). (*See* Section II.A.1.(2)(F) below)

(B) CAT Fees for Industry Members

• *Fee Schedule.* The quarterly CAT Fees for each tier for Industry Members are set forth in the two fee schedules in the Consolidated Audit Trail Funding Fees, one for Equity ATSs and one for Industry Members other than Equity ATSs. (*See* Section II.A.1.(3)(B) below)

• *Quarterly Invoices.* Industry Members will be billed quarterly for CAT Fees, with the invoices payable within 30 days. The quarterly invoices will identify within which tier the Industry Member falls. (*See* Section II.A.1.(3)(C) below)

• *Centralized Payment.* Each Industry Member will receive from the Company one invoice for its applicable CAT Fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Operating Committee. (*See* Section II.A.1.(3)(C) below)

• *Billing Commencement.* Industry Members will begin to receive invoices for CAT Fees as promptly as possible following the establishment of a billing mechanism. FINRA will issue a notice to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence. (*See* Section II.A.1.(2)(G) below)

(2) Description of the CAT Funding Model

Article XI of the CAT NMS Plan requires the Operating Committee to approve the operating budget, including projected costs of developing and operating the CAT for the upcoming year. As set forth in Article XI of the CAT NMS Plan, the CAT NMS Plan requires a bifurcated funding model, where costs associated with building and operating the Central Repository would be borne by (1) Participants and Industry Members that are Execution Venues through fixed tier fees based on market share, and (2) Industry Members (other than Execution Venue ATSs) through fixed tier fees based on message traffic. In its order approving the CAT NMS Plan, the Commission determined that the proposed funding model was ''reasonable'' [16] and ''reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT.'' [17]

More specifically, the Commission stated in approving the CAT NMS Plan that ''[t]he Commission believes that the proposed funding model is reasonably designed to allocate the costs of the CAT between the Participants and Industry Members.'' [18] The Commission further noted the following:

> The Commission believes that the proposed funding model reflects a reasonable exercise of the Participants' funding authority to recover the Participants' costs related to the CAT. The CAT is a regulatory facility jointly owned by the Participants and . . . the Exchange Act specifically permits the Participants to charge their members fees to fund their self-regulatory obligations. The Commission further believes that the proposed funding model is designed to impose fees reasonably related to the Participants' self-regulatory obligations because the fees would be directly associated with the costs of establishing and maintaining the CAT, and not unrelated SRO services.[19]

Accordingly, the funding model imposes fees on both Participants and Industry Members.

In addition, as discussed in Appendix C of the CAT NMS Plan, the Operating Committee considered the advantages and disadvantages of a variety of alternative funding and cost allocation models before selecting the proposed model.[20] After analyzing the various alternatives, the Operating Committee determined that the proposed tiered, fixed fee funding model provides a variety of advantages in comparison to the alternatives. First, the fixed fee model, as opposed to a variable fee model, provides transparency, ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.[21] Additionally, a strictly variable or metered funding model based on message volume would be far more likely to affect market behavior and place an inappropriate burden on competition. Moreover, as the SEC noted in approving the CAT NMS Plan, ''[t]he Participants also have offered a reasonable basis for establishing a funding model based on broad tiers, in that it be may be easier to implement.'' [22]

In addition, multiple reviews of current broker-dealer order and trading data submitted under existing reporting requirements showed a wide range in activity among broker-dealers, with a number of broker-dealers submitting fewer than 1,000 orders per month and other broker-dealers submitting millions and even billions of orders in the same period. Accordingly, the CAT NMS Plan includes a tiered approach to fees. The

[16] Approval Order at 84796.

[17] Approval Order at 84794.

[18] Approval Order at 84795.

[19] Approval Order at 84794.

[20] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[21] In choosing a tiered fee structure, the Participants concluded that the variety of benefits offered by a tiered fee structure, discussed above, outweighed the fact that Industry Members in any particular tier would pay different rates per message traffic order event (*e.g.,* an Industry Member with the largest amount of message traffic in one tier would pay a smaller amount per order event than an Industry Member in the same tier with the least amount of message traffic). Such variation is the natural result of a tiered fee structure.

[22] Approval Order at 84796.

tiered approach helps ensure that fees are equitably allocated among similarly situated CAT Reporters and furthers the goal of lessening the impact on smaller firms.[23] The self-regulatory organizations considered several approaches to developing a tiered model, including defining fee tiers based on such factors as size of firm, message traffic or trading dollar volume. After analyzing the alternatives, it was concluded that the tiering should be based on the relative impact of CAT Reporters on the CAT System.

Accordingly, the CAT NMS Plan contemplates that costs will be allocated across the CAT Reporters on a tiered basis to allocate costs to those CAT Reporters that contribute more to the costs of creating, implementing and maintaining the CAT.[24] The fees to be assessed at each tier are calculated so as to recoup a proportion of costs appropriate to the message traffic or market share (as applicable) from CAT Reporters in each tier. Therefore, Industry Members generating the most message traffic will be in the higher tiers, and therefore be charged a higher fee. Industry Members with lower levels of message traffic will be in lower tiers and will be assessed a smaller fee for the CAT.[25] Correspondingly, Execution Venues with the highest market share will be in the top tier, and therefore will be charged a higher fee. Execution Venues with a lower market share will be in the lower tier and will be assessed a smaller fee for the CAT.[26]

The Commission also noted in approving the CAT NMS Plan that ''[t]he Participants have offered a credible justification for using different criteria to charge Execution Venues (market share) and Industry Members (message traffic)'' [27] in the CAT funding model. While there are multiple factors that contribute to the cost of building, maintaining and using the CAT, processing and storage of incoming message traffic is one of the most significant cost drivers for the CAT.[28] Thus, the CAT NMS Plan provides that the fees payable by Industry Members (other than Execution Venue ATSs) will be based on the message traffic generated by such Industry Member.[29]

The CAT NMS Plan provides that the Operating Committee will use different criteria to establish fees for Execution Venues and non-Execution Venues due to the fundamental differences between the two types of entities. In particular, the CAT NMS Plan provides that fees charged to CAT Reporters that are Execution Venues will be based on the level of market share and that costs charged to Industry Members (other than Execution Venue ATSs) will be based upon message traffic.[30] Because most Participant message traffic consists of quotations, and Participants usually disseminate quotations in all instruments they trade, regardless of execution volume, Execution Venues that are Participants generally disseminate similar amounts of message traffic. Accordingly, basing fees for Execution Venues on message traffic would not provide the same degree of differentiation among Execution Venues that it does among Industry Members (other than Execution Venue ATSs). In contrast, execution volume more accurately delineates the different levels of trading activity of Execution Venues.[31]

The CAT NMS Plan's funding model also is structured to avoid a ''reduction in market quality.'' [32] The tiered, fixed fee funding model is designed to limit the disincentives to providing liquidity to the market. For example, the Participants expect that a firm that had a large volume of quotes would likely be categorized in one of the upper tiers, and would not be assessed a fee for this traffic directly as they would under a more directly metered model. In contrast, strictly variable or metered funding models based on message volume were far more likely to affect market behavior. In approving the CAT NMS Plan, the SEC stated that ''[t]he Participants also offered a reasonable basis for establishing a funding model based on broad tiers, in that it may be . . . less likely to have an incremental deterrent effect on liquidity provision.'' [33]

The CAT NMS Plan is structured to avoid potential conflicts raised by the Operating Committee determining fees applicable to its own members—the Participants. First, the Company will be operated on a ''break-even'' basis, with fees imposed to cover costs and an appropriate reserve. Any surpluses will be treated as an operational reserve to offset future fees and will not be distributed to the Participants as profits.[34] To ensure that the Participants' operation of the CAT will not contribute to the funding of their other operations, Section 11.1(c) of the CAT NMS Plan specifically states that ''[a]ny surplus of the Company's revenues over its expenses shall be treated as an operational reserve to offset future fees.'' In addition, as set forth in Article VIII of the CAT NMS Plan, the Company ''intends to operate in a manner such that it qualifies as a 'business league' within the meaning of Section 501(c)(6) of the [Internal Revenue] Code.'' To qualify as a business league, an organization must ''not [be] organized for profit and no part of the net earnings of [the organization can] inure[ ] to the benefit of any private shareholder or individual.'' [35] As the SEC stated when approving the CAT NMS Plan, ''the Commission believes that the Company's application for Section 501(c)(6) business league status addresses issues raised by commenters about the Plan's proposed allocation of profit and loss by mitigating concerns that the Company's earnings could be used to benefit individual Participants.'' [36]

Finally, by adopting a CAT-specific fee, the Participants will be fully transparent regarding the costs of the CAT. Charging a general regulatory fee, which would be used to cover CAT costs as well as other regulatory costs, would be less transparent than the selected approach of charging a fee designated to cover CAT costs only.

A full description of the funding model is set forth below. This description includes the framework for the funding model as set forth in the CAT NMS Plan, as well as the details as to how the funding model will be applied in practice, including the number of fee tiers and the applicable fees for each tier. FINRA notes that the complete funding model is described below, including those fees that are to be paid by the Participants. The proposed Consolidated Audit Trail Funding Fees, however, do not apply to the Participants; the proposed Consolidated Audit Trail Funding Fees only apply to Industry Members. The CAT fees for Participants will be imposed separately by the Operating Committee pursuant to the CAT NMS Plan.

(A) Funding Principles

Section 11.2 of the CAT NMS Plan sets forth the principles that the Operating Committee applied in establishing the funding for the

[23] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

[24] Approval Order at 85005.

[25] *See supra* note 24.

[26] *See supra* note 24.

[27] Approval Order at 84796.

[28] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[29] Section 11.3(b) of the CAT NMS Plan.

[30] Section 11.2(c) of the CAT NMS Plan.

[31] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

[32] Section 11.2(e) of the CAT NMS Plan.

[33] Approval Order at 84796.

[34] Approval Order at 84792.

[35] 26 U.S.C. 501(c)(6).

[36] Approval Order at 84793.

Company. The Operating Committee has considered these funding principles as well as the other funding requirements set forth in the CAT NMS Plan and in Rule 613 in developing the proposed funding model. The following are the funding principles in Section 11.2 of the CAT NMS Plan:

- To create transparent, predictable revenue streams for the Company that are aligned with the anticipated costs to build, operate and administer the CAT and other costs of the Company;
- To establish an allocation of the Company's related costs among Participants and Industry Members that is consistent with the Exchange Act, taking into account the timeline for implementation of the CAT and distinctions in the securities trading operations of Participants and Industry Members and their relative impact upon the Company's resources and operations;
- To establish a tiered fee structure in which the fees charged to: (i) CAT Reporters that are Execution Venues, including ATSs, are based upon the level of market share; (ii) Industry Members' non-ATS activities are based upon message traffic; (iii) the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members);
- To provide for ease of billing and other administrative functions;
- To avoid any disincentives such as placing an inappropriate burden on competition and a reduction in market quality; and
- To build financial stability to support the Company as a going concern.

(B) Industry Member Tiering

Under Section 11.3(b) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees to be payable by Industry Members, based on message traffic generated by such Industry Member, with the Operating Committee establishing at least five and no more than nine tiers.

The CAT NMS Plan clarifies that the fixed fees payable by Industry Members pursuant to Section 11.3(b) shall, in addition to any other applicable message traffic, include message traffic generated by: (i) An ATS that does not execute orders that is sponsored by such Industry Member; and (ii) routing orders to and from any ATS sponsored by such Industry Member. In addition, the Industry Member fees will apply to Industry Members that act as routing broker-dealers for exchanges. The Industry Member fees will not be applicable, however, to an ATS that qualifies as an Execution Venue, as discussed in more detail in the section on Execution Venue tiering.

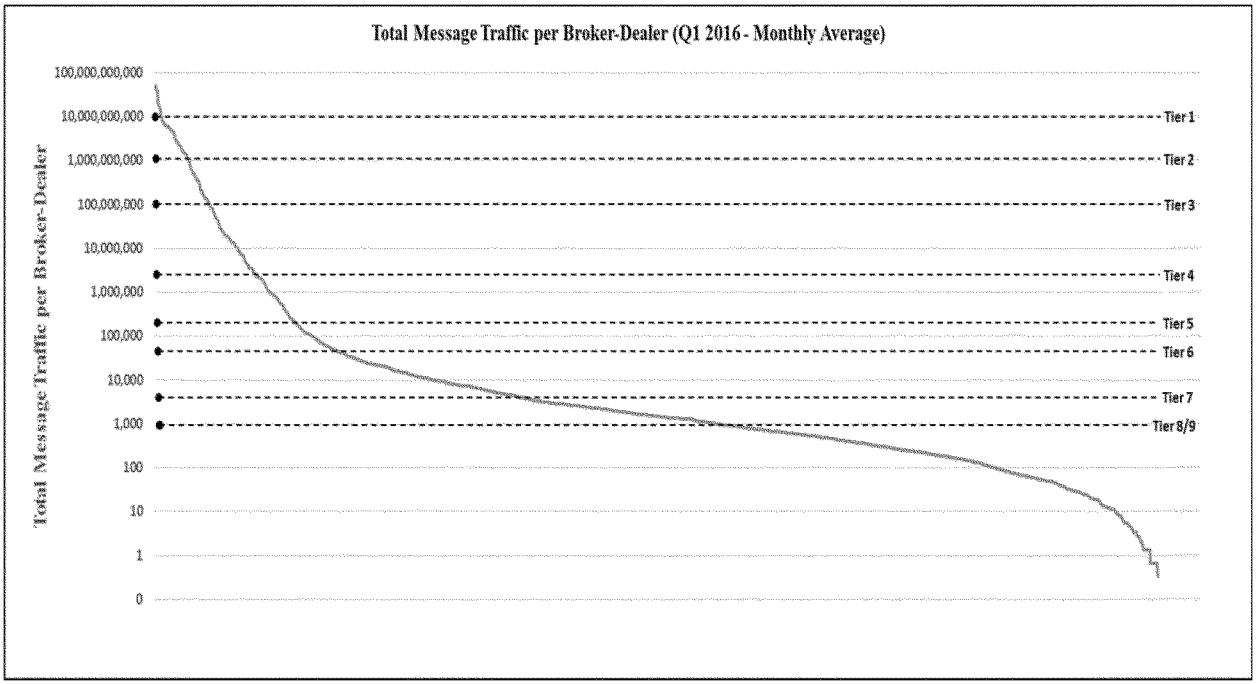
In accordance with Section 11.3(b), the Operating Committee approved a tiered fee structure for Industry Members (other than Execution Venue ATSs) as described in this section. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on CAT System resources of different Industry Members, and that establish comparable fees among the CAT Reporters with the most Reportable Events. The Operating Committee has determined that establishing nine tiers results in the fairest allocation of fees, best distinguishing between Industry Members with differing levels of message traffic. Thus, each such Industry Member will be placed into one of nine tiers of fixed fees, based on ''message traffic'' for a defined period (as discussed below). A nine tier structure was selected to provide the widest range of levels for tiering Industry Members such that Industry Members submitting significantly less message traffic to the CAT would be adequately differentiated from Industry Members submitting substantially more message traffic. The Operating Committee considered historical message traffic generated by Industry Members across all exchanges and as submitted to FINRA's Order Audit Trail System (''OATS''), and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee determined that nine tiers would best group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden of Industry Members that have less CAT-related activity.

Each Industry Member (other than Execution Venue ATSs) will be ranked by message traffic and tiered by predefined Industry Member percentages (the ''Industry Member Percentages''). The Operating Committee determined to use predefined percentages rather than fixed volume thresholds to allow the funding model to ensure that the total CAT fees collected recover the intended CAT costs regardless of changes in the total level of message traffic. To determine the fixed percentage of Industry Members in each tier, the Operating Committee analyzed historical message traffic generated by Industry Members across all exchanges and as submitted to OATS, and considered the distribution of firms with similar levels of message traffic, grouping together firms with similar levels of message traffic. Based on this, the Operating Committee identified tiers that would group firms with similar levels of message traffic, charging those firms with higher impact on the CAT more, while lowering the burden on Industry Members that have less CAT-related activity.

The percentage of costs recovered by each Industry Member tier will be determined by predefined percentage allocations (the ''Industry Member Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter message traffic on the CAT System as well as the distribution of total message volume across Industry Members while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Industry Members in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical message traffic upon which Industry Members had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to tiers with higher levels of message traffic while avoiding any inappropriate burden on competition. Furthermore, by using percentages of Industry Members and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Industry Members or the total level of message traffic.

The following chart illustrates the breakdown of nine Industry Member tiers across the monthly average of total equity and equity options orders, cancels and quotes in Q1 2016 and identifies relative gaps across varying levels of Industry Member message traffic as well as message traffic thresholds between the largest of Industry Member message traffic gaps. The Operating Committee referenced similar distribution illustrations to determine the appropriate division of Industry Member percentages in each tier by considering the grouping of firms

with similar levels of message traffic and seeking to identify relative breakpoints in the message traffic between such groupings. In reviewing the chart and its corresponding table, note that while these distribution illustrations were referenced to help differentiate between Industry Member tiers, the proposed funding model is directly driven, not by fixed message traffic thresholds, but rather by fixed percentages of Industry Members across tiers to account for fluctuating levels of message traffic across time and to provide for the financial stability of the CAT by ensuring that the funding model will recover the required amounts regardless of changes in the number of Industry Members or the amount of message traffic. Actual messages in any tier will vary based on the actual traffic in a given measurement period, as well as the number of firms included in the measurement period. The Industry Member Percentages and Industry Member Recovery Allocation for each tier will remain fixed with each Industry Member's tier to be reassigned periodically, as described below in Section II.A.1.(1)(H) [sic].



Industry member tier	Monthly average message traffic per industry member (orders, quotes and cancels)
Tier 1	>10,000,000,000
Tier 2	>1,000,000,000
Tier 3	>100,000,000
Tier 4	>2,500,000
Tier 5	>200,000
Tier 6	>50,000
Tier 7	>5,000
Tier 8	>1,000
Tier 9	≤1,000

Based on the above analysis, the Operating Committee approved the following Industry Member Percentages and Recovery Allocations:

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

For the purposes of creating these tiers based on message traffic, the Operating Committee determined to define the term ''message traffic'' separately for the period before the commencement of CAT reporting and for the period after the start of CAT reporting. The different definition for message traffic is necessary as there will be no Reportable Events as defined in the Plan, prior to the commencement of CAT reporting. Accordingly, prior to the start of CAT reporting, ''message traffic'' will be comprised of historical equity and equity options orders, cancels and quotes provided by each exchange and FINRA over the previous three months.[37] Prior to the start of CAT reporting, orders would be comprised of the total number of equity and equity options orders received and originated by a member of an exchange or FINRA over the previous three-month period, including principal orders, cancel/replace orders, market maker orders originated by a member of an exchange, and reserve (iceberg) orders as well as order routes and executions originated by a member of FINRA, and excluding order rejects and implied orders.[38] In addition, prior to the start of CAT reporting, cancels would be comprised of the total number of equity and equity option cancels received and originated by a member of an exchange or FINRA over a three-month period, excluding order modifications (*e.g.,* order updates, order splits, partial cancels). Furthermore, prior to the start of CAT reporting, quotes would be comprised of information readily available to the exchanges and FINRA, such as the total number of historical equity and equity options quotes received and originated by a member of an exchange or FINRA over the prior three-month period.

After an Industry Member begins reporting to the CAT, ''message traffic'' will be calculated based on the Industry Member's Reportable Events reported to the CAT as will be defined in the Technical Specifications.[39]

The Operating Committee has determined to calculate fee tiers every three months, on a calendar quarter basis, based on message traffic from the prior three months. Based on its analysis of historical data, the Operating Committee believes that calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Industry Members while still providing predictability in the tiering for Industry Members. Because fee tiers will be calculated based on message traffic from the prior three months, the Operating Committee will begin calculating message traffic based on an Industry Member's Reportable Events reported to the CAT once the Industry Member has been reporting to the CAT for three months. Prior to that, fee tiers will be calculated as discussed above with regard to the period prior to CAT reporting.

(C) Execution Venue Tiering

Under Section 11.3(a) of the CAT NMS Plan, the Operating Committee is required to establish fixed fees payable by Execution Venues. Section 1.1 of the CAT NMS Plan defines an Execution Venue as ''a Participant or an alternative trading system (''ATS'') (as defined in Rule 300 of Regulation ATS) that operates pursuant to Rule 301 of Regulation ATS (excluding any such ATS that does not execute orders).'' [40]

The Participants determined that ATSs should be included within the definition of Execution Venue. Given the similarity between the activity of exchanges and ATSs, both of which meet the definition of an ''exchange'' as set forth in the Exchange Act and the fact that the similar trading models would have similar anticipated burdens on the CAT, the Participants determined that ATSs should be treated in the same manner as the exchanges for the purposes of determining the level of fees associated with the CAT.[41]

Given the differences between Execution Venues that trade NMS Stocks and/or OTC Equity Securities and Execution Venues that trade Listed Options, Section 11.3(a) addresses Execution Venues that trade NMS Stocks and/or OTC Equity Securities separately from Execution Venues that trade Listed Options. Equity and Options Execution Venues are treated separately for two reasons. First, the differing quoting behavior of Equity and Options Execution Venues makes comparison of activity between Execution Venues difficult. Second, Execution Venue tiers are calculated based on market share of share volume, and it is therefore difficult to compare market share between asset classes (*i.e.,* equity shares versus options contracts). Discussed below is how the funding model treats the two types of Execution Venues.

(I) NMS Stocks and OTC Equity Securities

Section 11.3(a)(i) of the CAT NMS Plan states that each Execution Venue that (i) executes transactions or, (ii) in the case of a national securities association, has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange, in NMS Stocks or OTC Equity Securities will pay a fixed fee depending on the market share of that Execution Venue in NMS Stocks and OTC Equity Securities, with the Operating Committee establishing at least two and not more than five tiers of fixed fees, based on an Execution Venue's NMS Stocks and

[37] The SEC approved exemptive relief permitting Options Market Maker quotes to be reported to the Central Repository by the relevant Options Exchange in lieu of requiring that such reporting be done by both the Options Exchange and the Options Market Maker, as required by Rule 613 of Regulation NMS. *See* Securities Exchange Act Release No. 77265 (March 1, 2016 [sic], 81 FR 11856 (March 7, 2016). This exemption applies to Options Market Maker quotes for CAT reporting purposes only. Therefore, notwithstanding the reporting exemption provided for Options Market Maker quotes, Options Market Maker quotes will be included in the calculation of total message traffic for Options Market Makers for purposes of tiering under the CAT funding model both prior to CAT reporting and once CAT reporting commences.

[38] Consequently, firms that do not have ''message traffic'' reported to an exchange or OATS before they are reporting to the CAT would not be subject to a fee until they begin to report information to CAT.

[39] If an Industry Member (other than an Execution Venue ATS) has no orders, cancels or quotes prior to the commencement of CAT Reporting, or no Reportable Events after CAT reporting commences, then the Industry Member would not have a CAT fee obligation.

[40] Although FINRA does not operate an execution venue, because it is a Participant, it is considered an ''Execution Venue'' under the Plan for purposes of determining fees.

[41] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85005.

OTC Equity Securities market share. For these purposes, market share for Execution Venues that execute transactions will be calculated by share volume, and market share for a national securities association that has trades reported by its members to its trade reporting facility or facilities for reporting transactions effected otherwise than on an exchange in NMS Stocks or OTC Equity Securities will be calculated based on share volume of trades reported, provided, however, that the share volume reported to such national securities association by an Execution Venue shall not be included in the calculation of such national security association's market share.

In accordance with Section 11.3(a)(i) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Equity Execution Venues and Option Execution Venues. In determining the Equity Execution Venue Tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Equity Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Equity Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's NMS Stocks and OTC Equity Securities market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to the non-Execution Venue Industry Members to determine the number of tiers for Equity Execution Venues. The Operating Committee determined to establish two tiers for Equity Execution Venues, rather than a larger number of tiers as established for non-Execution Venue Industry Members, because the two tiers were sufficient to distinguish between the smaller number of Equity Execution Venues based on market share. Furthermore, the incorporation of additional Equity Execution Venue tiers would result in significantly higher fees for Tier 1 Equity Execution Venues and diminish comparability between Execution Venues and Industry Members.

Each Equity Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Equity Execution Venue Percentages''). In determining the fixed percentage of Equity Execution Venues in each tier, the Operating Committee looked at historical market share of share volume for execution venues. Equities Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats Global Markets, Inc. (''Bats''). ATS market share of share volume was sourced from market statistics made publicly-available by FINRA. FINRA trade reporting facility (''TRF'') market share of share volume was sourced from market statistics made publicly available by Bats. As indicated by FINRA, ATSs accounted for 37.80% of the share volume across the TRFs during the recent tiering period. A 37.80/62.20 split was applied to the ATS and non-ATS breakdown of FINRA market share, with FINRA tiered based only on the non-ATS portion of its TRF market share of share volume.

Based on this, the Operating Committee considered the distribution of Execution Venues, and grouped together Execution Venues with similar levels of market share of share volume. In doing so, the Participants considered that, as previously noted, Execution Venues in many cases have similar levels of message traffic due to quoting activity, and determined that it was simpler and more appropriate to have fewer, rather than more, Execution Venue tiers to distinguish between Execution Venues.

The percentage of costs recovered by each Equity Execution Venue tier will be determined by predefined percentage allocations (the ''Equity Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Equity Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Accordingly, following the determination of the percentage of Execution Venues in each tier, the Operating Committee identified the percentage of total market volume for each tier based on the historical market share upon which Execution Venues had been initially ranked. Taking this into account along with the resulting percentage of total recovery, the percentage allocation of costs recovered for each tier were assigned, allocating higher percentages of recovery to the tier with a higher level of market share while avoiding any inappropriate burden on competition. Furthermore, due to the similar levels of impact on the CAT System across Execution Venues, there is less variation in CAT Fees between the highest and lowest of tiers for Execution Venues. Furthermore, by using percentages of Equity Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Equity Execution Venues or changes in market share.

Based on this analysis, the Operating Committee approved the following Equity Execution Venue Percentages and Recovery Allocations:

Equity Execution Venue tier	Percentage of Equity Execution Venues	Percentage of Execution Venue Recovery	Percentage of total Recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Equity Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Equity Execution Venue tiers, the proposed funding model is directly driven not by market share thresholds, but rather by fixed percentages of Equity Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Equity Execution Venues included in the measurement period. The Equity Execution Venue Percentages and Equity Execution Venue Recovery

Allocation for each tier will remain fixed with each Equity Execution Venue tier to be reassigned periodically, as described below in Section II.A.1.(1)(I) [sic].

Equity Execution Venue tier	Equity market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(II) Listed Options

Section 11.3(a)(ii) of the CAT NMS Plan states that each Execution Venue that executes transactions in Listed Options will pay a fixed fee depending on the Listed Options market share of that Execution Venue, with the Operating Committee establishing at least two and no more than five tiers of fixed fees, based on an Execution Venue's Listed Options market share. For these purposes, market share will be calculated by contract volume.

In accordance with Section 11.3(a)(ii) of the CAT NMS Plan, the Operating Committee approved a tiered fee structure for Options Execution Venues. In determining the tiers, the Operating Committee considered the funding principles set forth in Section 11.2 of the CAT NMS Plan, seeking to create funding tiers that take into account the relative impact on system resources of different Options Execution Venues, and that establish comparable fees among the CAT Reporters with the most Reportable Events. Each Options Execution Venue will be placed into one of two tiers of fixed fees, based on the Execution Venue's Listed Options market share. In choosing two tiers, the Operating Committee performed an analysis similar to that discussed above with regard to Industry Members (other than Execution Venue ATSs) to determine the number of tiers for Options Execution Venues. The Operating Committee determined to establish two tiers for Options Execution Venues, rather than a larger number of tiers as established for Industry Members (other than Execution Venue ATSs), because the two tiers were sufficient to distinguish between the smaller number of Options Execution Venues based on market share. Furthermore, due to the smaller number of Options Execution Venues, the incorporation of additional Options Execution Venue tiers would result in significantly higher fees for Tier 1 Options Execution Venues and reduce comparability between Execution Venues and Industry Members.

Each Options Execution Venue will be ranked by market share and tiered by predefined Execution Venue percentages, (the ''Options Execution Venue Percentages''). To determine the fixed percentage of Options Execution Venues in each tier, the Operating Committee analyzed the historical and publicly available market share of Options Execution Venues to group Options Execution Venues with similar market shares across the tiers. Options Execution Venue market share of share volume were sourced from market statistics made publicly-available by Bats. The process for developing the Options Execution Venue Percentages was the same as discussed above with regard to Equity Execution Venues.

The percentage of costs recovered by each Options Execution Venue tier will be determined by predefined percentage allocations (the ''Options Execution Venue Recovery Allocation''). In determining the fixed percentage allocation of costs recovered for each tier, the Operating Committee considered the impact of CAT Reporter market share activity on the CAT System as well as the distribution of total market volume across Options Execution Venues while seeking to maintain comparable fees among the largest CAT Reporters. Furthermore, by using percentages of Options Execution Venues and costs recovered per tier, the Operating Committee sought to include stability and elasticity within the funding model, allowing the funding model to respond to changes in either the total number of Options Execution Venues or changes in market share. The process for developing the Options Execution Venue Recovery Allocation was the same as discussed above with regard to Equity Execution Venues.

Based on this analysis, the Operating Committee approved the following Options Execution Venue Percentages and Recovery Allocations:

Options Execution Venue tier	Percentage of Options Execution Venues	Percentage of Execution Venue Recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

The following table exhibits the relative separation of market share of share volume between Tier 1 and Tier 2 Options Execution Venues. In reviewing the table, note that while this division was referenced as a data point to help differentiate between Options Execution Venue tiers, the proposed funding model is directly driven, not by market share thresholds, but rather by fixed percentages of Options Execution Venues across tiers to account for fluctuating levels of market share across time. Actual market share in any tier will vary based on the actual market activity in a given measurement period, as well as the number of Options Execution Venues included in the measurement period. The Options Execution Venue Percentages and Equity Execution Venue Recovery Allocation for each tier will remain fixed with each Options Execution Venue tier to be reassigned periodically, as described below in Section II.A.1.(1)(I) [sic].

Options Execution Venue Tier	Options market share of share volume (%)
Tier 1	≥1
Tier 2	<1

(III) Market Share/Tier Assignments

The Operating Committee determined that, prior to the start of CAT reporting, market share for Execution Venues would be sourced from publicly-available market data. Options and equity volumes for Participants will be sourced from market data made publicly available by Bats while Execution Venue ATS volumes will be sourced from market data made publicly available by FINRA. Set forth in the Appendix are two charts, one listing the current Equity Execution Venues, each with its rank and tier, and one listing the current Options Execution Venues, each with its rank and tier.

After the commencement of CAT reporting, market share for Execution Venues will be sourced from data reported to the CAT. Equity Execution Venue market share will be determined by calculating each Equity Execution Venue's proportion of the total volume of NMS Stock and OTC Equity shares reported by all Equity Execution Venues during the relevant time period. Similarly, market share for Options Execution Venues will be determined by calculating each Options Execution Venue's proportion of the total volume of Listed Options contracts reported by all Options Execution Venues during the relevant time period.

The Operating Committee has determined to calculate fee tiers for Execution Venues every three months based on market share from the prior three months. Based on its analysis of historical data, the Operating Committee believes calculating tiers based on three months of data will provide the best balance between reflecting changes in activity by Execution Venues while still providing predictability in the tiering for Execution Venues.

(D) Allocation of Costs

In addition to the funding principles discussed above, including comparability of fees, Section 11.1(c) of the CAT NMS Plan also requires expenses to be fairly and reasonably shared among the Participants and Industry Members. Accordingly, in developing the proposed fee schedules pursuant to the funding model, the Operating Committee calculated how the CAT costs would be allocated between Industry Members and Execution Venues, and how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. These determinations are described below.

(I) Allocation Between Industry Members and Execution Venues

In determining the cost allocation between Industry Members (other than Execution Venue ATSs) and Execution Venues, the Operating Committee analyzed a range of possible splits for revenue recovered from such Industry Members and Execution Venues. Based on this analysis, the Operating Committee determined that 75 percent of total costs recovered would be allocated to Industry Members (other than Execution Venue ATSs) and 25 percent would be allocated to Execution Venues. The Operating Committee determined that this 75/25 division maintained the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members and/or exchange licenses). For example, the cost allocation establishes fees for the largest Industry Members (*i.e.,* those Industry Members in Tiers 1, 2 and 3) that are comparable to the largest Equity Execution Venues and Options Execution Venues (*i.e.,* those Execution Venues in Tier 1). In addition, the cost allocation establishes fees for Execution Venue complexes that are comparable to those of Industry Member complexes. For example, when analyzing alternative allocations, other possible allocations led to much higher fees for larger Industry Members than for larger Execution Venues or vice versa, and/or led to much higher fees for Industry Member complexes than Execution Venue complexes or vice versa.

Furthermore, the allocation of total CAT costs recovered recognizes the difference in the number of CAT Reporters that are Industry Members versus CAT Reporters that are Execution Venues. Specifically, the cost allocation takes into consideration that there are approximately 25 times more Industry Members expected to report to the CAT than Execution Venues (*e.g.,* an estimated 1,630 Industry Members versus 70 Execution Venues as of January 2017).

(II) Allocation Between Equity Execution Venues and Options Execution Venues

The Operating Committee also analyzed how the portion of CAT costs allocated to Execution Venues would be allocated between Equity Execution Venues and Options Execution Venues. In considering this allocation of costs, the Operating Committee analyzed a range of alternative splits for revenue recovered between Equity and Options Execution Venues, including a 70/30, 67/33, 65/35, 50/50 and 25/75 split. Based on this analysis, the Operating Committee determined to allocate 75 percent of Execution Venue costs recovered to Equity Execution Venues and 25 percent to Options Execution Venues. The Operating Committee determined that a 75/25 division between Equity and Options Execution Venues maintained elasticity across the funding model as well the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues. For example, the allocation establishes fees for the larger Equity Execution Venues that are comparable to the larger Options Execution Venues, and fees for the smaller Equity Execution Venues that are comparable to the smaller Options Execution Venues. In addition to fee comparability between Equity Execution Venues and Options Execution Venues, the allocation also establishes equitability between larger (Tier 1) and smaller (Tier 2) Execution Venues based upon the level of market share. Furthermore, the allocation is intended to reflect the relative levels of current equity and options order events.

(E) Fee Levels

The Operating Committee determined to establish a CAT-specific fee to collectively recover the costs of building and operating the CAT. Accordingly, under the funding model, the sum of the CAT Fees is designed to recover the total cost of the CAT. The Operating Committee has determined overall CAT costs to be comprised of Plan Processor costs and non-Plan Processor costs, which are estimated to be $50,700,000 in total for the year beginning November 21, 2016.[42]

The Plan Processor costs relate to costs incurred by the Plan Processor and consist of the Plan Processor's current estimates of average yearly ongoing costs, including development cost, which total $37,500,000. This amount is based upon the fees due to the Plan Processor pursuant to the agreement with the Plan Processor.

The non-Plan Processor estimated costs incurred and to be incurred by the Company through November 21, 2017 consist of three categories of costs. The first category of such costs are third party support costs, which include historic legal fees, consulting fees and audit fees from November 21, 2016 until the date of filing as well as estimated third party support costs for the rest of the year. These amount to an estimated $5,200,000. The second category of non-Plan Processor costs are estimated insurance costs for the year. Based on discussions with potential insurance providers, assuming $2–5 million insurance premium on $100 million in coverage, the Company has received an estimate of $3,000,000 for the annual cost. The final cost figures will be determined following receipt of final underwriter quotes. The third category of non-Plan Processor costs is the operational reserve, which is comprised of three months of ongoing Plan Processor costs ($9,375,000), third party support costs ($1,300,000) and insurance costs ($750,000). The Operating Committee aims to accumulate the necessary funds for the

[42] It is anticipated that CAT-related costs incurred prior to November 21, 2016 will be addressed via a separate fee filing.

establishment of the three-month operating reserve for the Company through the CAT Fees charged to CAT Reporters for the year. On an ongoing basis, the Operating Committee will account for any potential need for the replenishment of the operating reserve or other changes to total cost during its annual budgeting process. The following table summarizes the Plan Processor and non-Plan Processor cost components which comprise the total CAT costs of $50,700,000.

Cost category	Cost component	Amount
Plan Processor	Operational Costs	$37,500,000
Non-Plan Processor	Third Party Support Costs	5,200,000
	Operational Reserve	[43] 5,000,000
	Insurance Costs	3,000,000
Estimated Total		50,700,000

Basedon the estimated costs and the calculations for the funding model described above, the Operating Committee determined to impose the following fees: [44]

For Industry Members (other than Execution Venue ATSs):

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [45]
1	$33,668	$101,004	$404,016
2	27,051	81,153	324,612
3	19,239	57,717	230,868
4	6,655	19,965	79,860
5	4,163	12,489	49,956
6	2,560	7,680	30,720
7	501	1,503	6,012
8	145	435	1,740
9	22	66	264

For Execution Venues for NMS Stocks and OTC Equity Securities:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [46]
1	$21,125	$63,375	$253,500
2	12,940	38,820	155,280

For Execution Venues for Listed Options:

Tier	Monthly CAT fee	Quarterly CAT fee	CAT fees paid annually [47]
1	$19,205	$57,615	$230,460
2	13,204	39,612	158,448

As noted above, the fees set forth in the tables reflect the Operating Committee's decision to ensure comparable fees between Execution Venues and Industry Members. The fees of the top tiers for Industry Members (other than Execution Venue ATSs) are not identical to the top tier for Execution Venues, however, because the Operating Committee also determined that the fees for Execution Venue complexes should be comparable to those of Industry Member complexes. The difference in the fees reflects this decision to recognize affiliations.

The Operating Committee has calculated the schedule of effective fees for Industry Members (other than Execution Venue ATSs) and Execution Venues in the following manner. Note

[43] This $5,000,000 represents the gradual accumulation of the funds for a target operating reserve of $11,425,000.

[44] Note that all monthly, quarterly and annual CAT Fees have been rounded to the nearest dollar.

[45] This column represents the approximate total CAT Fees paid each year by each Industry Member (other than Execution Venue ATSs) (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[46] This column represents the approximate total CAT Fees paid each year by each Execution Venue for NMS Stocks and OTC Equity Securities (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

[47] This column represents the approximate total CAT Fees paid each year by each Execution Venue for Listed Options (*i.e.,* ''CAT Fees Paid Annually'' = ''Monthly CAT Fee'' × 12 months).

that the calculation of CAT Reporter fees assumes 53 Equity Execution Venues, 15 Options Execution Venues and 1,631 Industry Members (other than Execution Venue ATSs) as of January 2017.

Calculation of Annual Tier Fees for Industry Members (''IM'')

Industry member tier	Percentage of industry members	Percentage of industry member recovery	Percentage of total recovery
Tier 1	0.500	8.50	6.38
Tier 2	2.500	35.00	26.25
Tier 3	2.125	21.25	15.94
Tier 4	4.625	15.75	11.81
Tier 5	3.625	7.75	5.81
Tier 6	4.000	5.25	3.94
Tier 7	17.500	4.50	3.38
Tier 8	20.125	1.50	1.13
Tier 9	45.000	0.50	0.38
Total	100	100	75

Industry member tier	Estimated number of industry members
Tier 1	8
Tier 2	41
Tier 3	35
Tier 4	75
Tier 5	59
Tier 6	65
Tier 7	285
Tier 8	328
Tier 9	735
Total	1,631

Calculation 1.1 (Calculation of a Tier 1 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 0.5\%\ [\%\ \text{of Tier 1 IMs}] = 8\ [\text{Estimated Tier 1 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 8.50\%\ [\%\ \text{of Tier 1 IM Recovery}]}{8\ [\text{Estimated Tier 1 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{33{,}668}$$

Calculation 1.2 (Calculation of a Tier 2 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.5\%\ [\%\ \text{of Tier 2 IMs}] = 41\ [\text{Estimated Tier 2 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 35\%\ [\%\ \text{of Tier 2 IM Recovery}]}{41\ [\text{Estimated Tier 2 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{27{,}051}$$

Calculation 1.3 (Calculation of a Tier 3 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 2.125\%\ [\%\ \text{of Tier 3 IMs}] = 35\ [\text{Estimated Tier 3 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 21.25\%\ [\%\ \text{of Tier 3 IM Recovery}]}{35\ [\text{Estimated Tier 3 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{19{,}239}$$

Calculation 1.4 (Calculation of a Tier 4 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4.625\%\ [\%\ \text{of Tier 4 IMs}] = 75\ [\text{Estimated Tier 4 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 15.75\%\ [\%\ \text{of Tier 4 IM Recovery}]}{75\ [\text{Estimated Tier 4 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{6{,}655}$$

Calculation 1.5 (Calculation of a Tier 5 Industry Member Annual Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 3.625\%\ [\%\ \text{of Tier 5 IMs}] = 59\ [\text{Estimated Tier 5 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 7.75\%\ [\%\ \text{of Tier 5 IM Recovery}]}{59\ [\text{Estimated Tier 5 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{4{,}163}$$

Calculation 1.6 (Calculation of a Tier 6 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 4\%\ [\%\ \text{of Tier 6 IMs}] = 65\ [\text{Estimated Tier 6 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 5.25\%\ [\%\ \text{of Tier 6 IM Recovery}]}{65\ [\text{Estimated Tier 6 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{2{,}560}$$

Calculation 1.7 (Calculation of a Tier 7 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 17.5\%\ [\%\ \text{of Tier 7 IMs}] = 285\ [\text{Estimated Tier 7 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 4.50\%\ [\%\ \text{of Tier 7 IM Recovery}]}{285\ [\text{Estimated Tier 7 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{501}$$

Calculation 1.8 (Calculation of a Tier 8 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 20.125\%\ [\%\ \text{of Tier 8 IMs}] = 328\ [\text{Estimated Tier 8 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 1.50\%\ [\%\ \text{of Tier 8 IM Recovery}]}{328\ [\text{Estimated Tier 8 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{145}$$

Calculation 1.9 (Calculation of a Tier 9 Industry Member Monthly Fee)

$$1{,}631\ [\text{Estimated Tot. IMs}] \times 45\%\ [\%\ \text{of Tier 9 IMs}] = 735\ [\text{Estimated Tier 9 IMs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 75\%\ [\text{IM \% of Tot.Ann.CAT Costs}] \times 0.50\%\ [\%\ \text{of Tier 9 IM Recovery}]}{735\ [\text{Est.Tier 9 IMs}]}\right) \div 12\ [\text{Months per year}] = \$\mathbf{22}$$

Calculation of Annual Tier Fees for Equity Execution Venues (“EV”)

Equity Execution Venue Tier	Percentage of Equity Execution Venues	Percentage of Execution Venue Recovery	Percentage of total recovery
Tier 1	25.00	26.00	6.50
Tier 2	75.00	49.00	12.25
Total	100	75	18.75

Equity Execution Venue Tier	Estimated number of Equity Execution Venues
Tier 1	13
Tier 2	40
Total	53

Calculation 2.1 (Calculation of a Tier 1 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 25\%\ [\%\ \text{of Tier 1 Equity EVs}] = 13\ [\text{Estimated Tier 1 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 26\%\ [\%\ \text{of Tier 1 Equity EV Recovery}]}{13\ [\text{Estimated Tier 1 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$21{,}125}$$

Calculation 2.2 (Calculation of a Tier 2 Equity Execution Venue Monthly Fee)

$$52\ [\text{Estimated Tot. Equity EVs}] \times 75\%\ [\%\ \text{of Tier 2 Equity EVs}] = 40\ [\text{Estimated Tier 2 Equity EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot. Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 49\%\ [\%\ \text{of Tier 2 Equity EV Recovery}]}{40\ [\text{Estimated Tier 2 Equity EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$12{,}940}$$

Calculation of Annual Tier Fees for Options Execution Venues (''EV'')

Options Execution Venue Tier	Percentage of options Execution Venues	Percentage of execution Venue Recovery	Percentage of total recovery
Tier 1	75.00	20.00	5.00
Tier 2	25.00	5.00	1.25
Total	100	25	6.25

Options Execution Venue Tier	Estimated number of Options Execution Venues
Tier 1	11
Tier 2	4
Total	15

Calculation 3.1 (Calculation of a Tier 1 Options Execution Venue Monthly Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 75\%\ [\%\ \text{of Tier 1 Options EVs}] = 11\ [\text{Estimated Tier 1 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 20\%\ [\%\ \text{of Tier 1 Options EV Recovery}]}{11\ [\text{Estimated Tier 1 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$19{,}205}$$

Calculation 3.2 (Calculation of a Tier 2 Options Execution Venue Annual Fee)

$$15\ [\text{Estimated Tot. Options EVs}] \times 25\%\ [\%\ \text{of Tier 2 Options EVs}] = 4\ [\text{Estimated Tier 2 Options EVs}]$$

$$\left(\frac{\$50{,}700{,}000\ [\text{Tot.Ann.CAT Costs}] \times 25\%\ [\text{EV \% of Tot.Ann.CAT Costs}] \times 5\%\ [\%\ \text{of Tier 2 Options EV Recovery}]}{4\ [\text{Estimated Tier 2 Options EVs}]}\right) \div 12\ [\text{Months per year}] = \mathbf{\$13{,}204}$$

Traceability of Total CAT Fees

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
Industry Members	Tier 1	8	$404,016	$3,232,128
	Tier 2	41	324,612	13,309,092
	Tier 3	35	230,868	8,080,380
	Tier 4	75	79,860	5,989,500
	Tier 5	59	49,956	2,947,404
	Tier 6	65	30,720	1,996,800
	Tier 7	285	6,012	1,713,420

Type	Industry member tier	Estimated number of members	CAT fees paid annually	Total recovery
	Tier 8	328	1,740	570,720
	Tier 9	735	264	194,040
Total		1,631		38,033,484
Equity Execution Venues	Tier 1	13	253,500	3,295,500
	Tier 2	40	155,280	6,211,200
Total		53		9,506,700
Options Execution Venues	Tier 1	11	230,460	2,535,060
	Tier 2	4	158,448	633,792
Total		15		3,168,852
Total				50,709,036
Excess [48]				9,036

(F) Comparability of Fees

The funding principles require a funding model in which the fees charged to the CAT Reporters with the most CAT-related activity (measured by market share and/or message traffic, as applicable) are generally comparable (where, for these comparability purposes, the tiered fee structure takes into consideration affiliations between or among CAT Reporters, whether Execution Venue and/or Industry Members). Accordingly, in creating the model, the Operating Committee sought to take account of the affiliations between or among CAT Reporters—that is, where affiliated entities may have multiple Industry Member and/or Execution Venue licenses, by maintaining relative comparability of fees among such affiliations with the most expected CAT-related activity. To do this, the Participants identified representative affiliations in the largest tier of both Execution Venues and Industry Members and compared the aggregate fees that would be paid by such firms.

While the proposed fees for Tier 1 and Tier 2 Industry Members are relatively higher than those of Tier 1 and Tier 2 Execution Venues, Execution Venue complex fees are relatively higher than those of Industry Member complexes largely due to affiliations between Execution Venues. The tables set forth below describe the largest Execution Venue and Industry Member complexes and their associated fees: [49]

EXECUTION VENUE COMPLEXES

Execution Venue Complex	Listing of Equity Execution Venue Tiers	Listing of Options Execution Venue Tier	Total fees by EV complex
Execution Venue Complex 1	• Tier 1 (x2) • Tier 2 (x1)	• Tier 1 (x4) • Tier 2 (x2)	$1,900,962
Execution Venue Complex 2	• Tier 1 (x2)	• Tier 1 (x2) • Tier 2 (x1)	1,863,801
Execution Venue Complex 3	• Tier 1 (x2) • Tier 2 (x2)	• Tier 1 (x2)	1,278,447

INDUSTRY MEMBER COMPLEXES

Industry member complex	Listing of industry member tiers	Listing of ATS tiers	Total fees by IM complex
Industry Member Complex 1	• Tier 1 (x2)	• Tier 2 (x1)	$963,300
Industry Member Complex 2	• Tier 1 (x1) • Tier 4 (x1)	• Tier 2 (x3)	949,674
Industry Member Complex 3	• Tier 1 (x1) • Tier 2 (x1)	• Tier 2 (x1)	883,888
Industry Member Complex 4	• Tier 1 (x1) • Tier 2 (x1) • Tier 4 (x1)	N/A	808,472
Industry Member Complex 5	• Tier 2 (x1) • Tier 3 (x1) • Tier 4 (x1) • Tier 7 (x1)	• Tier 2 (x1)	796,595

[48] The amount in excess of the total CAT costs will contribute to the gradual accumulation of the target operating reserve of $11.425 million.

[49] Note that the analysis of the complexes was performed on a best efforts basis, as all affiliations between the 1631 Industry Members may not be included.

(G) Billing Onset

Under Section 11.1(c) of the CAT NMS Plan, to fund the development and implementation of the CAT, the Company shall time the imposition and collection of all fees on Participants and Industry Members in a manner reasonably related to the timing when the Company expects to incur such development and implementation costs. The Company is currently incurring such development and implementation costs and will continue to do so prior to the commencement of CAT reporting and thereafter. For example, the Plan Processor has required up-front payments to begin building the CAT. In addition, the Company continues to incur consultant and legal expenses on an on-going basis to implement the CAT. Accordingly, the Operating Committee determined that all CAT Reporters, including both Industry Members and Execution Venues (including Participants), would begin to be invoiced as promptly as possible following the establishment of a billing mechanism. FINRA will issue a notice to its members when the billing mechanism is established, specifying the date when such invoicing of Industry Members will commence.

(H) Changes to Fee Levels and Tiers

Section 11.3(d) of the CAT NMS Plan states that ''[t]he Operating Committee shall review such fee schedule on at least an annual basis and shall make any changes to such fee schedule that it deems appropriate. The Operating Committee is authorized to review such fee schedule on a more regular basis, but shall not make any changes on more than a semi-annual basis unless, pursuant to a Supermajority Vote, the Operating Committee concludes that such change is necessary for the adequate funding of the Company.'' With such reviews, the Operating Committee will review the distribution of Industry Members and Execution Venues across tiers, and make any updates to the percentage of CAT Reporters allocated to each tier as may be necessary. In addition, the reviews will evaluate the estimated ongoing CAT costs and the level of the operating reserve. To the extent that the total CAT costs decrease, the fees would be adjusted downward, and, to the extent that the total CAT costs increase, the fees would be adjusted upward.[50] Furthermore, any surplus of the Company's revenues over its expenses is to be included within the operational reserve to offset future fees. The limitations on more frequent changes to the fee, however, are intended to provide budgeting certainty for the CAT Reporters and the Company.[51] To the extent that the Operating Committee approves changes to the number of tiers in the funding model or the fees assigned to each tier, then FINRA will file such changes with the SEC pursuant to Section 19(b) of the Exchange Act, and any such changes will become effective in accordance with the requirements of Section 19(b).

(I) Initial and Periodic Tier Reassignments

The Operating Committee has determined to calculate fee tiers every three months based on market share or message traffic, as applicable, from the prior three months. For the initial tier assignments, the Company will calculate the relevant tier for each CAT Reporter using the three months of data prior to the commencement date. As with the initial tier assignment, for the tri-monthly reassignments, the Company will calculate the relevant tier using the three months of data prior to the relevant tri-monthly date. FINRA notes that any movement of CAT Reporters between tiers will not change the criteria for each tier or the fee amount corresponding to each tier.

In performing the tri-monthly reassignments, FINRA notes that the percentage of CAT Reporters in each assigned tier is relative. Therefore, a CAT Reporter's assigned tier will depend, not only on its own message traffic or market share, but it also will depend on the message traffic/market share across all CAT Reporters. For example, the percentage of Industry Members (other than Execution Venue ATSs) in each tier is relative such that such Industry Member's assigned tier will depend on message traffic generated across all CAT Reporters as well as the total number of CAT Reporters. The Operating Committee will inform CAT Reporters of their assigned tier every three months following the periodic tiering process, as the funding model will compare an individual CAT Reporter's activity to that of other CAT Reporters in the marketplace.

The following demonstrates a tier reassignment. In accordance with the funding model, the top 75% of Options Execution Venues in market share are categorized as Tier 1 while the bottom 25% of Options Execution Venues in market share are categorized as Tier 2. In the sample scenario below, Options Execution Venue L is initially categorized as a Tier 2 Options Execution Venue in Period A due to its market share. When market share is recalculated for Period B, the market share of Execution Venue L increases, and it is therefore subsequently reranked and reassigned to Tier 1 in Period B. Correspondingly, Options Execution Venue K, initially a Tier 1 Options Execution Venue in Period A, is reassigned to Tier 2 in Period B due to decreases in its market share of share volume.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue A	1	1	Options Execution Venue A	1	1
Options Execution Venue B	2	1	Options Execution Venue B	2	1
Options Execution Venue C	3	1	Options Execution Venue C	3	1
Options Execution Venue D	4	1	Options Execution Venue D	4	1
Options Execution Venue E	5	1	Options Execution Venue E	5	1
Options Execution Venue F	6	1	Options Execution Venue F	6	1
Options Execution Venue G	7	1	Options Execution Venue I	7	1
Options Execution Venue H	8	1	Options Execution Venue H	8	1
Options Execution Venue I	9	1	Options Execution Venue G	9	1
Options Execution Venue J	10	1	Options Execution Venue J	10	1
Options Execution Venue K	11	1	Options Execution Venue L	11	1

[50] The CAT Fees are designed to recover the costs associated with the CAT. Accordingly, CAT Fees would not be affected by increases or decreases in other non-CAT expenses incurred by the Participants, such as any changes in costs related to the retirement of existing regulatory systems, such as OATS.

[51] Section B.7, Appendix C of the CAT NMS Plan, Approval Order at 85006.

Period A			Period B		
Options Execution Venue	Market share rank	Tier	Options Execution Venue	Market share rank	Tier
Options Execution Venue L	12	2	Options Execution Venue K	12	2
Options Execution Venue M	13	2	Options Execution Venue N	13	2
Options Execution Venue N	14	2	Options Execution Venue M	14	2
Options Execution Venue O	15	2	Options Execution Venue O	15	2

(3) Proposed CAT Fee Schedule

FINRA proposes the Consolidated Audit Trail Funding Fees to implement the CAT Fees determined by the Operating Committee on FINRA's Industry Members. The proposed fee schedule has three sections, covering definitions, the fee schedule for CAT Fees, and the timing and manner of payments. Each of these sections is discussed in detail below.

(A) Definitions

Paragraph (a) of the proposed fee schedule sets forth the definitions for the proposed fee schedule. Paragraph (a)(1) states that, for purposes of the Consolidated Audit Trail Funding Fees, the terms ''CAT NMS Plan,'' ''Industry Member,'' ''NMS Stock,'' ''OTC Equity Security'', and ''Participant'' are defined as set forth in Rule 6810 (Consolidated Audit Trail—Definitions).

The proposed fee schedule imposes different fees on Equity ATSs and Industry Members that are not Equity ATSs. Accordingly, the proposed fee schedule defines the term ''Equity ATS.'' First, paragraph (a)(2) defines an ''ATS'' to mean an alternative trading system as defined in Rule 300(a) of SEC Regulation ATS under the Securities Exchange Act of 1934, as amended, that operates pursuant to Rule 301 of SEC Regulation ATS. This is the same definition of an ATS as set forth in Section 1.1 of the CAT NMS Plan in the definition of an ''Execution Venue.'' Then, paragraph (a)(4) defines an ''Equity ATS'' as an ATS that executes transactions in NMS Stocks and/or OTC Equity Securities.

Paragraph (a)(3) of the proposed fee schedule defines the term ''CAT Fee'' to mean the Consolidated Audit Trail Funding Fee(s) to be paid by Industry Members as set forth in paragraph (b) in the proposed fee schedule.

Finally, Paragraph (a)(6) defines an ''Execution Venue'' as a Participant or an ATS (excluding any such ATS that does not execute orders). This definition is the same substantive definition as set forth in Section 1.1 of the CAT NMS Plan. Paragraph (a)(5) defines an ''Equity Execution Venue'' as an Execution Venue that trades NMS Stocks and/or OTC Equity Securities.

(B) Fee Schedule

FINRA proposes to impose the CAT Fees applicable to its Industry Members through paragraph (b) of the proposed fee schedule. Paragraph (b)(1) of the proposed fee schedule sets forth the CAT Fees applicable to Industry Members other than Equity ATSs. Specifically, paragraph (b)(1) states that the Company will assign each Industry Member (other than an Equity ATS) to a fee tier once every quarter, where such tier assignment is calculated by ranking each Industry Member based on its total message traffic for the three months prior to the quarterly tier calculation day and assigning each Industry Member to a tier based on that ranking and predefined Industry Member percentages. The Industry Members with the highest total quarterly message traffic will be ranked in Tier 1, and the Industry Members with lowest quarterly message traffic will be ranked in Tier 9. Each quarter, each Industry Member (other than an Equity ATS) shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Industry Member for that quarter:

Tier	Percentage of industry members	Quarterly CAT fee
1	0.500	$101,004
2	2.500	81,153
3	2.125	57,717
4	4.625	19,965
5	3.625	12,489
6	4.000	7,680
7	17.500	1,503
8	20.125	435
9	45.000	66

Paragraph (b)(2) of the proposed fee schedule sets forth the CAT Fees applicable to Equity ATSs.[52] These are the same fees that Participants that trade NMS Stocks and/or OTC Equity Securities will pay. Specifically, paragraph (b)(2) states that the Company will assign each Equity ATS to a fee tier once every quarter, where such tier assignment is calculated by ranking each Equity Execution Venue based on its total market share of NMS Stocks and OTC Equity Securities for the three months prior to the quarterly tier calculation day and assigning each Equity Execution Venue to a tier based on that ranking and predefined Equity Execution Venue percentages. The Equity Execution Venues with the higher total quarterly market share will be ranked in Tier 1, and the Equity Execution Venues with the lower quarterly market share will be ranked in Tier 2. Specifically, paragraph (b)(2) states that, each quarter, each Equity ATS shall pay the following CAT Fee corresponding to the tier assigned by the Company for such Equity ATS for that quarter:

Tier	Percentage of equity execution venues	Quarterly CAT fee
1	25.00	$63,375
2	75.00	38,820

(C) Timing and Manner of Payment

Section 11.4 of the CAT NMS Plan states that the Operating Committee shall establish a system for the collection of fees authorized under the CAT NMS Plan. The Operating Committee may include such collection responsibility as a function of the Plan Processor or another administrator. To implement the payment process to be adopted by the Operating Committee, paragraph (c)(1) of the proposed fee schedule states that the Company will provide each Industry Member with one invoice each quarter for its CAT Fees as determined pursuant to paragraph (b) of the proposed fee schedule, regardless of whether the Industry Member is a member of multiple self-regulatory organizations. Paragraph (c)(1) further states that each Industry Member will pay its CAT Fees to the Company via the centralized system for the collection of CAT Fees established by the Company in the manner prescribed by the Company. FINRA will provide Industry Members with details regarding the manner of payment of CAT Fees by Regulatory Notice.

Although the exact fee collection system and processes for CAT fees has

[52] Note that no fee schedule is provided for Execution Venue ATSs that execute transactions in Listed Options, as no such Execution Venue ATSs currently exist due to trading restrictions related to Listed Options.

not yet been established, all CAT fees will be billed and collected centrally through the Company, via the Plan Processor or otherwise. Although each Participant will adopt its own fee schedule regarding CAT Fees, no CAT Fees or portion thereof will be collected by the individual Participants. Each Industry Member will receive from the Company one invoice for its applicable CAT fees, not separate invoices from each Participant of which it is a member. The Industry Members will pay the CAT Fees to the Company via the centralized system for the collection of CAT fees established by the Company.[53]

Section 11.4 of the CAT NMS Plan also states that Participants shall require each Industry Member to pay all applicable authorized CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). Section 11.4 further states that, if an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law. Therefore, in accordance with Section 11.4 of the CAT NMS Plan, FINRA proposed to adopt paragraph (c)(2) of the proposed fee schedule. Paragraph (c)(2) of the proposed fee schedule states that each Industry Member shall pay CAT Fees within thirty days after receipt of an invoice or other notice indicating payment is due (unless a longer payment period is otherwise indicated). If an Industry Member fails to pay any such fee when due, such Industry Member shall pay interest on the outstanding balance from such due date until such fee is paid at a per annum rate equal to the lesser of: (i) The Prime Rate plus 300 basis points; or (ii) the maximum rate permitted by applicable law.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(6) of the Act,[54] which require, among other things, that the FINRA rules must be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and, in general, to protect investors and the public interest, and not designed to permit unfair discrimination between customers, issuers, brokers and dealer [sic], and Section 15A(b)(5) of the Act,[55] which requires that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system which the Participants operates or controls. As discussed above, the SEC approved the bifurcated, tiered, fixed fee funding model in the CAT NMS Plan, finding it was reasonable and that it equitably allocated fees among Participants and Industry Members. FINRA believes that the proposed tiered fees adopted pursuant to the funding model approved by the SEC in the CAT NMS Plan are reasonable, equitably allocated and not unfairly discriminatory.

FINRA believes that this proposal is consistent with the Act because it implements, interprets or clarifies the provisions of the Plan, and is designed to assist FINRA and its Industry Members in meeting regulatory obligations pursuant to the Plan. In approving the Plan, the SEC noted that the Plan ''is necessary and appropriate in the public interest, for the protection of investors and the maintenance of fair and orderly markets, to remove impediments to, and perfect the mechanism of a national market system, or is otherwise in furtherance of the purposes of the Act.'' [56] To the extent that this proposal implements, interprets or clarifies the Plan and applies specific requirements to Industry Members, FINRA believes that this proposal furthers the objectives of the Plan, as identified by the SEC, and is therefore consistent with the Act.

FINRA believes that the proposed tiered fees are reasonable. First, the total CAT Fees to be collected would be directly associated with the costs of establishing and maintaining the CAT, where such costs include Plan Processor costs and costs related to insurance, third party services and the operational reserve. The CAT Fees would not cover Participant services unrelated to the CAT. In addition, any surplus CAT Fees cannot be distributed to the individual Participants; such surpluses must be used as a reserve to offset future fees. Given the direct relationship between the fees and the CAT costs, FINRA believes that the total level of the CAT Fees is reasonable.

In addition, FINRA believes that the proposed CAT Fees are reasonably designed to allocate the total costs of the CAT equitably between and among the Participants and Industry Members, and are therefore not unfairly discriminatory. As discussed in detail above, the proposed tiered fees impose comparable fees on similarly situated CAT Reporters. For example, those with a larger impact on the CAT (measured via message traffic or market share) pay higher fees, whereas CAT Reporters with a smaller impact pay lower fees. Correspondingly, the tiered structure lessens the impact on smaller CAT Reporters by imposing smaller fees on those CAT Reporters with less market share or message traffic. In addition, the funding model takes into consideration affiliations between CAT Reporters, imposing comparable fees on such affiliated entities.

Moreover, FINRA believes that the division of the total CAT costs between Industry Members and Execution Venues, and the division of the Execution Venue portion of total costs between Equity and Options Execution Venues, is reasonably designed to allocate CAT costs among CAT Reporters. The 75/25 division between Industry Members and Execution Venues maintains the greatest level of comparability across the funding model, keeping in view that comparability should consider affiliations among or between CAT Reporters (*e.g.,* firms with multiple Industry Members or exchange licenses). Similarly, the 75/25 division between Equity and Options Execution Venues maintains elasticity across the funding model as well as the greatest level of fee equitability and comparability based on the current number of Equity and Options Execution Venues.

Finally, FINRA believes that the proposed fees are reasonable because they would provide ease of calculation, ease of billing and other administrative functions, and predictability of a fixed fee. Such factors are crucial to estimating a reliable revenue stream for the Company and for permitting CAT Reporters to reasonably predict their payment obligations for budgeting purposes.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. FINRA notes that the proposed rule change implements provisions of the CAT NMS Plan approved by the Commission, and is designed to assist FINRA in meeting its regulatory obligations pursuant to the Plan. Similarly, all national securities exchanges and FINRA are proposing this proposed fee schedule to implement the requirements of the CAT

[53] Section 11.4 of the CAT NMS Plan.

[54] 15 U.S.C. 78*o*–3(b)(6).

[55] 15 U.S.C. 78*o*–3(b)(5).

[56] Approval Order at 84697.

NMS Plan. Therefore, this is not a competitive fee filing and, therefore, it does not raise competition issues between and among the exchanges and FINRA.

Moreover, as previously described, FINRA believes that the proposed rule change fairly and equitably allocates costs among CAT Reporters. In particular, the proposed fee schedule is structured to impose comparable fees on similarly situated CAT Reporters, and lessen the impact on smaller CAT Reporters. CAT Reporters with similar levels of CAT activity will pay similar fees. For example, Industry Members (other than Execution Venue ATSs) with higher levels of message traffic will pay higher fees, and those with lower levels of message traffic will pay lower fees. Similarly, Execution Venue ATSs and other Execution Venues with larger market share will pay higher fees, and those with lower levels of market share will pay lower fees. Therefore, given that there is generally a relationship between message traffic and market share to the CAT Reporter's size, smaller CAT Reporters generally pay less than larger CAT Reporters. Accordingly, FINRA does not believe that the CAT Fees would have a disproportionate effect on smaller or larger CAT Reporters. In addition, ATSs and exchanges will pay the same fees based on market share. Therefore, FINRA does not believe that the fees will impose any burden on the competition between ATSs and exchanges. Accordingly, FINRA believes that the proposed fees will minimize the potential for adverse effects on competition between CAT Reporters in the market.

Furthermore, the tiered, fixed fee funding model limits the disincentives to providing liquidity to the market. Therefore, the proposed fees are structured to limit burdens on competitive quoting and other liquidity provision in the market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act,[57] and paragraph (f)(2) of Rule 19b–4 thereunder.[58] 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–FINRA–2017–011 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–FINRA–2017–011. 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–FINRA–2017–011, and should be submitted on or before June 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[59]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10466 Filed 5–22–17; 8:45 am]

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[57] 15 U.S.C. 78s(b)(3)(A).

[58] 17 CFR 240.19b–4(f)(2).

[59] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80720; File No. SR–BOX–2016–48]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Amendment No. 2 to a Proposed Rule Change To Adopt Rules for an Open-Outcry Trading Floor

May 18, 2017.

On November 16, 2016, BOX Options Exchange LLC (''BOX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to adopt rules for an open-outcry trading floor. The proposed rule change was published for comment in the **Federal Register** on December 05, 2016.[3] The Commission received three comment letters in response to the publication of the Notice.[4] On January 10, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to March 05, 2017.[5] On February 21, 2017, the Commission received a response letter from the Exchange, as well as Amendment No. 1 to the proposed rule change.[6] On March 1, 2017, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79421 (November 29, 2016), 81 FR 87607 (''Notice'').

[4] *See* letters to Brent J. Fields, Secretary, Commission, from Angelo Evangelou, Deputy General Counsel, The Chicago Board Options Exchange, Inc. (''CBOE''), dated January 10, 2017; Steve Crutchfield, Head of Market Structure, CTC Trading Group, LLC (''CTC Trading''), dated December 31, 2016; and Joan C. Conley, Senior Vice President and Corporate Secretary, The Nasdaq Stock Market LLC (''Nasdaq''), dated December 22, 2016.

[5] *See* Securities Exchange Act Release No. 79768 (January 10, 2017), 82 FR 4956 (January 17, 2017).

[6] *See* letter to Brent J. Fields, Secretary, Commission, from Lisa J. Fall, President, Exchange,

Continued

Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 1.[7] In response to the OIP, the Commission received five additional comment letters.[8] On May 17, 2017, the Exchange filed Amendment No. 2 to the proposed rule change, which replaced and superseded the original filing, as modified by Amendment No. 1, in its entirety.[9] The Commission is publishing this notice to solicit comments from interested persons on Amendment No. 2. Items I and II below have been prepared by the Exchange. On May 18, 2017, the Commission extended the time period within which to approve or disapprove the proposed rule change to August 2, 2017.[10]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change was filed on November 16, 2016, which was published in the **Federal Register**.[11] The Exchange filed an Amendment 1 to this rule change on February 21, 2017, which was published in the **Federal Register** notice along with the Order Instituting Proceedings.[12] The Exchange is proposing an Amendment 2 to provide more specificity to the rule change. This Amendment 2 amends and replaces the Original Filing and Amendment 1 in their entirety.

This Amendment 2 makes the following changes to the Original Filing as modified by Amendment 1, to: (i) Clarify that the Trading Floor will have a single Crowd Area; [13] (ii) clarify that the BOX Order Gateway (''BOG'') is a component of the Trading Host; [14] (iii) clarify the public outcry process; [15] (iv) remove proposed Rule 7010(d); [16] (v) provide clarity regarding Trading Floor admittance; [17] (vi) provide more specificity on how trade-through and priority rules are enforced; [18] (vii) provide clarity on the handling of orders by Floor Brokers; [19] (viii) clarify the processing of orders by the Trading Host; [20] (ix) include the requirement of the presence of a Floor Market Maker when a Floor Broker announces an order; [21] (x) include the requirement of a Floor Broker to pass an examination as part of the registration process; [22] (xi) provide clarity on the allocation process; [23] (xii) provide additional detail on orders from the Trading Floor; [24] (xiii) clarify the submission parameters and process of a QOO Order; [25] (xiv) clarify that orders are announced on the Trading Floor; [26] (xv) clarify the guarantee provision; [27] (xvi) clarify that combination orders are Complex Orders; [28] (xvii) clarify priority in the trading crowd; [29] (xviii) clarify that single-sided orders may be represented on the Trading Floor; [30] (xix) remove proposed Rule 7620; [31] (xx) remove the continuous electronic quoting obligation; [32] (xxi) clarify that orders for covered accounts [33] relying on an exemption under Section 11(a)(1)(G) of the Exchange Act (the ''G Exemption'') are not allowed when the Trading Floor is utilized; [34] (xxii) clarify the responsibilities of an Options Exchange Official; [35] (xxiii) clarify certain rules related to behavior on the Trading Floor; [36] (xxiv) provide certain data to the SEC with respect to activity on the Trading Floor; and (xxv) make grammatical changes to the rule text.

The Exchange is amending the rule text to clarify that the Trading Floor will have a single Crowd Area where all option classes will be located.[37] The Exchange believes this change will provide greater clarity on how the Trading Floor will be organized by removing the Exchange's discretion to have multiple Crowd Areas. The Exchange believes this change is reasonable as it adds more clarity to the rule text by making clear in the rules the number of Crowd Areas on the Trading Floor.

The Exchange is amending the rule text to clarify that the BOG is a component of the Trading Host.[38] The Exchange believes that this change will provide greater clarity on the relationship between the BOG and Trading Host. Specifically, the Exchange believes clarifying that the BOG is a component of the Trading Host will provide greater detail on how QOO Orders submitted by Floor Brokers are processed by the Trading Host. The Exchange believes this change is reasonable as it adds more clarity to the rule text.

The Exchange is amending rule text to clarify the public outcry process on the Trading Floor.[39] The proposed change

received February 21, 2017, and Amendment No. 1, dated February 21, 2017. Amendment No. 1 is available at: *https://www.sec.gov/comments/sr-box-2016-48/box201648.shtml.*

[7] *See* Securities Exchange Act Release No. 80134 (March 1, 2017), 82 FR 12864 (March 7, 2017) (''OIP'').

[8] *See* letters to Brent J. Fields, Secretary, Commission, from Angelo Evangelou, Deputy General Counsel, CBOE, dated April 21, 2017; Steve Crutchfield, Head of Market Structure, CTC Trading, dated April 13, 2017; John Kinahan, CEO, Group One Trading, LP, dated April 11, 2017; Elizabeth King, General Counsel and Corporate Secretary, New York Stock Exchange, dated March 28, 2017; and Joan C. Conley, Senior Vice President and Corporate Secretary, Nasdaq, dated March 27, 2017.

[9] *See* Amendment No. 2, dated May 17, 2017. Amendment 2 is available on the Exchange's Web site at *http://lynxstorageaccount.blob.core.windows.net/boxvr/SE_resources/SR-BOX-2016-48_Amendment_2.pdf.*

[10] *See* Securities Exchange Act Release No. 80719 (May 18, 2017).

[11] *See* Securities Exchange Act Release No. 79421 (November 29, 2016), 81 FR 87607 (December 5, 2016) (''Original Filing'').

[12] *See* Securities Exchange Act Release No. 80134 (March 1, 2017), 82 FR 12864 (March 7, 2017) (SR–BOX–2016–48).

[13] *See* changes in Exhibit 4 to proposed Rules 100(a)(67), 7660(i), and IM–8510–2(b). The Commission notes that Exhibits 3, 4, and 5, which were submitted with Amendment No. 2, are available on the Commission's Web site at *https://www.sec.gov/rules/sro/box.htm.*

[14] *See* changes in Exhibit 4 to proposed Rule 100(b)(2), 7580(e)(2), 7600(c), IM–7580–2, and 8510(i).

[15] *See* changes in Exhibit 4 to proposed Rule 100(b)(5).

[16] *See* changes in Exhibit 4 to proposed Rule 7010(d).

[17] *See* changes in Exhibit 4 to proposed Rule 7520.

[18] *See* changes in Exhibit 4 to proposed Rule7600(a).

[19] *See* changes in Exhibit 4 to proposed Rule 7580(e).

[20] *See* changes in Exhibit 4 to proposed Rules 100(b)(2), 100(b)(3), 7240(b)(3)(iii), 7580(e), 7600(a), 7600(c), and 8510(i).

[21] *See* changes in Exhibit 4 to proposed Rule 7580(a).

[22] *See* changes in Exhibit 4 to proposed Rules 2020(h) and 7550.

[23] *See* changes in Exhibit 4 to proposed Rules 7600(a), 7600(d), and 7600(h).

[24] *See* changes in Exhibit 4 to proposed Rules 7600 and 7580(e).

[25] As described in greater detail below, the Exchange is proposing to adopt a Qualified Open Outcry (''QOO'') Order type. All orders executed from the Trading Floor must be QOO Orders. *See* changes in Exhibit 4 to proposed Rule 7600(c).

[26] *See* changes in Exhibit 4 to proposed Rules 7580(e)(1), 7580(e)(2), 7600(a), 7600(b), IM–7600–1, 7640(b), 8510(i), and IM–8510–2(b).

[27] *See* changes in Exhibit 4 to proposed Rule 7600(f).

[28] *See* changes in Exhibit 4 to proposed Rules 7580(c), IM–7590–1, 7600(f)(2), and IM–7600–1(d).

[29] *See* changes in Exhibit 4 to proposed Rules 7610(d)(1) and IM–7600–1(c).

[30] *See* changes in Exhibit 4 to proposed Rules 7580(e)(1), 7580(e)(2), and IM–7600–4.

[31] *See* changes in Exhibit 4 to proposed Rules 7620 and IM–7600–5.

[32] *See* changes in Exhibit 4 to proposed Rules 8500(a) and 8510(c)(1).

[33] A ''covered account'' is the member's account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion.

[34] *See* changes in Exhibit 4 to proposed Rules 7620(d), IM–7600–5, and 8510(h).

[35] *See* changes in Exhibit 4 to proposed Rule 100(b)(6).

[36] *See* changes in Exhibit 4 to proposed Rule 8510(h)(4).

[37] *See* changes in Exhibit 4 to proposed Rules 100(a)(67), 7660(i), and IM–8510–2(b).

[38] *See* changes in Exhibit 4 to proposed Rules 100(b)(2), 7580(e)(2), 7600(c), IM–7580–2, and 8510(i).

[39] *See* changes in Exhibit 4 to proposed Rule 100(b)(5).

will provide how long a Floor Participant has to respond to a Floor Broker when an order is announced and additional details on the public outcry process. Specifically, a Floor Broker must a give a Floor Participant a reasonable amount of time to respond. The Exchange believes this change is reasonable as it adds clarity and removes any potential confusion from the rule text.

The Exchange is amending the rule text to remove proposed Rule 7010(d).[40] The Exchange is removing the proposed Rule because it is not necessary. Specifically, the proposed Rule provides that the Board may impose a charge upon Options Participants measured by their respective net commissions on transactions effected on the Trading Floor of the Exchange. The Exchange does not believe the provision is necessary because the Exchange does not intend to charge fees based on net commissions.[41] The Exchange believes this change is reasonable as it removes a proposed Rule that is not necessary for the Trading Floor.

The Exchange is amending the rule text to provide clarity regarding Trading Floor admittance.[42] The proposed change makes clear that the Exchange must follow applicable disciplinary rules and procedures when the Exchange withdraws existing approval to access the Trading Floor. The Exchange believes this change is reasonable as it adds clarity to the rule text by providing additional detail on the admittance process of the Exchange and the existing disciplinary rules that are applicable.

The Exchange is amending the rule text to provide more specificity on how trade-through and priority rules are enforced.[43] The proposed changes will make clear that the Trading Host will enforce trade-through and priority rules in the same manner for QOO Orders as the Trading Host does for all other orders on BOX. As is the case with all orders on BOX, the QOO Order is validated when the QOO Order is received by the Trading Host.

The Exchange is amending rule text to provide clarity on the handling of orders by Floor Brokers.[44] The Exchange is amending the rule text to make clear that Floor Brokers must comply with certain requirements when representing an order on the Trading Floor. The Exchange notes that the proposed change does not impose any new requirements, but simply seeks to clarify the rules surrounding Floor Broker order handling requirements. As such, the Exchange believes that these changes are reasonable as they provide clarity to the rules.

The Exchange is amending the rule text describing the processing of an order by the Trading Host.[45] As part of this clarifying change, the Exchange is amending the rule text on how orders are submitted from the Trading Floor. The Exchange is making this change because a QOO Order is not executed until the Trading Host processes the QOO Order as opposed to when it is announced on the Trading Floor. Additionally, the Exchange is amending the rule text to make clear that all options transactions on BOX are executed automatically by the Trading Host. The Exchange believes these changes are reasonable as they eliminate confusion and provide clarity to the rules.

The Exchange is amending the rule text to include the requirement of the presence of a Floor Market Maker when a Floor Broker announces an order.[46] This proposed change is designed to better align the Exchange's rules with those of another options exchange.[47] The Exchange believes this change is reasonable as it enhances consistency between the Exchange's proposed rules and existing rules at another exchange with a trading floor.

The Exchange is amending the rule text to include the requirement of a Floor Broker to pass an examination as part of the registration process.[48] In the Original Filing, the Exchange was proposing to make Floor Broker examinations discretionary, which was a departure from another options exchange with a trading floor. Therefore, the Exchange believes this change is reasonable as it enhances consistency between the exchange's proposed rules and existing rules of another exchange with a trading floor.[49]

The Exchange is amending rule text to provide additional detail on orders from the Trading Floor.[50] The proposed change provides details of how a Floor Broker may execute orders from the Trading Floor. The proposed change also provides additional details on a Floor Broker's responsibility to announce an order to the trading crowd. Additionally, as part of this proposed change, the Exchange is moving proposed Rule 7580(e)(3) and combining it with proposed Rule 7600(a) in order to make the rule text clearer. The Exchange believes the proposed change is reasonable as it provides additional detail and clarity to the rule text.

The Exchange is amending the rule text to provide clarity on the allocation process.[51] The allocation process has not changed from the Original Filing; the proposed change is clarifying the timing and procedure that a Floor Broker must use on the Trading Floor. Specifically, the executing Floor Broker is responsible for providing the correct allocation of the initiating side of the QOO Order to an Options Exchange Official or his or her designee who will properly record the order in the Exchange's system. Additionally, the proposed change reformatted the rule text to make it clearer for Participants. As part of this change, the Exchange is clearly laying out how the initiating side of the QOO Order is allocated. The Exchange is also clarifying the rule text language with respect to the book sweep size. The Exchange believes that these changes are reasonable because they add clarity and provides additional detail to the rules.

The Exchange is amending the rule text to clarify the submission parameters and process of a QOO Order.[52] This proposed change is designed to provide additional clarity on how the open-outcry process on the Trading Floor will occur. Specifically, the Exchange is adding rule text requiring a Floor Broker to submit the QOO Order to the BOG without undue delay. Although the Original Filing did not specifically state this, it was generally understood that a Floor Broker would submit the QOO Order to the BOG after announcement and would not unreasonably delay the submission, provided that the executing Floor Broker allows adequate time for Floor Participants to participate in the transaction as provided in proposed Rule 100(b)(5). The Exchange is also providing additional detail on the requirements for submitting a Complex

[40] *See* changes in Exhibit 4 to proposed Rule 7010(d).

[41] The Exchange notes that this proposed change does not prevent the Exchange from charging fees on the Trading Floor.

[42] *See* changes in Exhibit 4 to proposed Rule 7520.

[43] *See* changes in Exhibit 4 to proposed Rule 7600(a).

[44] *See* changes in Exhibit 4 to proposed Rule 7580(e).

[45] *See* changes in Exhibit 4 to proposed Rules 100(b)(2), 100(b)(3), 7240(b)(3)(iii), 7580(e), 7600(a), 7600(c), and 8510(i).

[46] *See* changes in Exhibit 4 to proposed Rule 7580(a).

[47] *See* NASDAQ PHLX LLC (''PHLX'') Rule 1063(a).

[48] *See* changes in Exhibit 4 to proposed Rules 2020(h) and 7550.

[49] *See* PHLX Rule 1061.

[50] *See* changes in Exhibit 4 to proposed Rules 7600 and 7580(e).

[51] *See* changes in Exhibit 4 to proposed Rules 7600(a), 7600(d), and 7600(h).

[52] *See* changes in Exhibit 4 to proposed Rule 7600(c).

QOO Order. As part of this proposed change, the Exchange is also making certain clarifying changes to the rule text. As such, the Exchange believes the change is reasonable since it provides additional clarity to the rules by codifying this requirement of Floor Brokers.

The Exchange is amending the rule text to clarify that orders are announced on the Trading Floor.[53] This proposed rule change is designed to clarify when an execution occurs. In the Original Filing, the Exchange used the terms ''executed'', ''announced'' and ''represented'' on the Trading Floor interchangeably. In actuality, an order is announced on the Trading Floor but not executed; the execution occurs when the QOO Order is processed by the Trading Host. Additionally, a Floor Broker may represent an order on the Trading Floor, however, this only means he is holding the order and does not necessarily mean he is announcing the order for execution. The Exchange believes that these clarifications are reasonable since they are designed to clarify and remove confusion from the rule text.

The Exchange is amending the rule text related to guarantees.[54] Specifically, the Exchange is amending the rule text to remove language that may lead to confusion among Floor Participants. The Exchange believes this change is reasonable as it provides clarity to the rule text.

The Exchange is amending the rule text to clarify that combination orders, including spreads, straddles, and stock options, are Complex Orders.[55] The Exchange is making this change in order to clarify the usage of certain terms throughout the Exchange's Rulebook. The Exchange believes that this minor change is designed to provide clarity in the rules and is reasonable.

The Exchange is amending the rule text to clarify priority in the trading crowd.[56] Specifically, the proposed change clarifies that it is the responsibility of the Floor Participant who established the market to alert the Floor Broker of the fact that the Floor Participant has priority when a Floor Broker announces an order to the trading crowd. The Exchange believes this change is reasonable because it will provide clarity and guidance to Floor Participants on the requirements of the rules.

The Exchange is amending the rule text to clarify that single-sided orders may be represented on the Trading Floor.[57] Single-sided orders have always been allowed on the Trading Floor; however, the Original Filing was silent on whether they may be represented on the Trading Floor. This proposed change is simply codifying that single-sided orders are allowed on the Trading Floor and, therefore, the Exchange believes the change is reasonable.

The Exchange is removing proposed Rule 7620.[58] Proposed Rule 7620 is not necessary since orders executed by Floor Brokers from the Trading Floor must be QOO Orders processed by the Trading Host and proposed Rule 7600 provides adequate details on the process of executing orders from the Trading Floor. Specifically, paragraph (a) of proposed Rule 7620 is covered by proposed Rule 7600(d)(2) and paragraph (b) is covered by proposed Rule 7600(d)(3)(ii). Paragraph (c) was inadvertently included. Paragraph (c) provides that bids and offers of non-Public Customers on the BOX Book ranked behind any Public Customer Orders at the same price have last priority. This provision is not applicable to the Trading Floor because the executing Floor Broker has last priority on the Trading Floor, not bids and offers of non-Public Customers on the BOX Book ranked behind any Public Customer Orders at the same price.[59] Lastly, paragraph (d) is being moved to proposed IM–7600–5. The Exchange believes this proposed change is reasonable as it removes unnecessary rule text.

The Exchange is amending rule text to remove the continuous electronic quoting obligation for Floor Market Makers.[60] The proposed change will better align the rule text with that of other exchanges with trading floors that do not have electronic quoting requirements for Floor Market Makers. As such, the Exchange believes this change is reasonable as it enhances consistency between the Exchange's proposed Rule and existing rules at other exchanges with trading floors.

The Exchange is amending the rule text to clarify that orders for covered accounts relying on an exemption under Section 11(a)(1)(G) of the Exchange Act (the ''G Exemption'') are not allowed on the Trading Floor.[61] The Exchange is proposing this change to clarify that Participants may not utilize the Trading Floor to effect certain transactions. The Exchange is providing this information to Floor Brokers to provide clarity on applicable restrictions.

The Exchange is amending rule text to clarify the responsibilities of an Options Exchange Official.[62] The Exchange is proposing this change to make clear the authority of Options Exchange Officials on the Trading Floor. The Exchange believes the proposed change is reasonable as it is clarifying the authority of the Options Exchange Officials and not proposing any change to their authority.

The Exchange is amending rule text to clarify certain rules related to behavior on the Trading Floor.[63] This change is designed to clarify the rule text where the potential for confusion exists. The Exchange believes this change is reasonable as it clarifies the rule text and removes the possibility of confusion.

The Exchange is proposing to provide data to the SEC with respect to activity on the Trading Floor. Specifically, the Exchange will provide information regarding size, participation, and price improvement by spread and trade type, effective spread, Floor Market Maker participation, and BOX Book participation. This information will be provided on a confidential basis with non-firm specific information being available quarterly on the Exchange's Web site.

Lastly, the Exchange is proposing to make various grammatical changes to the rule text. The changes are simply designed to correct errors in the rule text.

The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's Internet Web site at *http://boxexchange.com.*

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

[53] *See* changes in Exhibit 4 to proposed Rules 7580(e)(2), 7600(a), 7600(b), IM–7600–1, 7640(b), 8510(i), and IM–8510–2(b).

[54] *See* changes in Exhibit 4 to proposed Rule 7600(f).

[55] *See* changes in Exhibit 4 to proposed Rules 7580(c), IM–7590–1, 7600(f)(2), and IM–7600–1(d).

[56] *See* changes in Exhibit 4 to proposed Rules 7610(d)(1) and IM–7600–1(c).

[57] *See* changes in Exhibit 4 to proposed Rule IM–7600–4.

[58] *See* changes in Exhibit 4 to proposed Rules 7620 and IM–7600–5.

[59] At the same price, bids and offers of non-Public Customers on the BOX Book ranked behind any Public Customer Orders are not allocated to orders from the Trading Floor.

[60] *See* changes in Exhibit 4 to proposed Rules 8500(a) and 8510(c)(1).

[61] *See* changes in Exhibit 4 to proposed Rules 7620(d), IM–7600–5, and 8510(h).

[62] *See* changes in Exhibit 4 to proposed Rule 100(b)(6).

[63] *See* changes in Exhibit 4 to proposed Rule 8510(h)(4).

and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to adopt rules to allow for open-outcry trading on a physical trading floor (''Trading Floor''). The Exchange notes that this is not a novel proposal and that other exchanges currently offer open-outcry trading in addition to electronic trading.[64] The Exchange is proposing a hybrid model similar to these other exchanges.

General

The Exchange is proposing various changes to the definition section of the Rulebook to accommodate the proposed Trading Floor. First, the Exchange is proposing to define ''Floor Participant'' as Floor Brokers as defined in Rule 7540 and Floor Market Makers as defined in Rule 8510(b).[65] The Exchange is proposing to define ''Trading Floor'' or ''Options Floor'' as the physical trading floor of the Exchange located in Chicago.[66] The Trading Floor shall consist of one ''Crowd Area'' or ''Pit'' where all option classes will be located. The Crowd Area or Pit shall be marked with specific visible boundaries on the Trading Floor, as determined by the Exchange. A Floor Broker must open outcry an order in the Crowd Area.

The Exchange is proposing to add the definition of ''Presiding Exchange Officials.'' [67] Specifically, the President of the Exchange and his or her designated staff shall be responsible for monitoring: (1) Dealings of Floor Participants and their associated persons on the Trading Floor, and of the premises of the Exchange immediately adjacent thereto; (2) the activities of Floor Participants and their associated persons, and shall establish standards and procedures for the training and qualification of Floor Participants and their associated persons active on the Trading Floor; (3) all Trading Floor employees of Floor Brokers and Floor Market Makers, and shall make and enforce such rules with respect to such employees as may be deemed necessary; (4) all connections or means of communications with the Trading Floor and may require the discontinuance of any such connection or means of communication when, in the opinion of the President or his or her designee, it is contrary to the welfare or interest of the Exchange; (5) the location of equipment and the assignment and use of space on the Trading Floor; and (6) relations with other options exchanges. The Exchange is also proposing that any Exchange employee or officer designated as an Options Exchange Official will from time to time as provided in these rules have the ability to recommend and enforce rules and regulations relating to trading access, order, decorum, health, safety and welfare on the Exchange.[68]

BOX Order Gateway

Next, the Exchange is proposing to add a definition for the ''BOX Order Gateway.'' The BOX Order Gateway (''BOG'') is a component of the Trading Host[69] which enables Floor Brokers and/or their employees to enter transactions on the Trading Floor.[70] Specifically, a Floor Broker will have a connection to the BOG giving the Floor Broker the ability to submit orders to the Trading Host. Once orders are submitted through the BOG they are immediately processed by the Trading Host. The Trading Host will establish an electronic audit trail for options orders represented and executed by Floor Brokers.[71] The audit trail will provide an accurate, time-sequenced record of all orders from the Trading Floor, beginning with the receipt of an order by the Exchange, and further documenting the life of the order. Additional information on the requirements for Floor Broker's audit trail requirements are described in greater detail below. Additionally, the Exchange is proposing to clarify that all transactions executed on the Exchange shall be executed automatically by the Trading Host pursuant to Rule 7130 or 7600.[72] The Exchange is also proposing to clarify that bids and offers on the Trading Floor, to be effective, must be made by public outcry on the Trading Floor and that all bids and offers shall be general ones and shall not be specified for acceptance by particular Floor Participants.[73]

The Exchange is also proposing to provide details on how the public outcry process will work on the Trading Floor. Specifically, the Exchange is proposing that bids and offers must be made in an audible tone of voice and a Floor Market Maker shall be considered ''out'' on a bid or offer if he does not affirmatively respond to the Floor Broker who is announcing the order, provided that a Floor Broker must give a Floor Participant a reasonable amount of time to respond.[74] A ''reasonable

[64] NYSE Arca, Inc. (''NYSE Arca''), PHLX, Chicago Board Options Exchange, Incorporated (''CBOE''), and NYSE MKT LLC (''NYSE MKT'').

[65] *See* proposed Rule 100(a)(26).

[66] *See* proposed Rule 100(a)(67).

[67] *See* proposed Rule 100(b)(1). Proposed Rule 100(b)(1) is based on PHLX Rule 1000(e).

[68] *See* proposed Rule 100(b)(6). Proposed Rule 100(b)(6) is based on NYSE Arca Rule 6.1(b)(34).

[69] The term ''Trading Host'' means the automated trading system used by BOX for the trading of options contracts. *See* Rule 100(a)66.

[70] *See* proposed Rule 100(b)(2). Proposed Rule 100(b)(2) is based on PHLX Rule 1080.06. Proposed Rule 100(b)(2) is slightly different to PHLX Rule 1080.06 to account for the fact that all orders from the Trading Floor are not deemed executed until they are processed by the Trading Host. Specifically, with respect to providing a time-sequenced record, the Exchange is not including the distinction between electronic and other orders, and quotations on the trading floor. The Exchange is not including these references because, as mentioned above, all orders from the Trading Floor are electronic and not deemed executed until they are processed by the Trading Host.

[71] To be clear, the execution of an order represented on the Trading Floor does not occur until the order is processed by the Trading Host.

[72] *See* proposed Rule 100(b)(3). Proposed Rule 100(b)(3) is based on PHLX Rule 1000(f). The Exchange notes that PHLX includes additional methods for executions on PHLX's Trading Floor that BOX is not including in proposed Rule 100(b)(3). The Exchange does not believe that these methods are necessary as the Exchange believes that all transactions from the Trading Floor shall be processed by the Trading Host to ensure an accurate and complete audit trail.

[73] *See* proposed Rule 100(b)(4). Proposed Rule 100(b)(4) is based on PHLX Rule 1000(g). The Exchange notes that PHLX includes information about bidding and offering electronically as well as in public outcry; however, the Exchange is only proposing to include information about public outcry. BOX already has rules in place that govern electronic bidding and offering and therefore there is no need to mention it in proposed Rule 100(b)(4).

[74] *See* proposed Rule 100(b)(5). Proposed Rule 100(b)(5) is based on PHLX Rule 1000(g). The Exchange notes that proposed Rule 100(b)(5) is slightly different to PHLX Rule 1000(g). Specifically, PHLX Rule 1000(g) considers a member to be ''in'' on a bid or offer while he remains at the post, unless he shall distinctly and audibly say ''out.'' The Exchange is requiring the Floor Market Maker to make an affirmative assertion that he is ''in''. The Exchange believes that this difference is reasonable and necessary. Requiring an affirmative response by a Floor Market Maker will allow for a more efficient process for executing orders on the Trading Floor. The Exchange is concerned that requiring every Floor Market Maker to affirmatively be ''out'' on every order before it is executed will lead to unnecessary delays on the Trading Floor and has the potential to cause disruptions. The Exchange notes that CBOE Rule 6.74(a) does not consider members of the trading crowd in on the order; they must respond to the Floor Broker. Additionally, the Exchange is not including part of PHLX Rule 1000(g) that requires a member to audibly say ''out'' before the Floor Broker submits the order for execution and, if the order is not executed, the member must audibly say ''out'' before each time the Floor Broker resubmits the order for execution. The Exchange is not including this provision of PHLX's Rule 1000(g) because, as previously stated, a Floor Participant, including a Floor Market Maker,

Continued

amount of time'' will be interpreted on a case-by-case basis by an Options Exchange Official based on current market conditions and trading activity on the Trading Floor. A Floor Participant who is bidding and offering in immediate and rapid succession shall be deemed ''in'' until he says ''out'' on either bid or offer. Once the trading crowd has provided a quote, it will remain in effect until: (i) A reasonable amount of time has passed, or (ii) there is a significant change in the price of the underlying security, or (iii) the market given in response to the request has been improved. In the case of a dispute, the term ''significant change'' will be interpreted on a case-by-case basis by an Options Exchange Official based upon the extent of recent trading in the option and, in the case of equity and index options, in the underlying security, and any other relevant factors. A Floor Participant must verbalize that he is ''in'' after a Floor Broker announces an order, even if a valid quote has been provided by the Floor Participant prior to the announcement of the order by a Floor Broker.[75] The Exchange believes that requiring the Floor Participant to confirm that they are still ''in'' after providing a valid quote will ensure that a Floor Participant is only participating in trades that he intends.

The Exchange is proposing that all bids or offers made on the Trading Floor for options contracts shall be deemed to be for one options contract unless a specific number of option contracts is expressed in the bid or offer and that bid or offer for more than one option contract shall be deemed to be for the amount thereof or a smaller number of options contracts.[76] The Exchange is also proposing the following process for the solicitation of quotations on the Trading Floor.[77] Specifically, in response to a Floor Broker's solicitation of a single bid or offer, Floor Participants may discuss, negotiate, and agree upon the price or prices at which an order of a size greater than the Exchange's disseminated size can be executed at that time, or the number of contracts that could be executed at a given price or prices, subject to the provisions of the Options Order Protection and Locked/Crossed Market Plan[78] and the Exchange's Rules respecting Trade-Throughs. Notwithstanding the foregoing, a single Floor Participant may voice a bid or offer independently from, and differently from, the Participants of a trading crowd.

The Exchange is proposing to adopt Rule 7230(f) Limitation of Liability, which codifies that each Options Participant that physically conducts business on the Exchange's Trading Floor is required, at its sole cost, to procure and maintain liability insurance that provides defense and indemnity coverage for itself, any person associated with it, and the Exchange for any action or proceeding brought relating to the conduct of the Options Participant or associated person.[79] The insurance shall provide defense and indemnity coverage to the Exchange for the Exchange's sole, concurrent, or contributory negligence, or other wrongdoing, relating to or in connection with such claim and the Exchange shall be expressly named by endorsement as an Additional Insured under the Insurance. The Exchange's status and rights to coverage under the insurance shall be the same rights of the named insured of the insurance, including, without limitation, rights to the full policy limits; and the limits for the insurance shall be not less than $1,000,000 without erosion by defense costs, but under no circumstance shall the Exchange be entitled to less than the full policy limits of such insurance. The insurance shall state that it is primary to any insurance maintained by the Exchange. Each Options Participant annually shall cause a certificate of insurance to be issued directly to the Exchange demonstrating that insurance compliant with this proposed Rule has been procured and is maintained. Each Options Participant also shall furnish a copy of the insurance to the Exchange for review upon the Exchange's request at any time. This proposed section (f) is the only section of Rule 7230 specifically limited to Options Participants physically located on the Exchange's Trading Floor.

Registration

In order for a Participant to be admitted to the Trading Floor the Participant will be required to register with the Exchange. Additionally, all Floor Participants must be registered as a Participant[80] on BOX prior to registering as either a Floor Broker or Floor Market Maker.

The Exchange is proposing to adopt Rule 2020(h) Trading Floor Registration, which codifies that each Floor Broker, Floor Market Maker and registered representative on the Exchange Trading Floor must be registered as ''Member Exchange'' (''ME'') under ''BOX'' on Form U4. Each Floor Market Maker and registered representative on the Exchange Trading Floor must successfully complete the appropriate floor trading examination(s), if prescribed by the Exchange, in addition to requirements imposed by other Exchange Rules.[81] Each Floor Broker on the Exchange Trading Floor is required to successfully complete the appropriate floor trading examination, in addition to the requirements imposed by other Exchange Rules. The Exchange is also proposing to adopt procedures and a timeframe for submitting changes of registration status to the Exchange. Specifically, following the termination of or the initiation of a change in the trading status of any such Floor Participant who has been issued an Exchange access card and a Trading Floor badge, the appropriate Exchange form must be completed, approved and dated by a firm principal, officer, or member of the firm with authority to do so, and submitted to the appropriate Exchange department as soon as possible, but no later than 9:30 a.m. ET the next business day by the Options Participant employer. Additionally, the Exchange proposes to specify that every effort should be made to obtain the person's access card and Trading Floor badge and to submit these to the appropriate Exchange department.

The Exchange is also proposing to add Rule 2020(i), which details Non-Participant and Clerk Registration. Specifically, all Trading Floor personnel, including clerks, interns, stock execution clerks and any other associated persons, of a Floor Participant not required to register pursuant to proposed Rule 2020(h) must be registered as ''Floor Employee'' (''FE'') under BOX on Form U4. Further, the Exchange may require successful completion of an examination in addition to requirements imposed by other Exchange Rules.[82] The Exchange is also proposing to adopt procedures and a timeframe for submitting changes

must provide an affirmative response if they want to be in on the trade.

[75] A Floor Broker may request a market prior to announcing an order on the Trading Floor (''market probe''). When a Floor Broker conducts a market probe, any responses from Floor Participants are public to all Floor Participants. When a Floor Broker conducts a market probe, he probes all Floor Participants.

[76] *See* proposed Rule 7040(d). Proposed Rule 7040(d) is based on PHLX Rule 1033(a).

[77] *See* proposed Rule 7040(d)(2).

[78] *See* Securities Exchange Act Release No. 60405 (July 30, 2009), 74 FR 39362 (August 6, 2009).

[79] Proposed Rule 7230(f) is based on PHLX Rule 652(c)(2).

[80] The term ''Participant'' means a firm or organization that is registered with the Exchange pursuant to the Rule 2000 Series for purposes of participating in options trading on BOX as an ''Order Flow Provider'' or ''Market Maker''. *See* Rule 100(a)(40).

[81] *See* proposed Rule 2020(h). Proposed Rule 2020(h) is based on PHLX Rule 620(a).

[82] *See* proposed Rule 2020(i). Proposed Rule 2020(i) is based on PHLX Rule 620(b).

of Trading Floor personnel registration status to the Exchange. Specifically, following the termination of or the initiation of a change in the status of any such personnel of a Floor Participant who has been issued an Exchange access card and a Trading Floor badge, the appropriate Exchange form must be completed, approved and dated by a Floor Participant principal, officer, or member of the Floor Participant with authority to do so, and submitted to the appropriate Exchange department as soon as possible, but no later than 9:30 a.m. ET the next business day by the Floor Participant employer. Additionally, the Exchange proposes to specify that every effort should be made to obtain the person's access card and Trading Floor badge and to submit these to the appropriate Exchange department.

Broker's Blanket Bonds

Currently, Rule 4180 Brokers' Blanket Bond provides that every OFP [83] approved to transact business with the public and every Clearing Participant [84] shall carry Brokers' Blanket Bonds covering officers and employees of the OFP in such form and in such amounts as the Exchange may require. The Exchange is now proposing that any Floor Participant that has registered solely to conduct business as a Floor Market Maker or a Floor Broker who does not conduct business with the public shall be exempt from the provisions of Rule 4180.[85]

Doing Business on BOX

The majority of the proposed rules governing the activity on the Trading Floor will be contained in the 7000 series, Doing Business on BOX, of the Exchange's Rules.

Trading on the Exchange Floor

Dealings on the Trading Floor will be limited to the hours during which the Exchange is open for the transaction of business.[86] Specifically, the Exchange's normal trading hours for equity options are 9:30 a.m. ET to 4:00 p.m. ET and for options on Exchange-Traded Fund Shares and broad-based indexes transactions may be effected until 4:15 p.m. ET. Additionally, to be considered in the determination of the opening price and to participate in the opening trade, the Floor Broker must submit the order into the BOX Book [87] electronically.[88] The Floor Broker may do so from the Trading Floor using their terminal; however, the order will not receive any special or different treatment from any other pre-opening order submitted from off the Trading Floor. Additionally, a Floor Participant who wishes to place a Limit Order on the BOX Book must submit such a Limit Order electronically.[89]

The Exchange is proposing certain restrictions for dealings on the Trading Floor. Specifically, that no Options Participant shall, while on the Trading Floor, make any transactions with any non-Options Participants in any security admitted to dealing on the Exchange.[90] Additionally, no employee of a Floor Participant shall be admitted to the Trading Floor unless that person is registered with and approved by the Exchange.[91] The Exchange may in its discretion require the payment of a fee with respect to each employee so approved, and may at any time in its discretion withdraw any approval so given. In exercising Exchange discretion in withdrawing approval, the Exchange will follow applicable disciplinary rules and procedures, including the ability to appeal such Exchange determination.[92]

Floor Brokers

As previously mentioned, the Exchange is proposing two categories of Participants on the Trading Floor; Floor Brokers and Floor Market Makers. A Floor Broker is an individual who is registered with the Exchange for the purpose, while on the Trading Floor, of accepting and handling option orders.[93] A Floor Broker who wishes to conduct business on the Trading Floor must be registered as a Participant on BOX prior to registering as a Floor Broker. A Floor Broker may take into his own account, and subsequently liquidate, any position that results from an error made while attempting to execute, as Floor Broker, an order.

Prior to being admitted to the Trading Floor, a Floor Broker shall file an application in writing with the Exchange staff on such form or forms as the Exchange may prescribe.[94] The applications received from potential Floor Brokers will be reviewed by the Exchange,[95] which shall consider an applicant's ability as demonstrated by his passing a Floor Broker's examination [96] and such other factors as the Exchange deems appropriate.[97] After reviewing the Floor Broker's application, the Exchange shall either approve or disapprove the applicant's registration as a Floor Broker.

Responsibilities of Floor Brokers

Floor Brokers will have certain responsibilities while conducting business on the Trading Floor. The proposed rules covering Floor Brokers' responsibilities are based on the rules of another exchange [98] with certain differences due to the design and functionality of the Exchange's Trading Floor. Specifically, a Floor Broker handling an order must use due diligence to cause the order to be executed at the best price or prices available to him in accordance with the Rules of the Exchange.[99] In addition to the Floor Broker requirements of proposed Rule 7570 concerning due diligence, a Floor Broker shall ascertain that at least one Floor Market Maker is present in the Crowd Area prior to announcing an order for execution.[100]

Floor Brokers must make reasonable efforts to ascertain whether each order entrusted to them is for the account of

[83] The terms ''Order Flow Provider'' or ''OFP'' mean those Options Participants representing as agent Customer Orders on BOX and those non-Market Maker Participants conducting proprietary trading. *See* Rule 100(a)(45).

[84] The term ''Clearing Participant'' means an Options Participant that is self-clearing or an Options Participant that clears BOX Transactions for other Options Participants of BOX. *See* Rule 100(a)(13).

[85] *See* proposed Rule 4180(g). Proposed Rule 4180(g) is based on PHLX Rule 705(f)(1)(B).

[86] *See* proposed Rule 7500. Proposed Rule 7500 is based on PHLX Rule 102.

[87] The term ''Central Order Book'' or ''BOX Book'' means the electronic book of orders on each single option series maintained by the BOX Trading Host. *See* Rule 100(a)(10).

[88] *See* proposed Rule 7070(d). Proposed Rule 7070(d) is based on PHLX Rule 1017(c).

[89] *See* proposed IM–8510–8. Proposed IM–8510–8 is based on PHLX Rule 1014.18.

[90] *See* proposed Rule 7510. Proposed Rule 7510 is based on PHLX Rule 104.

[91] *See* proposed rule 7520. Proposed Rule 7520 is based on PHLX Rule 443.

[92] The applicable disciplinary rules and procedures are located in 13000 Series of the Exchange's Rules.

[93] *See* proposed Rule 7540. Proposed Rule 7540 is based on PHLX Rule 1060. In addition to the definition in the PHLX Rule, the Exchange is proposing that Floor Brokers must register as Options Participants on BOX prior to registering as a Floor Broker on the Trading Floor. The Exchange believes that this additional requirement is reasonable as it will allow the Exchange to adequately monitor Participants and have uniform registration requirements for all Participants.

[94] *See* proposed Rule 7550. Proposed Rule 7550 is based on PHLX Rule 1061.

[95] The Trading Floor application for Floor Participants is attached as Exhibit 3.

[96] The Floor Broker's examination will cover Exchange-specific rules dealing with the Trading Floor.

[97] A potential Floor Broker must follow the same application process as all Options Participants today. Rule 2040 provides restrictions and requirements on persons applying to become an Options Participant.

[98] *See* PHLX Rule 1063.

[99] *See* proposed Rule 7570. Proposed Rule 7570 is based on PHLX Rule 155.

[100] *See* proposed Rule 7580(a). Proposed Rule 7580(a) is based on PHLX Rule 1063(a). The Exchange notes that it is not copying the provisions of PHLX Rule 1063(a) that cover foreign currency options because the Exchange does not list for trading foreign currency options.

a Public Customer or broker-dealer.[101] If it is determined the order is for the account of a broker-dealer, the responsible Floor Broker must advise the trading crowd of that fact while announcing the order via public outcry and make the appropriate notation in his order entry mechanism.

The Exchange is also proposing rules for how a Floor Broker must handle contingency orders that are dependent upon the price of the underlying security and for how a Floor Broker must handle orders he is representing when they are for the account of a Market Maker.[102] Specifically, for contingency orders, the Exchange is proposing that the Floor Broker shall be responsible for satisfying the dependency requirement on the basis of the last reported price of the underlying security in the primary market that is generally available on the Trading Floor at any given time. Unless mutually agreed by the Participants involved, an execution or non-execution that results shall not be altered by the fact that such reported price is subsequently found to have been erroneous. For orders from the account of a Market Maker, the Floor Broker must inform the crowd that he is handling an order for the account of a Market Maker and comply with proposed IM–8510–6 and IM–8510–9.[103] The purpose of requiring a Floor Broker, who is handling a Market Maker's order, to comply with Proposed IM–8510–6 and IM–8510–9 is to prevent a Floor Market Maker from employing a Floor Broker in an effort to circumvent the restrictions in proposed IM–8510–6 and IM–8510–9.[104] Lastly, the Exchange is proposing that a Floor Broker shall not be held responsible for the execution of a Complex Order based upon transaction prices that are established at the opening or close of trading or during any trading rotation.[105]

The Exchange is proposing requirements for Floor Brokers representing orders on the Trading Floor.[106] These requirements are in addition to those in proposed Rule 7600. Specifically, in order to create an electronic audit trail for options orders represented by Floor Brokers on the Exchange's Trading Floor, a Floor Broker or such Floor Broker's employee shall, contemporaneously upon receipt of an order, including single-sided and double-sided orders, and prior to announcement of such an order in the trading crowd, record all options orders represented by such Floor Broker onto the Floor Broker's order entry mechanism.[107] The following specific information with respect to orders represented by a Floor Broker shall be recorded by such Floor Broker or such Floor Broker's employees: (i) the order type (*i.e.,* Public Customer, Professional, broker-dealer, Market Maker) and order receipt time; (ii) the option symbol; (iii) buy, sell, cross or cancel; (iv) call, put, complex (*i.e.,* spread, straddle), or contingency order; (v) number of contracts; (vi) limit price or market order or, in the case of a multi-leg order, net debit or credit, if applicable; (vii) whether the transaction is to open or close a position; and (viii) The Options Clearing Corporation (''OCC'') clearing number of the broker-dealer that submitted the order.[108] Additionally, a Floor Broker must enter complete identification for all orders entered on behalf of Market Makers. Any additional information with respect to the order shall be input contemporaneously upon receipt, which may occur after the announcement and execution of the order.[109] In the event of a malfunction in the Trading Host or any other related Trading Floor systems, including the BOG, orders will not be allowed to execute from the Trading Floor.

All orders entrusted to a Floor Broker will be considered Not Held Orders, unless otherwise specified by a Floor Broker's client.[110] A Not Held Order is an order marked ''not held'', ''take time'', or which bears any qualifying notation giving discretion as to the price or time at which such order is to be executed. An order entrusted to a Floor Broker will be considered a Not Held Order, unless otherwise specified by a Floor Broker's client.[111]Additionally, the Exchange is proposing that it shall be considered conduct inconsistent with just and equitable principles of trade for any Floor Broker or Floor Market Maker to intentionally disrupt the open outcry process.[112]

A Floor Broker must announce an agency order that he is representing to the trading crowd before submitting the order to the BOG for execution.[113] This announcement must take place whether the Floor Broker is representing a single-sided order and soliciting contra-side interest, or the Floor Broker has sufficient interest to match against the agency order already. If a Floor Broker is holding two agency orders, he will choose which order is the initiating side.[114]

The Exchange is proposing rules with respect to Floor Brokers and discretionary transactions.[115] Specifically, no Floor Broker shall execute or cause to be executed any order on the Exchange with respect to which such Floor Broker is vested with discretion as to: (i) The choice of the class of options to be bought or sold, (ii) the number of contracts to be bought or sold, or (iii) whether any such transaction shall be one of purchase or sale. However, these proposed rules

[101] *See* proposed IM–7580–2. Proposed IM–7580–2 is based on PHLX Rule 1063.02.

[102] *See* proposed Rules 7580(b) and (d). Proposed Rule 7580(b) is based on CBOE Rule 6.73(b). The Exchange notes that CBOE's Rule provides for ''one-cancels-the-other orders,'' which BOX is not including because the Exchange does not offer these types of orders.

[103] *See* proposed Rule 7580(d). Proposed Rule 7580(d) is based on PHLX Rule 1063(d). PHLX's Rule provides for additional rules to which the Floor Broker must comply than what the Exchange is proposing. Specifically, PHLX Rule 1063(d) cites commentary .10, .11, .12, and .13 to PHLX Rule 1014; however, the Exchange is only proposing to copy commentary .11 and .12 to PHLX Rule 1014, *see* proposed IM–8510–6 and IM–8510–9. The Exchange is not copying PHLX 1014.10 because it deals with specialists, which the Exchange is not proposing to have on the Trading Floor. Next, the Exchange is not copying PHLX Rule 1014.13, which deals with minimum quantity that a Floor Market Maker must execute in person per quarter, because the Exchange believes that having an in person requirement is an unnecessary restriction and does not fit the Exchange's Trading Floor.

[104] Proposed IM–8510–6 provides that an Options Exchange Official may temporarily limit the number of Floor Market Makers in the trading crowd who are establishing or increasing a position in the interest of a fair and orderly market. Proposed IM–8510–9 prohibits a Floor Market Maker from acquiring a ''long'' position by pairing off with a sell order before the opening, unless all off-Floor bids at the price are filled.

[105] *See* proposed Rule 7580(c).

[106] *See* proposed Rule 7580(e).

[107] *See* proposed Rule 7580(e)(1). Proposed Rule 7580(e)(1) is based on PHLX Rule 1063(e)(i). PHLX's Rule provides for procedures for submitting orders on the Trading Floor in the event of a malfunction of PHLX's floor order system, which BOX is not including. The Exchange will not allow orders on the Trading Floor in the event that there is a malfunction with the Trading Host or any other related Trading Floor systems, including the BOG. The Exchange believes that providing a trade ticket backup would raise numerous issues with the audit trail.

[108] This information is also required when submitting a QOO Order.

[109] For example this may include information required to properly allocate the QOO Order to Floor Participants that responded when the QOO Order was announced to the trading crowd pursuant to proposed Rules 7580(e)(2) and 7600(b).

[110] *See* proposed IM–7580–3. Proposed IM–7580–3 is based on CBOE Rule 6.73.06.

[111] *See* proposed Rule 7600(g). Proposed Rule 7600(g) is based on CBOE Rule 6.53(g).

[112] *See* proposed IM–7580–4.

[113] *See* proposed Rule 7580(e)(2).

[114] If only one of the agency orders is for the account of a Public Customer, that order must be the agency order. If both agency orders are for the accounts of Public Customers, it is the Floor Brokers sole decision to determine which order is the agency order. If neither agency order is for the account of a Public Customer, it is the Floor Brokers sole decision to determine which order is the agency order.

[115] *See* proposed Rule 7590. Proposed Rule 7590 is based on PHLX Rule 1065.

shall not apply to any discretionary transactions executed by a Floor Market Maker for an account in which he has an interest. Additionally, no Floor Broker shall hold a Not Held Market Order to buy and a Not Held Market Order to sell the same series of options for the same account or for accounts of the same beneficial owner.[116] Also, no Floor Broker shall leg a Complex Order for a Market Maker or accept opening or discretionary orders for a Market Maker who is associated with the same Options Participant as such Floor Broker or who is associated with another Options Participant which is affiliated with the same Options Participant as such Floor Broker. A Floor Broker may not exercise any discretion with respect to the order of a Market Maker or the order of an options market marker registered on another exchange.[117]

Floor Brokers may use any communication device on the Trading Floor and in the Crowd Area to receive orders, provided that audit trail and record retention requirements of the Exchange are met.[118] However, no person in the Crowd Area or on the Trading Floor may use any communication device for the purpose of recording activities on the Trading Floor or maintaining an open line of continuous communication whereby a non-associated person not located in the Crowd Area may continuously monitor the activities in the Crowd Area. The ability for Floor Brokers to receive orders while in the Crowd Area is based on the rules of another exchange.[119]

The Exchange is not including certain PHLX rules related to Floor Broker duties to allocate, match and time stamp trades executed in open outcry and to submit the matched trade tickets to the exchange.[120] BOX does not believe that these rules are necessary because all orders on the Trading Floor are only executed when they are received by the Trading Host, which will allow the Exchange to capture the required audit trail information.

Qualified Open Outcry Orders—Floor Crossing

After an order has been announced to the trading crowd as provided in Rule 7580(e)(2), the Floor Broker must submit the agency order as part of a two-sided order (''Qualified Open Outcry Order'' or ''QOO Order'') to the Trading Host for execution.[121] When a Floor Broker submits a QOO Order for execution, the order will be executed based on the market conditions of when the order is received by the Trading Host and in accordance with Exchange rules.[122] A QOO Order on the Exchange is not deemed executed until it is processed by the Trading Host. All transactions occurring from the Trading Floor must be processed by the Trading Host. Floor Brokers are responsible for handling all orders in accordance with Exchange priority and trade-through rules.[123] QOO Order functionality will assist the Floor Broker in respecting the BOX Book, consistent with Exchange priority rules, as described in proposed Rules 7600(c) and (d). The proposed QOO Order will only be allowed on the Trading Floor and only Floor Brokers may use the QOO Order. QOO Orders may be multi-leg orders up to four (4) legs, including Complex Orders, as defined in Rule 7240(a)(5) [124] and tied to hedge orders as defined in proposed IM–7600–2. Such hedging position is comprised of a position designated as eligible for a tied hedge transaction as determined by the Exchange and may include the same underlying stock applicable to the option order, a security future overlying the same stock applicable to the option order or, in reference to an index or Exchange-Traded Fund Shares (''ETF''), a related instrument. A ''related instrument'' means, in reference to an index option, securities comprising ten percent or more of the component securities in the index or a futures contract on any economically equivalent index applicable to the option order. A ''related instrument'' means, in reference to an ETF option, a futures contract on any economically equivalent index applicable to the ETF underlying the option order. Also, such hedging position is offered, at the execution price received by the Floor Broker introducing the option, to any in-crowd Floor Participant who has established parity or priority for the related options.

There will be an initiating side and a contra-side to the QOO Order.[125] The initiating side is the order which must be filled in its entirety. The contra-side must guarantee the full size of the initiating side of the QOO Order and the Floor Broker may provide a book sweep size as provided in proposed Rule 7600(h). If the Floor Broker was soliciting interest from the trading crowd when the initiating side was announced or to the extent the trading crowd offers a better price, the contra-side will be the solicited interest from the trading crowd. If the Floor Broker had sufficient interest to match against the initiating side when the agency order was announced, such Floor Broker interest will be the contra-side to the initiating side. If Floor Participants responded with interest to the initiating side where the Floor Broker provided sufficient interest to match against the initiating side, the Floor Broker will allocate the initiating side of the QOO Order(s) pursuant to Rule 7600(d).

A QOO Order will be rejected if there is an ongoing auction in the option series when the QOO Order is received by the Trading Host.[126] A Complex QOO Order [127] will not be rejected if there is an ongoing auction in the options series of some, but not all, of the components of the Complex QOO Order.

[116] *See* proposed IM–7590–1.

[117] *See* proposed IM–7590–2.

[118] *See* proposed Rule 7660(i).

[119] *See* CBOE Rule 6.23(c).

[120] *See* PHLX Rule 1014(g)(vi).

[121] *See* proposed Rule 7600(a). Proposed Rule 7600(a) is based on PHLX Rule 1063(e)(iv). The Exchange notes that the Trading Host does not include all the same functionality as PHLX's trading floor systems; the Trading Host will not attempt to execute an order multiple times if at first it cannot be executed. The Exchange also notes that Complex Orders are limited to four (4) legs on BOX. Additionally, the Exchange is not including specific functionality that will assist a Floor Broker in clearing the electronic book as PHLX does. The Exchange is not including this functionality because the QOO Order will assist Floor Brokers in respecting the BOX Book. Proposed Rule 7600(a) also includes additional information to cover the specific aspects of the QOO Order.

[122] For example, a Floor Broker wishes to execute 1000 ABC at 1.03. At the time the QOO Order is announced to the trading crowd the NBBO for ABC is 1.00–1.08. When the Trading Host receives the QOO Order the NBBO is now 1.04–1.09. In this situation, the Trading Host would reject the QOO Order to avoid trading through the NBBO. Similarly, assume when the Floor Broker announced the QOO Order there were no orders on the BOX Book, the QOO Order had a book sweep size of 10, and the initiating side is to sell. When the Trading Host receives the QOO Order there is now a Public Customer Order on the BOX Book to buy 20 ABC at 1.03 and the NBBO is still 1.00–1.08. In this situation, the Trading Host would reject the QOO Order to avoid violating the priority provisions of the Exchange.

[123] In addition to the Trading Host preventing trade-through and priority violations of the BOX Book, the Exchange has robust surveillance procedures in place to monitor for these violations.

[124] The term ''Complex Order'' means any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, for the same account, in a ratio that is equal to or greater than one-to-three (.333) and less than or equal to three-to-one (3.00) and for the purpose of executing a particular investment strategy.

[125] *See* proposed Rule 7600(a)(1). This does not prevent a Floor Broker from representing a single-sided order on the Trading Floor. Floor Brokers are permitted to bring single-sided orders to the Trading Floor in order to find contra-side liquidity. Once a contra-side is sourced pursuant to proposed Rule 7580(e)(2), the Floor Broker shall submit the two-sided QOO Order to the BOG.

[126] *See* proposed Rule 7600(a)(5).

[127] A Complex QOO Order is a Complex Order, as defined in Rule 7240(a)(5), submitted as a QOO Order.

A Floor Broker is welcome to bring an unmatched order to the Trading Floor in order to seek liquidity. The Floor Broker may announce the unmatched order (*i.e.,* the initiating side of a QOO Order) to the trading crowd in an attempt to source the contra-side. After finding sufficient quantity to match the initiating side pursuant to proposed Rule 7580(e)(2) and proposed Rule 7600(b), the Floor Broker would now be able to submit a two-sided QOO Order to the BOG as required.[128] Floor Brokers may also enter single sided orders into the BOX Book using BOX's electronic interface. Specifically, a Floor Broker may receive a matched or unmatched order via a telephone call on the Trading Floor [129] or may have the matched or unmatched order sent electronically to the Floor Broker's order entry mechanism on the Trading Floor prior to submitting the QOO Order to the BOG.

The Exchange is proposing that the execution price of the QOO Order must be equal to or better than the NBBO.[130] Additionally, the QOO Order (1) may not trade through any equal or better priced Public Customer bids or offers on the BOX Book or any non-Public Customer bids or offers on the BOX Book that are ranked ahead of such equal or better priced Public Customer bids or offers, and (2) may not trade through any non-Public Customer bids or offers on the BOX Book that are priced better than the proposed execution price. The Exchange notes this proposed Rule is based on the rules of NYSE Arca.[131]

The Floor Broker must submit the QOO Order to the BOG for processing by the Trading Host, as provided in proposed Rule 7600. The Exchange is proposing that the QOO Order is not deemed executed until the QOO Order is processed by the Trading Host.[132] Once the Floor Broker submits the QOO Order to the BOG there will be no opportunity for the submitting Floor Broker, or anyone else, to alter the terms of the QOO Order.[133] After announcing the QOO Order to the trading crowd, the Floor Broker must submit the QOO Order to the BOG without undue delay, provided that the executing Floor Broker allows adequate time for Floor Participants to participate in the transaction as provided in proposed Rule 100(b)(5).

The Exchange is additionally proposing that when a Floor Broker executes a Complex QOO Order, the priority and rules for Complex Orders contained in Rule 7240(b)(2) and (3) will continue to apply, except that the Floor Broker may disable the NBBO aspect of the Complex Order Filter under Rule 7240(b)(3)(iii). For Complex QOO Orders, the Complex QOO Orders (1) may not trade through any equal or better priced Public Customer Complex bids or offers on the Complex Order Book [134] or any non-Public Customer Complex bids or offers on the Complex Order Book that are ranked ahead of such equal or better priced Public Customer Complex bids or offers, and (2) may not trade through any non-Public Customer bids or offers on the Complex Order Book that are priced better than the proposed execution price. Additionally, the Complex QOO Order may be executed at a price without giving priority to equivalent bids or offers in the individual series legs on the initiating side, provided at least one options leg betters the corresponding bid or offer on the BOX Book by at least one minimum trading increment as set forth in Rule 7240(b)(1).

As mentioned above, the Exchange is also proposing to amend the current rules related to Complex Orders on the Exchange in order to incorporate the trading of Complex Orders on the Trading Floor. Currently, incoming Complex Orders to the Exchange are filtered to ensure that each leg of a Complex Order will be executed at a price that is equal to or better than the NBBO and BOX BBO.[135] The Exchange is now proposing that Floor Brokers may disable, on an order by order basis, the NBBO aspect of this protection for Complex QOO Orders. The Exchange notes that other options exchanges do not require the legs of a Complex Order to be executed at a price that is equal to or better than the NBBO and exchange BBO.[136]

All QOO Orders must be announced to the trading crowd, as provided in proposed Rule 7580(e)(2), prior to the QOO Order being submitted to the BOG.[137] This negotiation and agreement that occurs in the trading crowd does not result in a final trade, but rather a ''meeting of the minds'' that is then submitted through the BOG for processing by the Trading Host. The submitting Floor Broker must announce the order to the trading crowd and give Floor Participants a reasonable opportunity to respond to trade against the initiating side of the QOO Order. An Options Exchange Official will certify that the Floor Broker adequately announced the QOO Order to the trading crowd.[138] When a Complex QOO Order is announced on the Trading Floor, Floor Participants wishing to participate must respond to all legs of the unique Complex QOO Order. For example, if a Floor Broker is executing a Complex QOO Order in A+B, a Floor Participant may respond with interest in A+B, but may not respond to only Leg A or Leg B. The executing Floor Broker's allocation process is identical to the process for non-Complex QOO Orders in proposed Rule 7600(d).

The Exchange believes that by having the QOO Order execute when it is processed by the Trading Host, the Exchange is providing a system that will prevent executions that appear to be at prices that are worse than the NBBO due to the fact that on traditional open-outcry floors the time that the execution is printed may be substantially after the time an execution actually occurred on the trading floor. The Exchange believes that having the QOO Order execute when it is processed by the Trading Host will minimize trade-through violations and provide an accurate and sequential audit trail. The Exchange notes that this is similar to the way executions on PHLX occur.[139]

Priority in the Trading Crowd

The Exchange is proposing rules for determining priority of bids and offers on the Trading Floor.[140] Specifically,

[128] *See* proposed IM–7600–4.

[129] When a Floor Broker receives an order, matched or unmatched, via telephone, the Floor Broker must enter the order electronically into the Floor Broker's order entry mechanism.

[130] *See* proposed Rule 7600(c).

[131] *See* NYSE Arca Rules 6.47 and 6.75. The Exchange notes that it is providing an additional provision that NYSE Arca does not have in its Rule. Specifically, the Exchange is providing for a book sweep size as provided in proposed Rule 7600(h).

[132] The execution of the QOO Order will be reported after it is processed by the Trading Host in the same manner as all other orders on BOX.

[133] The Exchange notes that the processing of an incoming QOO Order by the Exchange is instantaneous.

[134] The term ''Complex Order Book'' means the electronic book of Complex Orders maintained by the BOX Trading Host. *See* Rule 7240(a)(6).

[135] *See* Rule 7240(b)(3)(iii).

[136] *See* ISE Rule 722(b)(3).

[137] *See* proposed Rule 7600(b). Proposed Rule 7600(b) is based on NYSE Arca Rule 6.47(a)(1).

[138] The Options Exchange Official will have a terminal that will allow him to certify that the Floor Broker adequately represented the QOO Order to the trading crowd.

[139] *See* PHLX Rule 1063(e)(iv). The Exchange is not including functionality that allows a Floor Broker to attempt to execute an order multiple times if it cannot be executed when the order is first submitted as PHLX does.

[140] *See* proposed Rule 7610. Proposed Rule 7610 is based on NYSE Arca Rule 6.75. The Exchange notes that it is not including certain sections of the NYSE Arca rule that apply to Lead Market Maker guarantee participation because the Exchange will not have Lead Market Makers on the Trading Floor. Specifically, a Lead Market Maker on NYSE Arca that establishes first priority during the vocalization process is entitled to buy or sell as many contracts

the highest (lowest) bid (offer) shall have priority; when two or more bids (offers) represent the highest (lowest) price, priority shall be afforded to such bids (offers) in the sequence in which they were made. If, however, the bids (offers) of two or more Floor Participants are made simultaneously, or if it is impossible to determine clearly the order of time in which they are made, such bids (offers) will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis. BOX is proposing that the Floor Broker will be responsible for determining the sequence in which bids or offers are vocalized on the Trading Floor from Floor Participants in response to the Floor Broker's bid, offer, or call for a market. A Floor Participant that established priority pursuant to IM–7600–1(c) must inform the Floor Broker of such priority when the Floor Broker announces the order. Any disputes regarding a Floor Broker's determination of time priority sequence will be resolved by the Options Exchange Official. An Options Exchange Official may nullify a transaction or adjust its terms if they determine the transaction to have been in violation of Exchange Rules.

The Exchange is proposing that the Floor Participant with first priority is entitled to buy or sell as many contracts as the Floor Broker may have available to trade. If there are any contracts remaining, the Floor Participant with second priority will be entitled to buy or sell as many contracts as there are remaining in the Floor Broker's order, and so on, until the Floor Broker's order has been filled entirely. An Options Exchange Official has the same responsibilities as a Floor Broker when the Options Exchange Official calls for a market.

as the Floor Broker may have available to trade. Additionally, on NYSE Arca, if the Lead Market Maker establishes some other priority other than first, the Lead Market Maker is entitled to buy or sell the number of contracts equal to the Lead Market Maker's guaranteed participation level. The Exchange is also omitting sections of the NYSE Arca rule that cover manual executions on the trading floor because the Exchange is requiring that all orders on the Trading Floor will not execute until they are processed by the Trading Host. The Exchange is not including provisions of NYSE Arca's rule that apply to stock-option orders because the Exchange does not offer this type of order. Additionally, the Exchange is not including the same level of detail as NYSE Arca does when referring to the actions that an Options Exchange Official can take when there is a dispute regarding a Floor Broker's determination of time priority on the Trading Floor. The Exchange believes that by allowing an Options Exchange Official the ability to nullify a transaction or adjust its terms when the transaction has violated the Exchange's Rules will provide the Exchange with the ability to better monitor and enforce the Exchange's Rules on the Trading Floor.

The Exchange's proposed rules will also cover the situation where a Floor Broker requests a market in order to fill a large order and the Floor Participants provide a collective response.[141] In such situation, if the size of the response, in the aggregate, is less than or equal to the size of the order to be filled, the Floor Participants will each receive a share of the order that is equal to the size of their respective bids or offers. If, however, the size of the response exceeds the size of the order to be filled, that order will be allocated on a size pro rata basis. Specifically, in such circumstances, the size of the order to be allocated is multiplied by the size of an individual Floor Participant's quote divided by the aggregate size of all Floor Participants' quotes. For example, assume there are 200 contracts to be allocated, Floor Market Maker #1 is bidding for 100, Floor Market Maker #2 is bidding for 200 and Floor Market Maker #3 is bidding for 500. Under the ''size pro rata'' allocation formula, Floor Market Maker #1 will be allocated 25 contracts ($200 \times 100 \div 800$); Floor Market Maker #2 will be allocated 50 contracts ($200 \times 200 \div 800$); and Floor Market Maker #3 will be allocated 125 contracts ($200 \times 500 \div 800$).

Allocation

The following describes how the initiating side of a QOO Order is allocated.[142] First, the initiating side of the QOO Order will match against any bids or offers on the BOX Book priced better than the contra-side, provided that an adequate book sweep size was provided by the Floor Broker pursuant to paragraph (h).[143] Multiple orders at the same price are matched based on time priority.

Next, at the same price as the contra-side of the QOO Order, if any contracts of the initiating side remain, the initiating side of the QOO Order will match against Public Customer Orders on the BOX Book, along with bids or offers of non-Public Customers ranked ahead of such Public Customer Orders on the BOX Book, provided that an adequate book sweep size was provided by the Floor Broker pursuant to paragraph (h).[144] Multiple bids or offers at the same price are matched based on time priority.

The remaining balance of the initiating side of the QOO Order, if any, will then be matched by the Trading Host against the contra-side of the QOO Order,[145] regardless of whether the contra-side order submitted by the Floor Broker is ultimately entitled to receive an allocation,[146] pursuant to proposed Rules 7600(d)(3)(i) or (iii). If no Floor Participant, other than the executing Floor Broker, is entitled to an allocation, then no further steps are necessary. If however, Floor Participants are entitled to an allocation, the remaining balance of the initiating side of the QOO Order will be allocated as described below.

First, if the QOO Order satisfies the provisions of proposed Rule 7600(f), the executing Floor Broker is entitled to 40% of the remaining quantity of the initiating side of the QOO Order.[147] Next, Floor Participants that responded with interest when the executing Floor Broker announced the QOO Order to the trading crowd, as outlined in proposed Rules 7580(e)(2) and 7600(b), are allocated.[148] When multiple Floor Participants respond with interest, priority is established pursuant to proposed Rule 7610.[149] Finally, if interest remains after Floor Participants that responded with interest receive their allocation, the remaining quantity of the initiating side of the QOO Order will be allocated to the executing Floor Broker.[150] After execution of the QOO Order, the executing Floor Broker is responsible for providing the correct allocations of the initiating side of the QOO Order to an Options Exchange Official or his or her designee, if necessary, who will properly record the order in the Exchange's system.[151] The executing Floor Broker must provide the correct allocations to an Options

[141] *See* proposed Rule 7610(d)(5).

[142] *See* proposed Rule 7600(d).

[143] *See* proposed Rule 7600(d)(1).

[144] *See* proposed Rule 7600(d)(2).

[145] *See* proposed Rule 7600(d)(3).

[146] For the avoidance of doubt, the Exchange would like to make clear that the matching of the initiating side of the QOO Order against interest on the BOX Book and the matching of the remaining portion of initiating side of the QOO Order against the contra-side order provided by the Floor Broker will be completed automatically by the Trading Host.

[147] *See* proposed Rule 7600(d)(3)(i).

[148] *See* Proposed Rule 7600(d)(3)(ii).

[149] Proposed Rule 7610 provides that the highest bid or lowest offer shall have priority. Where two or more offers or bids are at the same price, priority shall be afforded in the sequence in which the offers or bids were made. If the bids or offers of more than one Floor Participant are made simultaneously, such bids or offers will be deemed to be on parity and priority will be afforded to them, insofar as practicable, on an equal basis. Accordingly, efforts will be made to assure that each Floor Participant on parity receives an equal number of contracts, to the extent mathematically possible. If the Floor Participants provide a collective response to a Floor Broker's request for a market in order to fill a large order, then the allocation will be size pro rata, if necessary.

[150] *See* Proposed Rule 7600(d)(3)(iii).

[151] *See* Proposed Rule 7600(d)(4). The Options Exchange Official or his or her designee is not responsible for confirming the accuracy of the allocations provided by the executing Floor Broker.

Exchange Official or his or her designee, in writing, without unreasonable delay.

The below examples are designed to illustrate the allocation of the initiating side of a QOO Order(s).

Example 1 [152]—Assume there is no priority interest on the contra-side of the QOO Order, as provided in proposed Rule 7600(d)(2), on the BOX Book at the execution price of the QOO Order and a Floor Broker wishes to execute a QOO Order for 500 contracts. When he announces the order, Floor Market Maker 1 and Floor Market Maker 2 both respond to the QOO Order for 250 contracts each. Floor Market Maker 1 responded first so he will have time priority over Floor Market Maker 2. Since the QOO Order is for at least 500 contracts, the Floor Broker is entitled to match at least 40% of the initiating side with the Floor Broker's contra-side.[153]

Result: The initiating side of the QOO Order will match against the Floor Broker's contra-side order for the full 500 contracts. After the execution of the QOO Order, the executing Floor Broker is then responsible for providing an Options Exchange Official or his or her designee the following allocation of the initiating side of the QOO Order:

1. 200 contracts (500 * .40) for the contra-side order submitted by the Floor Broker.
2. 250 for Floor Market Maker 1 with time priority.
3. Remaining 50 contracts to Floor Market Maker 2.

Example 2—Assume there is no priority interest on the contra-side of the QOO Order, as provided in proposed Rule 7600(d)(2), on the BOX Book at the execution price of the QOO Order and a Floor Broker wishes to execute a QOO Order for 400 contracts. When he announces the order, Floor Market Maker 1 and Floor Market Maker 2 both respond to the QOO Order for 200 contracts each. Floor Market Maker 1 responded first so he will have time priority over Floor Market Maker 2. Since the QOO Order is for less than 500 contracts, the Floor Broker is not entitled to a 40% guarantee.

Result: The initiating side QOO Order will match against the Floor Broker's contra-side for the full 400 contracts. After execution of the QOO Order, the executing Floor Broker is then responsible for providing an Options Exchange Official or his or her designee with the following allocation of the initiating side of the QOO Order:

1. 200 contracts for Floor Market Maker 1 with time priority.
2. 200 contracts for Floor Market Maker 2.
3. The executing Floor Broker will receive no allocation.

Example 3—Assume there is no priority interest on the contra-side of the QOO Order, as provided in proposed Rule 7600(d)(2), on the BOX Book at the execution price of the QOO Order and a Floor Broker wishes to execute a QOO Order for 400 contracts in ABC at 1.05 (initiating side is to sell). The NBBO for ABC is 1.00–1.10. When he announces the order, Floor Market Maker 1 and Floor Market Maker 2 both respond to the QOO Order for 200 contracts each. Floor Market Maker 1 responded first at an improved price to buy 200 at 1.06 so he will have price priority over Floor Market Maker 2. Since the QOO Order is for less than 500 contracts, the Floor Broker is not entitled to a 40% guarantee.

Result: The Floor Broker will submit two QOO Orders for 200 contracts each. A QOO Order at 1.06 for 200 contracts and a QOO Order at 1.05 for 200 contracts. The initiating side of the QOO Orders will match against the Floor Broker's contra-side orders for the full 200 contracts. After execution of the QOO Orders, the executing Floor Broker is then responsible for providing an Options Exchange Official or his or her designee with the following allocation of the initiating side of the QOO Orders:

1. QOO Order at 1.06—200 contracts for Floor Market Maker 1.
2. QOO Order at 1.05—200 contracts for Floor Market Maker 2.
3. The executing Floor Broker will receive no allocation of either QOO Order.

Example 4—Assume there is no priority interest on the contra-side of the QOO Order, as provided in proposed Rule 7600(d)(2), on the BOX Book at the execution price of the QOO Order and a Floor Broker wishes to execute a QOO Order for 600 contracts in ABC at 1.05 (initiating side is to sell). The NBBO for ABC is 1.00–1.10. When he announces the order, Floor Market Maker 1 and Floor Market Maker 2 both respond to the QOO Order for 300 contracts each. Floor Market Maker 1 responded first at an improved price to buy 300 at 1.06 so he will have price priority over Floor Market Maker 2. Since the QOO Order is more than 500 contracts, the Floor Broker is entitled to a 40% guarantee.

Result: The Floor Broker will submit two QOO Orders for 300 contracts each. A QOO Order at 1.06 for 300 contracts and a QOO Order at 1.05 for 300 contracts. The initiating side of the QOO Orders will match against the Floor Broker's contra-side orders for the full 300 contracts. After execution of the QOO Orders, the executing Floor Broker is then responsible for providing an Options Exchange Official or his or her designee with the following allocation of the initiating side of the QOO Orders:

1. QOO Order at 1.05—120 (300 *.40) contracts for the contra-side order submitted by the Floor Broker.[154]
2. QOO Order at 1.06—300 contracts for Floor Market Maker 1.
3. QOO Order at 1.05—180 contracts for Floor Market Maker 2.

Example 5—In the same scenario as above, but there is priority interest of 100 contracts on the BOX Book, as provided in proposed Rule 7600(d)(2), at the execution price of the QOO Order and a Floor Broker elects to have a book sweep size of 100 contracts.

Result:

1. The initiating side of the QOO Order will first match against the priority interest on the BOX Book for 100 contracts.
2. Then the remaining 300 contracts of the initiating side of the QOO Order will match against the executing Floor Broker's contra-side order. After execution of the QOO Order, the executing Floor Broker is then responsible for providing an Options Exchange Official or his or her designee with the following allocation of the initiating side of the QOO Order:

a. 250 contracts for Floor Market Maker 1 with time priority.
b. 50 contracts to Floor Market Maker 2.
c. The executing Floor Broker will receive no allocation.

The Exchange is also proposing that the QOO Order will not route to an away exchange and the QOO Order will not trade through any away exchange displaying a better price than the proposed execution price for the QOO Order.[155]

Book Sweep Size

The Exchange is proposing to provide a book sweep size to help Floor Brokers execute orders when there are bids or offers on the BOX Book that have priority over the contra-side of the QOO Order.[156] Specifically, a Floor Broker may, but is not required to, provide a book sweep size. The book sweep size is the number of contracts, if any, of the initiating side of the QOO Order that the Floor Broker is willing to relinquish to interest on the BOX Book that has priority pursuant to proposed Rule 7600(d)(1) and (2). Specifically, any equal or better priced Public Customer

[152] For the following three examples, assume the execution price of the QOO Order satisfies the submission requirements of proposed Rule 7000(c). Specifically, the execution price must be at a price (1) better than any Public Customer bids or offers on the BOX Book, and (2) no worse than any non-Public Customer bids or offers on the BOX Book, on the initiating side.

[153] The Floor Broker's 40% guarantee is outlined in proposed Rule 7600(f).

[154] The Floor Broker's guarantee only applies to 40% of the contracts at the given price level.

[155] *See* proposed Rule 7600(e).

[156] *See* proposed Rule 7600(h).

Orders on the BOX Book or any non-Public Customer bids or offers on the BOX Book that are ranked ahead of such equal or better priced Public Customer Orders, and any non-Public Customer bids or offers on the BOX Book that are priced better than the proposed execution price. If the number of contracts on the BOX Book that have priority over the contra-side order is greater than the book sweep size, then the QOO Order will be rejected by the Trading Host. If the number of contracts on the BOX Book that have priority over the contra-side order is less than or equal to the book sweep size, then the QOO Order will be allowed to execute. In such case, the initiating side will execute against interest on the BOX Book with priority and then the remaining quantity, if any, will execute against the contra-side order. The Exchange believes that this proposed feature will aid Floor Brokers in having more of their executions accepted by the Trading Host and will benefit the market as a whole by providing a tool to assist Floor Brokers in executing orders when there is priority interest on the BOX Book. Additionally, the book sweep size will provide increased opportunity for orders on the BOX Book to be executed. The Exchange notes, however, that it shall be considered conduct inconsistent with just and equitable principles of trade for any Floor Broker to use the book sweep size for the purpose of violating the Floor Broker's duties and obligations.[157]

The Exchange notes that another exchange provides functionality to help Floor Brokers clear the electronic book.[158] PHLX's system has functionality that will return the order to the Floor Broker if, after attempting to execute the order multiple times, the order cannot be executed. The Exchange believes this is similar to the proposed book sweep size that may result in a Floor Broker's order not executing once it is submitted.[159]

Examples

The following are examples of how the QOO Order will operate.

Example #1—Execution of a QOO Order

The following example is designed to illustrate a QOO Order executing.

- NBBO 3.09–3.13
- QOO Order for 100 at 3.10 (initiating side is sell)
- Book sweep size = 0.

BOX Book

Account	Quantity	Buy	Sell	Quantity	Account
MM1	150	3.09	3.15	10	MM2
BD1	15	3.08	3.16	10	MM3

Result: QOO Order is accepted because the price of the QOO Order ($3.10) is better than the NBBO on both the initiating side ($3.13) and the contra-side ($3.09).

Example #2—Capping of the Book Sweep Size

The following example illustrates how the Exchange will handle a QOO Order that is submitted with a book sweep size that is greater than the size of the QOO Order.

- NBBO 3.09–3.13
- QOO Order for 100 at 3.10 (initiating side is sell)
- Book sweep size = 200 (will be capped at the size of the QOO Order (100)).

BOX Book

Account	Quantity	Buy	Sell	Quantity	Account
MM1	150	3.09	3.15	10	MM2
BD1	15	3.08	3.16	10	MM3

Result: QOO Order is accepted because the price of the QOO Order ($3.10) is better than the NBBO on both the initiating side ($3.13) and the contra-side ($3.09).

Example #3—Rejecting a QOO Order based on the NBBO

The following example illustrates how the Exchange will handle a QOO Order that is priced outside of the NBBO.

- NBBO 3.09–3.15
- QOO Order for 100 at 3.17 (initiating side is sell)
- Book sweep size = 100.

[157] *See* proposed IM–7600–3.

[158] PHLX's Floor Broker Management System (''FBMS'') provides execution functionality that will assist the Floor Broker in clearing the exchange book, consistent with exchange priority rules. *See* PHLX Rule 1063(e)(iv). Additionally, if a Floor Broker on PHLX enters a two-sided order through the FBMS, and there is interest on the PHLX electronic book at a price that would prevent the Floor Broker's order from executing, the FBMS will provide the Floor Broker with the quantity of contracts on the electronic book that have priority and need to be satisfied before the Floor Broker's order can execute at the agreed upon price. If the Floor Broker wishes to still execute his order, he can cause a portion of the floor based order to trade against this priority interest on the electronic book, thereby clearing the interest and permitting the remainder of the Floor Broker's order to trade at the desired price. The PHLX FBMS functionality is optional, and a Floor Broker can decide not to trade against the electronic book and therefore not execute his two-sided order at the particular price. *See* Securities Exchange Act Release No. 68960 (February 20, 2013), 78 FR 13132 (February 26, 2013) (SR–Phlx–2013–09).

[159] The Exchange notes that the proposed functionality of the Trading Host on BOX will not attempt to execute an order multiple times. Instead, if, due to the book sweep size provided by the Floor Broker, the order cannot be executed by the Trading Host immediately, it will be rejected back to the Floor Broker. The similarity is in the fact that in both situations an order will not execute and will be rejected back to the Floor Broker. The Exchange believes that this difference between the Exchange and PHLX will incentivize Floor Brokers on BOX to provide an adequate book sweep size if they want the order to immediately execute.

BOX Book					
Account	Quantity	Buy	Sell	Quantity	Account
MM1	50	3.09	3.15	10	MM2
BD1	20	3.08	3.16	10	MM3

Result: QOO Order is rejected because the price of the QOO Order (3.17) is worse than the NBBO (3.15) on the initiating side of the QOO Order.

Example #4—Executing of a QOO Order Utilizing the Book Sweep Size

The following example illustrates a QOO Order that utilizes the book sweep size and therefore executes against interest on the BOX Book.

- NBBO 3.09–3.15
- QOO Order for 100 at 3.09 (initiating side is sell)
- Book sweep size = 100.

BOX Book					
Account	Quantity	Buy	Sell	Quantity	Account
PC1	50	3.09	3.15	10	MM2
PC2	50	3.08	3.16	10	MM3

Result: QOO Order is accepted, as the Floor Broker is willing to relinquish the full quantity of the initiating side to orders and quotes on the BOX Book. The initiating side will trade 50 contracts against PC1 at 3.09, and then the remaining 50 contracts will trade at 3.09 against the contra-side.

Example #5—Insufficient Book Sweep Quantity

The following example is designed to illustrate the situation where an executing Floor Broker did not provide an adequate book sweep size to have the QOO Order execute immediately when it was submitted to the Trading Host.

- NBBO 3.09–3.15
- QOO Order for 100 at 3.09 (initiating side is sell)
- Book sweep size = 40.

BOX Book					
Account	Quantity	Buy	Sell	Quantity	Account
PC1	50	3.09	3.15	10	MM2
PC2	50	3.08	3.16	10	MM3

Result: QOO Order is rejected, as the Floor Broker is not willing to relinquish adequate quantity of the initiating side. Specifically, the book sweep size of 40 is not sufficient to satisfy PC1's 50 contracts which have priority. Upon rejection, the Floor Broker may: (i) Increase the book sweep size and resubmit the order; or (ii) not trade the order on BOX.

Example #6—Trading Through an Away Exchange

The following example is designed to illustrate how the Trading Host will handle a QOO Order that is submitted at a price that would trade-through an away exchange.

- NBBO 3.09–3.13
- QOO Order for 100 at 3.14 (initiating side is buy)
- Book sweep size = 100.

BOX Book					
Account	Quantity	Buy	Sell	Quantity	Account
MM1	50	3.09	3.15	10	MM2
BD1	20	3.08	3.16	10	MM3

Result: QOO Order is rejected because the price of the QOO Order (3.14) is worse than the NBBO (3.13) on the contra-side of the QOO Order. The QOO Order is rejected even though the price of the QOO is better than the BOX Book on the initiating side (3.09) and the contra-side (3.15). A QOO Order will not route to an away exchange and the QOO will not trade through any away exchange displaying a better price.

Example #7—Complex QOO Order on the Trading Floor

The following is an example of an execution of a Complex QOO Order.

- Complex QOO Order for 100 of A+B at 2.01 (initiating side is buy)

- Floor Broker has disabled the away NBBO filter for the Complex QOO Order
- Book sweep size = 100
- NBBO for Complex Order [160] A+B is 3.06–3.20
- BOX BBO for Complex Order [161] A+B is 2.00–3.20

BOX Book For Complex Order A+B

Account	Quantity	Buy	Sell	Quantity	Account

BOX Book Instrument A

Account	Quantity	Buy	Sell	Quantity	Account
PC1	10	1.00	1.10	10	PC2

BOX Book Instrument B

Account	Quantity	Buy	Sell	Quantity	Account
BD1	10	1.00	2.10	10	BD2

Result: Complex QOO Order is accepted because the price of the Complex QOO Order (2.01) is better than the BOX BBO on the initiating side (2.00) and the contra-side (3.20). Additionally, since the NBBO filter has been disabled by the Floor Broker, the Complex QOO Order will ignore the NBBO for Complex Order A+B (3.06–3.20). Even when the Complex QOO Order ignores the away NBBO, it must still respect interest on BOX.

Example #8—Complex QOO Order Rejected Due to the Book Sweep Size

The following is an example of a Complex QOO Order that is rejected by the Trading Host because the Floor Broker did not provide an adequate book sweep size to satisfy the resting interest on the Complex Order Book.

- Complex QOO Order for 100 of A+B at 3.07 (initiating side is sell)
- Book sweep size = 25
- NBBO for Complex Order A+B is 3.06–3.20

BOX Book For Complex Order A+B

Account	Quantity	Buy	Sell	Quantity	Account
MM1	50	3.10			

BOX Book Instrument A

Account	Quantity	Buy	Sell	Quantity	Account
PC1	10	1.06	1.10	10	PC2

BOX Book Instrument B

Account	Quantity	Buy	Sell	Quantity	Account
BD1	100	2.00	2.10	100	BD2

Result: Complex QOO Order is rejected because the book sweep size is not adequate to satisfy the resting A+B Complex Orders on the Complex Order Book at 3.10 (50). If, however, the book sweep size was for at least 50 A+B, the Complex QOO Order would execute by having 50 A+B execute against the resting Complex Orders on the Complex Order Book at 3.10. The remaining 50 A+B would execute against the contra-side order at 3.07.

Example #9—Complex QOO Order Executing Against BOX Book Interest

The following example is designed to illustrate the situation where the Complex QOO Order executes against Implied Orders [162] and resting Complex Orders on the Complex Order Book.

[160] The NBBO for Complex Orders is based on the NBBO for the individual options components of such Complex Order.

[161] The BOX BBO for Complex Orders is the best net bid and offer price based on the best bid and offer on the BOX Book for the individual option's components of the Complex Order.

[162] An ''Implied Order'' is a Complex Order at the cNBBO, derived from the orders at the BBO on the BOX Book for each component leg of a Strategy, provided each component leg is at a price equal to NBBO for that series. *See* Rule 7240(d)(1).

- Complex QOO Order for 100 of A+B at 3.04 (initiating side is sell)
- Book sweep size = 100
- NBBO for Complex Order A+B is 3.06–3.20

BOX Book for Complex Order A+B

Account	Quantity	Buy	Sell	Quantity	Account
MM1	60	3.06			

BOX Book Instrument A

Account	Quantity	Buy	Sell	Quantity	Account
PC1	10	1.06	1.10	10	PC2
MM2	90	1.05			

BOX Book Instrument B

Account	Quantity	Buy	Sell	Quantity	Account
BD1	100	2.00	2.10	100	BD2

Result: Complex QOO Order is accepted because the Floor Broker is willing to relinquish the full quantity of the initiating side to bids and offers on the BOX Book. The initiating side will execute against resting orders of the individual legs and resting A+B Complex Orders. Specifically, 10 A+B of the initiating side will execute against an Implied Order at 3.06 (leg A at 1.06 and leg B at 2.00), 60 A+B will execute at 3.06 against resting A+B Complex Order and 30 A+B against an Implied Order at 3.05 (leg A at 1.05 and leg B at 2.00).

Example #10—Complex QOO Order Executing Against BOX Book Interest with Remaining Interest

The following example illustrates how the Exchange will handle a Complex QOO Order that executes against BOX Book interest first but leaves interest on the BOX Book.

- Complex QOO Order for 100 of A+B at 3.04 (initiating side is sell)
- Book sweep size = 100
- NBBO for Complex Order A+B is 3.06–3.20

BOX Book for Complex Order A+B

Account	Quantity	Buy	Sell	Quantity	Account

BOX Book Instrument A

Account	Quantity	Buy	Sell	Quantity	Account
PC1	10	1.06	1.10	10	PC2

BOX Book Instrument B

Account	Quantity	Buy	Sell	Quantity	Account
PC3	20	2.00	2.10	100	BD2

Result: Complex QOO Order is accepted. The initiating side will execute against resting orders of the individual legs and then against the contra-side. Specifically, 10 A+B of the initiating side will execute against an Implied Order at 3.06 (leg A at 1.06 and leg B at 2.00), and 90 will execute against the contra-side at 3.04. The unexecuted interest on the BOX Book remains after the execution of the Complex QOO Order.

Example #11—Multiple Public Customer and non-Public Customer Orders on the BOX Book

Under Proposed Rule 7600(d), multiple Public Customer and non-Public Customer Orders on the BOX Book that have priority at the execution price of the QOO Order will be filled in the order they are ranked. The following example illustrates this situation.

- NBBO 3.10—3.13
- QOO Order for 100 at 3.10 (initiating side is sell)
- Surrender quantity = 100

BOX Book					
Account [163]	Quantity	Buy	Sell	Quantity	Account
MM1	50	3.10	3.15	10	MM2
PC1	20	3.10			
BD1	50	3.10			
PC2	20	3.10			

Result: QOO Order is accepted because the price of the QOO Order ($3.10) is better than or equal to the NBBO on both the initiating side ($3.13) and the contra-side ($3.10). The initiating side will trade 50 contracts against MM1 at $3.10, then 20 against PC1 at $3.10, and then 30 against BD1 at $3.10. The remaining quantity of BD1 (20 contracts) and PC2's order for 20 contracts will remain on the BOX Book.

Guarantee

The Exchange is proposing to allow for a participation guarantee for certain orders executed by Floor Brokers.[164] Specifically, when a Floor Broker holds an order of the eligible order size or greater, the Floor Broker is entitled to cross a certain percentage of the order with other orders that the Floor Broker is holding. The Exchange may determine, on an option by option basis, the eligible size for an order on the Trading Floor to be subject to this guarantee; however, the eligible order size may not be less than 500 contracts.[165] In determining whether an order satisfies the eligible order size requirement, any multi-part or Complex Order must contain one leg alone which is for the eligible order size or greater. The percentage of the order which a Floor Broker is entitled to cross, after all equal or better priced Public Customer bids or offers on the BOX Book and any non-Public Customer bids or offers that are ranked ahead of such Public Customer bids or offers are filled, is 40% of the remaining contracts in the order. However, nothing in this proposed Rule is intended to prohibit a Floor Broker from trading more than his percentage entitlement if the other Participants of the trading crowd do not choose to trade the remaining portion of the order.

Additional Requirements

The Exchange is proposing additional requirements for Floor Participants while present on the Trading Floor.[166] First, BOX is proposing that a Floor Broker must disclose all securities that are components of the Public Customer Order before requesting bids and offers for the execution of all components of the order. Next, the Exchange is proposing rules pertaining to treatment of quotes provided by Floor Participants. Specifically, a quote provided by a Floor Participant will remain in effect until: (1) A reasonable amount of time has passed; or (2) there is a significant change in the price of the underlying security; [167] or (3) the market given in response to the request has been improved.[168] BOX is proposing that the Floor Participant who established the market will, at the given price, have priority over all other orders that were not announced in the trading crowd at the time that the market was established (but not over Public Customer orders on the BOX Book or any non-Public Customer orders that have priority over such Public Customer orders on the BOX Book) and will maintain priority over such orders except for orders that improve upon the market. Additionally, when a Floor Broker announces an order to the trading crowd pursuant to Rule 7580(e)(2), it shall be the responsibility of the Floor Participant who established the market to alert the Floor Broker of the fact that the Floor Participant has priority.

The Exchange is proposing that Floor Participants may not prevent a Complex Order from being completed by giving a competing bid or offer for one component of such order. Lastly, the Exchange is proposing that if a Floor Broker is crossing a Public Customer Order with an order that is not a Public Customer Order, when providing an opportunity for the trading crowd to participate in the transaction, the Floor Broker shall disclose the Public Customer Order that is subject to crossing.

Tied Hedge

BOX is proposing the adoption of rules that will allow for tied hedge transactions. Tied hedge transactions are transactions that involve an option transaction and a hedging transaction occurring on a non-option market, as described in greater detail below.[169] Specifically, the Exchange is proposing that nothing prohibits a Floor Broker from buying or selling a stock, security futures, or futures position following receipt of an option order, including a Complex Order, provided that prior to announcing such order to the trading crowd certain conditions are met. The option order must be in a class designated as eligible for tied hedge transactions as determined by the Exchange and is within the designated tied hedge eligibility size parameters, which parameters shall be determined by the Exchange and may not be smaller than 500 contracts per order. Additionally, there shall be no aggregation of multiple orders to satisfy the size parameter, and for Complex Orders involved in a tied hedge transaction at least one leg must meet the minimum size requirement. The Floor Broker must create an electronic record that it is engaged in a tied hedge transaction in a form and manner prescribed by the Exchange. The hedging position is comprised of a position designated as eligible for a tied hedge transaction as determined by the Exchange and may include the same underlying stock applicable to the option order, a security future overlying the same stock applicable to the option order or, in reference to an index or Exchange-Traded Fund Shares (''ETF''), a related instrument.[170] Additionally,

[163] This is the time sequence that the orders were received by BOX (*i.e.,* MM1 was received first).

[164] *See* proposed Rule 7600(f). Proposed Rule 7600(f) is based on PHLX Rule 1064.02. The Exchange notes that there are certain differences from the PHLX rule due to the fact that the Exchange will not have specialists on the Trading Floor and the Exchange has different rules than PHLX when it comes to orders on the Trading Floor executing against interest on the electronic book.

[165] Any changes to the eligible order size shall be communicated to Participants via circular.

[166] *See* proposed IM–7600–1. Proposed IM–7600–1 is based on PHLX Rule 1064.02. The Exchange notes that there are certain differences from the PHLX rule in order to account for the fact that BOX will not have specialists on the Trading Floor. Additionally, the Exchange is proposing additional language to clarify it is the responsibility of the Floor Participant who established the market to alert the executing Floor Broker of such information.

[167] In the case of a dispute, the term ''significant change'' will be interpreted on a case-by-case basis by an Options Exchange Official based upon the extent of recent trading in the option and in the underlying security, and any other relevant factors.

[168] *See* proposed IM–7600–1(b).

[169] *See* proposed IM–7600–2. Proposed IM–7600–2 is based on NYSE Arca Rule 6.47.01.

[170] A ''related instrument'' means, in reference to an index option, securities comprising ten percent

Continued

the hedging position must be brought without undue delay to the trading crowd and announced concurrently with the option order; offered to the trading crowd in its entirety; and offered, at the execution price received by the Floor Broker introducing the option, to any in-crowd Floor Participant who has established parity or priority for the related options. The hedging position must not exceed the option order on a delta basis to be eligible for treatment as a tied hedge order.

The Exchange is further proposing that all tied hedge transactions (regardless of whether the option order is a simple or Complex Order) are treated the same as Complex Orders for purposes of the Exchange's open outcry allocation and reporting procedures. Tied hedge transactions are subject to the existing NBBO trade-through requirements for options and stock, as applicable, and may qualify for various exceptions; however, when the option order is a simple order, the execution of the option leg of a tied hedge transaction does not qualify for the NBBO trade-through exception for a Complex Trade (defined in proposed Rule 7610(e)). Floor Participants that participate in the option transaction must also participate in the hedging position and may not prevent the option transaction from occurring by giving a competing bid or offer for one component of such order. In the event the conditions in the non-options market prevent the execution of the non-option leg(s) at the agreed prices, the trade representing the options leg(s) may be cancelled. BOX is proposing that prior to entering tied hedge orders on behalf of Public Customers, the Floor Broker must deliver to the Public Customer a written notification informing the Public Customer that his order may be executed using the Exchange's tied hedge procedures. The proposed Rule dealing with tied hedge orders is based on the rules of another options exchange.[171]

The Exchange is also proposing language related to Section 11(a)(1)(G) of the Exchange Act.[172] Specifically, a BOX Participant shall not utilize the Trading Floor to effect any transaction for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion by relying on an exemption under Section 11(a)(1)(G) of the Exchange Act.

Clerks

The Exchange is proposing to adopt Rule 7630 Clerks, which provides requirements for Clerks on the Trading Floor.[173] The proposal defines ''Clerk'' as any registered on-floor person employed by or associated with a Floor Broker or Floor Market Maker and who is not eligible to effect transactions on the Trading Floor as a Floor Market Maker or Floor Broker. The proposed Rule codifies that Clerks must display the badge(s) supplied by the Exchange while on the Trading Floor. Further, Proposed Rule 7630(c) codifies that a Clerk shall be primarily located at a workstation assigned to his employer or assigned to his employer's clearing firm unless such Clerk is (1) entering or leaving the Trading Floor, (2) transmitting, correcting or checking the status of an order or reporting or correcting an executed trade or (3) supervising other Clerks if he is identified as a supervisor on the registration form submitted to the Exchange's Membership Department.

The Exchange is also proposing Rule 7630(d), which details the registration requirements for a Floor Broker who employs a Clerk that performs any function other than a solely clerical or ministerial function. On the Trading Floor, a Clerk may enter an order under the direction of a Floor Broker by way of any order handling entry device.[174] Proposed Rule 7630(f) defines a Floor Market Maker Clerk as any on-floor Clerk employed by or associated with a Floor Market Maker, and details the registration requirements and conduct on the Trading Floor for Floor Market Maker Clerks. A Floor Market Maker Clerk is permitted to communicate verbal market information (*i.e.,* bid, offer, and size) in response to requests for such information, provided that such information is communicated under the direct supervision of his or her Floor Market Maker employer. A Floor Market Maker Clerk may consummate electronic transactions under the express direction of his or her Floor Market Maker employer by matching bids and offers. Such bids and offers and transactions effected under the supervision of a Floor Market Maker are binding as if made by the Floor Market Maker employer.

Disputes on the Trading Floor

The Exchange is proposing to adopt Rule 7640 to codify the process for the resolution of trading disputes on the Trading Floor.[175] Specifically, disputes occurring on and relating to the Trading Floor, if not settled by agreement between the Floor Participants interested, shall be settled by an Options Exchange Official.

The Exchange is proposing that an Options Exchange Official shall institute the course of action deemed to be most fair to all parties under the circumstances at the time when issuing decisions for the resolution of trading disputes. An Options Official may direct the execution of an order or adjust the transaction terms or Participants to an executed order, and may also nullify a transaction if the transaction is determined to have been in violation of Exchange Rules. Options transactions that are the result of an Obvious Error or Catastrophic Error shall be subject to the provisions and procedures set forth in Rule 7170. The proposed Rule also states that all rulings rendered by an Options Exchange Official are effective immediately and must be complied with promptly; failure to do so may result in an additional violation.

Proposed Rule 7640(e) states that all Options Exchange Official rulings are reviewable by the CRO or his or her designee, and sets forth the process for such review. Regulatory staff must be advised within 15 minutes of an Options Exchange Official's ruling that a party to such ruling has determined to appeal from such ruling to the CRO or his or her designee. The Exchange may establish the procedures for the submission of a request for a review of an Options Exchange Official ruling. Options Exchange Official rulings (including those concerning the nullification or adjustment of transactions) may be sustained, overturned, or modified by the CRO or his or her designee. In making a determination, the CRO or his or her designee may consider facts and circumstances not available to the ruling Options Exchange Official, as well as action taken by the parties in reliance on the Options Exchange Official's ruling (*e.g.,* cover, hedge, and related trading activity). Further, all decisions made by the CRO or his or her designee

or more of the component securities in the index or a futures contract on any economically equivalent index applicable to the option order. A ''related instrument'' means, in reference to an ETF option, a futures contract on any economically equivalent index applicable to the ETF underlying the option order.

[171] *See* NYSE Arca Rule 6.47.01.

[172] *See* proposed IM–7600–5.

[173] Proposed Rule 7630 is based on PHLX Rule 1090.

[174] *See* proposed Rule 7630(e).

[175] Proposed Rule 7640 is based on PHLX Rule 124. The Exchange notes that there are certain differences from the PHLX rule because the Exchange desires to have consistency with its existing rules related to reviewing an Exchange ruling.

in connection with initial rulings on requests for relief and with the review of an Options Exchange Official ruling pursuant to this proposed Rule 7640(e) shall be documented in writing and maintained by the Exchange in accordance with the record keeping requirements set forth in the Securities Exchange Act of 1934, as amended, and the rules thereunder. A Floor Participant seeking review of an Options Exchange Official ruling shall be assessed a fee of $250.00 for each Options Exchange Official ruling to be reviewed that is sustained and not overturned or modified by the CRO or his or her designee.[176] All decisions of the CRO or his or her designee shall be final and may not be appealed to the Exchange's Board of Directors. Additionally, all decisions of the CRO or his or her designee are effective immediately and must be complied with promptly. Failure to promptly comply with a decision of the Exchange may result in an additional violation.

Lastly, as discussed in proposed IM–7640–1, the Exchange may determine that an Options Exchange Official is ineligible to participate in a particular ruling where it appears that such Options Exchange Official has a conflict of interest. The Exchange also sets forth when a conflict of interest exists, and allows that Exchange staff may consider other circumstances, on a case-by-case basis, in determining the eligibility or ineligibility of a particular Options Exchange Official to participate in a particular ruling due to a conflict of interest.[177]

Trading for Joint Account

The Exchange is proposing Rule 7650, which will govern Trading for Joint Accounts.[178] Specifically, it stipulates that while on the Trading Floor, no Options Participant shall initiate the purchase or sale on the Exchange of any security for any account in which he, his Options Participant organization or a participant therein, is directly or indirectly interested with any person other than such Options Participant or participant therein. The Exchange further clarifies that these provisions shall not apply to any purchase or sale by any Options Participant for any joint account maintained solely for effecting bona fide domestic or foreign arbitrage transactions.

Communications and Equipment

The Exchange is proposing Rule 7660 Communications and Equipment, which deals with communication and equipment on the Trading Floor. Specifically, the proposed Rule details which communication devices are prohibited; provides the Exchange with the ability to remove any communication device that is in violation; sets forth the registration requirement and process; specifies the capacity and functionality of communication devices; outlines the communication devices allowed to Floor Market Makers, Floor Brokers, and Clerks; requires the maintenance of telephone records, and excludes the Exchange from liability due to conflicts between communication devices or due to electronic interference. Additionally, the Exchange will establish a communication device policy and violations of such policy may result in disciplinary action by the Exchange.[179] Proposed IM–7660–2 clarifies that proposed Rule 7660 and any relevant Exchange policy are intended to apply to all communication and other electronic devices on the Floor of the Exchange, including, but not limited to, wireless, wired, tethered, voice, and data. The Exchange notes that the proposed rules applicable to communication and equipment on the Trading Floor are based on the rules of another exchange.[180] Lastly, Proposed IM–7660–3 provides the Exchange with the ability to limit or revoke the use of any communication device on the Trading Floor whenever the Exchange determines that use of such communication device: (1) Interferes with the normal operation of the Exchange's own systems or facilities or with the Exchange's regulatory duties, (2) is inconsistent with the public interest, the protection of investors or just and equitable principles of trade, or (3) interferes with the obligations of a Floor Participant to fulfill its duties under, or is used to facilitate any violation of, the Act or rules thereunder, or Exchange rules. The Exchange notes that proposed IM–7660–3 is based on the rules of another exchange.[181]

Floor Market Makers

The Exchange is proposing Rule 8500 Floor Market Maker, which details the rules surrounding Floor Market Makers, including registration as a Market Maker and suspension and termination of a Floor Market Maker.[182] Specifically, with regard to suspension or termination, the registration of any Options Participant as a Floor Market Maker may be suspended or terminated by the Exchange upon a determination that such Options Participant has failed to properly perform as a Floor Market Maker.[183]

The Exchange proposes that a Floor Market Maker shall not effect on the Exchange purchases or sales of any option in which such Floor Market Maker is registered, for any account in which he or his Options Participant is directly or indirectly interested, unless such dealings are reasonably necessary to permit such Floor Market Maker to maintain a fair and orderly market.[184]

Also, the Exchange proposes certain expectations of Floor Market Makers. Specifically, proposed Rule 8500(d) details that it is ordinarily expected that a Floor Market Maker will engage, to a reasonable degree under the existing circumstances, in dealings for his own account in options when lack of price continuity or lack of depth in the options market or temporary disparity between supply and demand in the options market exists or is reasonably to be anticipated. The Exchange is proposing that transactions effected on the Exchange by a Floor Market Maker for his own account, and in the options in which he is registered, are to constitute a course of dealings reasonably calculated to contribute to

[176] In addition, in instances where the Exchange, on behalf of an Options Participant, requests a review by another options exchange, the Exchange will pass any resulting charges through to the relevant Options Participant.

[177] *See* proposed IM–7640–1.

[178] Proposed Rule 7650 is based on PHLX Rule 772.

[179] *See* proposed IM–7660–1.

[180] *See* PHLX Rule 606. The Exchange notes that it is not copying PHLX Rule 606(b)(2)(i), which prohibits any member from establishing communication devices on the floor. The Exchange believes that this provision is not necessary and would be contrary to the Exchange's proposed Trading Floor design. Specifically, the Exchange will not be providing communication devices for Floor Participants; Floor Participants will be responsible for providing their own communication devices. Therefore, the inclusion of this provision would directly conflict with the Exchange's plan. Additionally, proposed Rule 7660(g) contains a provision not included in PHLX's rule that requires wireless telephone and other communication devices on the Options Floor to comply with applicable floor policies. The Exchange believes this provision is important as to make clear the restrictions and requirements applicable to communication devices on the Trading Floor.

[181] *See* CBOE Rule 6.23(b). The Exchange notes that although other provisions of proposed Rule 7660 are based on PHLX, PHLX does not allow Floor Brokers to receive orders while in the trading crowd; therefore, the Exchange is proposing to follow CBOE, which allows Floor Brokers to receive orders in the trading crowd.

[182] *See* proposed Rules 8500 (a) and (b). Proposed Rules 8500 (a) and (b) are based on PHLX Rule 1020. There are certain differences with PHLX's rule due to the fact that PHLX has additional categories of Participants that the Exchange does not.

[183] The 13000 Series of the Exchange's Rules provide procedures, including appealing, for Participants aggrieved by Exchange action, including suspension and termination.

[184] *See* proposed Rule 8500(c).

the maintenance of price continuity with reasonable depth, and to the minimizing of the effects of temporary disparity between supply and demand, immediate or reasonably to be anticipated. Transactions in such options not part of such a course of dealings are not to be effected by a Floor Market Maker for his own account.[185]

The Exchange is proposing Rule 8510 which will govern the obligations and restrictions applicable to Floor Market Makers.[186] Generally, transactions of a Floor Market Maker should constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and those Participants should not enter into transactions or make bids or offers that are inconsistent with such a course of dealings.[187] Additionally, the Exchange is proposing to define a Floor Market Maker as an Options Participant on the Exchange located on the Trading Floor who has received permission from the Exchange to trade in options for his own account.[188]

The Exchange is proposing a Continuous Open Outcry Quoting Obligation for Floor Market Makers.[189] The Continuous Open Outcry Quoting Obligation requires Floor Market Makers to provide a two-sided market on the Trading Floor complying with the quote spread parameter requirements contained in proposed Rule 8510(d)(1).[190] As part of the Continuous Open Outcry Quoting Obligation, such Floor Market Makers shall provide such quotations with a size of not less than 10 contracts.

The Exchange also proposes affirmative obligations for Floor Market Makers in classes of option contracts to which they are assigned. Specifically, whenever a Floor Market Maker is called upon by an Options Exchange Official or a Floor Broker to make a market, the Floor Market Maker is expected to engage, to a reasonable degree under the existing circumstances, in dealing for his own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and demand for a particular option contract, or a temporary distortion of the price relationships between option contracts of the same class.[191] Additionally, the Exchange proposes the following obligations on Floor Market Makers while performing their market making activities on the Trading Floor: (1) Quote Spread Parameters (Bid/Ask Differentials) [192] and (2) Maximum Option Price Change.[193] Specifically, Floor Market Makers shall provide a bid/ask differential on the Trading Floor for options on equities and index options by bidding and/or offering so as to create differences of no more than $0.25 between the bid and the offer for each option contract for which the prevailing bid is less than $2; no more than $0.40 where the prevailing bid is $2 or more but less than $5; no more than $0.50 where the prevailing bid is $5 or more but less than $10; no more than $0.80 where the prevailing bid is $10 or more but less than $20; and no more than $1 where the prevailing bid is $20 or more, provided that, in the case of equity options, the bid/ask differentials stated above shall not apply to in-the-money series where the market for the underlying security is wider than the differentials set forth above. For such series, the bid/ask differentials may be as wide as the quotation for the underlying security on the primary market, or its decimal equivalent rounded up to the nearest minimum increment. The Exchange may establish differences other than the above for one or more series or classes of options.[194]

Quotations provided in open outcry may not be made with $5 bid/ask differentials provided in Rule 8040(a)(7) and instead must comply with the legal bid/ask differential requirements described in this subparagraph. These proposed obligations for Floor Market Maker are based on the rules of another exchange.[195]

The Exchange is also proposing restrictions for Floor Market Makers in classes of option contracts other than those to which they are appointed. Specifically, with respect to classes in which Floor Marker Makers are not appointed, Floor Market Makers should not (1) individually or as a group, intentionally or unintentionally, dominate the market in option contracts of a particular class; or (2) effect purchases or sales on the Trading Floor of the Exchange except in a reasonable and orderly manner; (3) be conspicuous in the general market or in the market in a particular option.[196] Further, the Exchange proposes additional restrictions on Floor Market Makers.[197] Specifically, except as otherwise provided, no Floor Market Maker shall (1) initiate a transaction while on the Trading Floor for any account in which he has an interest and execute as Floor Broker an off-floor order in options on the same underlying interest during the same trading session, or (2) retain priority over an off-floor order while establishing or increasing a position for an account in which he has an interest while on the Trading Floor of the Exchange.[198]

Proposed Rule 8510(h) discusses option priority and parity on the Trading Floor.[199] Specifically, it references proposed Rule 7610, which

[185] *See* proposed Rule 8500(d).

[186] Proposed Rule 8510 is based on PHLX Rule 1014. PHLX Rule 1014 includes numerous sections that the Exchange is not including in proposed Rule 8510. The majority of the sections that the Exchange is omitting are not relevant to BOX. Specifically, they involve rules related to Participant categories that the Exchange does not and will not have on BOX. These include Streaming Quote Trader, which is a Registered Option Trader who has received permission from PHLX to submit electronic quotes only while they are present on the floor, and specialists. Additionally, the Exchange is not copying PHLX Rule 1014.06, which covers information barriers, because the Exchange already has rules covering misuse of material information. *See* Securities Exchange Act Release No. 75916 (September 14, 2015), 80 FR 56503 (September 18, 2015) (SR–BOX–2015–31). The Exchange is not copying PHLX Rules 1014.13 and 1014.14 because the PHLX Rules deal with types of activities and members that will not be present on BOX's Trading Floor. As previously mentioned, PHLX Rule 1014.13 requires an in person minimum that the Exchange does not believe is necessary on the Trading Floor.

[187] *See* proposed Rule 8510(a).

[188] *See* proposed Rule 8510(b).

[189] *See* proposed Rule 8510(c).

[190] *See* proposed Rule 8510(c)(2).

[191] *See* proposed Rule 8510(d).

[192] *See* proposed Rule 8510(d)(1).

[193] On the Trading Floor, a Floor Market Maker shall not be bidding more than $1 lower and/or offering no more than $1 higher than the last preceding transaction price for the particular option contract. However, this standard shall not ordinarily apply if the price per share of the underlying stock or Exchange-Traded Fund Share has changed by more than $1 since the last preceding transaction for the particular option contract. *See* proposed Rule 8510(d)(2).

[194] The Exchange notes that the ability to provide different quoting requirements is not novel and the Exchange already has this ability when it comes to electronic quoting requirements. *See* Rule 8040(a)(7). Additionally, another Exchange allows for the same on their floor. *See* PHLX Rule 1014(c)(i)(A)(1)(a).

[195] *See* PHLX Rule 1014(c)(i)(A). The Exchange is not including all of the PHLX rules related to Floor Market Maker quoting obligations. Specifically, the Exchange is not including PHLX rules applicable to foreign currency options because BOX does not list for trading foreign currency options.

[196] *See* proposed Rule 8510(e).

[197] *See* proposed Rule 8510(f).

[198] This provision shall not apply to (1) any transaction by a registered Floor Market Maker in an option in which he is so registered; or (2) any transaction, other than a transaction for an account in which a Floor Market Maker has an interest, made with the prior approval of an Options Exchange Official to permit a member to contribute to the maintenance of a fair and orderly market in an option, or any purchase or sale to reverse any such transaction; or (3) any transaction to offset a transaction made in error. *See* proposed Rule 8510(g).

[199] Proposed Rule 8510(h) is based on PHLX Rule 1014(g)(i)(A). The Exchange is not including the provision discussing orders of controlled accounts because the provision is not applicable to the Exchange's Trading Floor. Specifically, the Exchange's Trading Floor does not require a distinction for controlled accounts.

directs Floor Participants in the establishment of priority of orders on the Trading Floor. The Exchange is proposing to clarify that in situations where the allocation of contracts result in fractional amounts of contracts to be allocated to Floor Participants, the number of contracts to be allocated shall be rounded in a fair and equitable manner.

The Exchange is also clarifying that Floor Participants must follow just and equitable principles of trade when dealing on the Trading Floor.[200] Specifically, it shall be considered conduct inconsistent with just and equitable principles of trade for: (a) A Floor Broker to allocate orders other than in accordance with the Exchange's priority rules applicable to floor trades; (b) a Floor Participant to enter into any agreement with another Floor Participant concerning allocation of trades; or (c) a Floor Participant to harass, intimidate or coerce another Floor Participant to make or refrain from making any complaint or appeal.

The Exchange is proposing substantial Interpretive Material to supplement the Floor Market Maker Rules.[201] Specifically, the Exchange is proposing IM–8510–1, which provides that the obligations of a Floor Market Maker with respect to those classes of options to which he is assigned shall take precedence over his other activities. The Exchange is proposing IM–8510–2, which details non-electronic orders and states that Floor Market Makers participating in a trading crowd may, in response to a verbal request for a market by a Floor Broker, state a bid or offer that is different than their electronically submitted bid or offer, provided that such stated bid or offer is not inferior to such electronically submitted bid or offer, except when such stated bid or offer is made in response to a Floor Broker's solicitation of a single bid or offer as set forth in proposed Rule 7040(d)(2).[202] A Floor Market Maker shall be deemed to be participating in the crowd if such Floor Market Maker is, at the time an order is announced in the crowd, physically located in the specific Crowd Area. A Floor Market Maker who is physically present in such Crowd Area may engage in options transactions in assigned issues as a crowd participant, provided that such Floor Market Maker fulfills the requirements set forth in proposed Rule 8510. The Exchange is proposing to define the term ''on the floor'' as meaning the Trading Floor of the Exchange; the rooms, lobbies and other premises immediately adjacent thereto made available by the Exchange for use by Floor Participants generally; other rooms, lobbies and premises made available by the Exchange primarily for use by Floor Participants; and the telephone and other facilities in any such place.[203] The Exchange is also proposing that the provisions of this Proposed Rule 8510 do not apply to transactions initiated by a Floor Market Maker for an account in which he has an interest unless such transactions are either initiated by a Floor Market Maker while on the Floor or unless such transactions, although originated off the Floor, are deemed on-Floor transactions under the provisions of these Rules.[204]

Additionally, the Exchange proposes that an off-Floor order for an account in which a Participant has an interest is to be treated as an on-Floor order if it is executed by the Participant who initiated it.[205] Proposed IM–8510–4 also includes additional transactions that will be considered on-Floor transactions, including any transaction for an account in which a Floor Market Maker has an interest if such transaction is initiated off the Trading Floor by such Floor Market Maker after he has been on the Trading Floor during the same day. Additionally, the following will be treated as on-Floor orders, any transactions for a Participant for an account in which it has an interest: (1) Which results in an order entered off the Floor following a conversation relating thereto with a Floor Participant on the Floor who is a partner of or stockholder in such Participant; or (2) which results from an order entered off the Floor following the unsolicited submission from the Floor to the office of a quotation in a stock or Exchange-Traded Fund Share and the size of the market by a Participant on the Floor who is a partner of or stockholder in such Participant; or (3) which results from an order entered off the Floor which is executed by a Participant on the Floor who is a partner of or stockholder in such Participant and who had handled the order on a ''not-held'' basis; [206] or (4) which results from an order entered off the Floor which is executed by a Participant on the Floor who is a partner of or stockholder in such Participant and who has changed the terms of the order.

The Exchange is proposing that an on-Floor order given by a Floor Market Maker to a commission broker, for an account in which the Floor Market Maker has an interest, is subject to all the rules restricting Floor Market Makers.[207]

The Exchange is proposing that the number of Floor Market Makers in the trading crowd who are establishing or increasing a position may temporarily be limited when, in the judgment of an Options Exchange Official, the interests of a fair and orderly market are served by such limitation.[208] Additionally, the Exchange is proposing that the Exchange may adopt policies affecting the location of Floor Participants on the Trading Floor in the interest of a fair and orderly market.[209] Lastly, the Exchange is proposing that a Floor Market Maker cannot acquire a ''long'' position by pairing off with a sell order before the opening, unless all off-Floor bids at that price are filled.[210]

The proposed rules applicable to Floor Market Makers are based predominately on the rules of PHLX. However, BOX omitted certain PHLX

[200] *See* proposed Rule 8510(h)(4).

[201] The proposed Interpretive Material to supplement the Floor Market Maker Rules is based mostly on commentary to PHLX Rule 1014. The Exchange notes that it is not copying all of the commentary to PHLX Rule 1014 as some of the commentary is not applicable because it involves specialists, who the Exchange does not have, or the commentary is covered by different proposed rules.

[202] Proposed IM–8510–2 is based on PHLX Rule 1014.05(c). The Exchange is not including all of PHLX Rue 1014.05(c). Specifically, the Exchange is not including provisions of the PHLX Rule related to specialist because the Exchange does not have specialists and is not proposing to have specialists. The Exchange is also not including PHLX provisions related to priority of orders represented on the floor because the Exchange is copying the floor priority provisions from NYSE Arca and they are covered by proposed Rule 7600(c)

[203] *See* proposed IM–8510–3(a). Proposed IM–8510–3(a) is based on PHLX Rule 1014.07.

[204] *See* proposed IM–8510–3(b). Proposed IM–8510–3(b) is based on PHLX Rule 1014.07.

[205] *See* proposed IM–8510–4. Proposed IM–8510–4 is based on PHLX Rule 1014.08.

[206] However, the following are not on-Floor orders and such restrictions shall not apply to an order: (1) To sell an option for an account in which the Participant is directly or indirectly interested if, in facilitating the sale of a large block of stock or Exchange-Traded Fund Shares, the Participant acquired its position because the demand on the Floor was not sufficient to absorb the block at a particular price or prices; or (2) to purchase or sell an option for an account in which the Options Participant is directly or indirectly interested if the Options Participant was invited to participate on the opposite side of a block transaction by another Options Participant or a partner or stockholder therein because the market on the Floor could not readily absorb the block at a particular price or prices; or (3) to purchase or sell an option for an account in which the Participant is directly or indirectly interested if the transaction is on the opposite side of a block order being executed by the Participant for the account of its customer and the transaction is made to facilitate the execution of such order.

[207] *See* proposed IM–8510–5. Proposed IM–8510–5 is based on PHLX Rule 1014.09.

[208] *See* proposed IM–8510–6. Proposed IM–8510–6 is based on PHLX Rule 1014.12.

[209] *See* proposed IM–8510–7. Proposed IM–8510–7 is based on PHLX Rule 1014.17.

[210] *See* proposed IM–8510–9. Proposed IM–8510–9 is based on PHLX Rule 1014.11.

rules from the proposed rules due to certain differences with how the Exchange is designing the Trading Floor. The Exchange is not including any of PHLX's waiver provisions in the proposed rules.[211] The Exchange does not believe that waiver provisions are necessary because the Exchange is not having specialists who have entitlement guarantees that they could waive on the Trading Floor. Additionally, BOX is not including rules related to foreign currency options because the Exchange does not list for trading options on foreign currencies.

The Exchange is not including certain PHLX rules related to participation guarantees, allocation and priority. PHLX participant guarantee rules are designed to provide a guarantee entitlement to specialists on the trading floor. BOX is not proposing to have specialists on the Trading Floor and therefore there is no reason to include these PHLX rules. Additionally, BOX's proposed allocation and priority rules for orders originating from the Trading Floor are based on the rules of NYSE Arca [212] and not those of PHLX.

The Exchange proposes Rule 8530 which details the resolution of an uncompared trade.[213] Specifically, when a disagreement between Floor Participants arising from an uncompared Exchange options transaction cannot be resolved by mutual agreement prior to 10:00 a.m. on the first business day following the trade date, the parties shall promptly, but not later than 3:30 p.m. on such day close out the transaction in the following manner. The Floor Participant representing the purchaser in the uncompared Exchange options transaction shall promptly enter into a new Exchange options transaction on the Floor of the Exchange to purchase the option contract that was the subject of the uncompared Exchange options transaction. The Floor Participant representing the writer in the uncompared Exchange options transaction shall promptly enter into a new Exchange options transaction on the Floor of the Exchange to sell (write) the option contract that was the subject of the uncompared Exchange options transaction. Any claims for damages resulting from such transactions must be made promptly for the accounts of the Floor Participants involved and not for the accounts of their respective customers. Notwithstanding the foregoing, if either Floor Participant is acting for a firm account in an uncompared Exchange options transaction and not for the account of a Public Customer, such Floor Participant need not enter into a new transaction, in which event money differences will be based solely on the closing transaction of the other party to the uncompared transaction. In the event an uncompared transaction involves an option contract of a series in which trading has been terminated or suspended before a new Exchange options transaction can be effected to establish the amount of any loss, the Floor Participant not at fault may claim damages against the other Floor Participant involved in the transaction based on the terms of such transaction. All such claims for damages shall be made promptly.

Fees

The Exchange has not yet determined the fees for transactions originating from the Trading Floor. Prior to commencing trading on the Trading Floor, the Exchange will file proposed fees with the Commission.

Additional Changes

The Exchange is also proposing minor edits to other sections of the Exchange's Rulebook in order to accommodate the various changes. Specifically, the Exchange is proposing several new definitions which results in the renumbering of numerous other definitions. Therefore, the Exchange is amending various references to definitions in the Rulebook.[214]

The Exchange notes that BOX Rule 3090 (Prevention of the Misuse of Material Nonpublic Information) will apply to Floor Participants. Specifically, Floor Brokers and Floor Market Makers will be required to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material, non-public information by such Participant or persons associated with such Participant.[215] The Exchange does not believe more prescriptive information barriers are necessary for these Participants, as neither Floor Brokers nor Floor Market Makers will have different or greater access to nonpublic information when compared to any other Options Participant on the Exchange.[216] Accordingly, because these Floor Participants do not have any trading advantages at the Exchange due to their market role, the Exchange believes that they should be subject to the same rules as other Participants regarding the protection against the misuse of material non-public information, which in this case is BOX Rule 3090.

The Exchange notes that this principles-based approach to protecting against the misuse of material non-public information for all its Participants is consistent with the rules of other exchanges with physical trading floors.[217] Except for prescribed rules relating to floor-based designated market makers on the NYSE, who have access to specified non-public trading information, each of these exchange have a principles based approach protecting against the misuse of material non-public information. In connection with approving these rule changes, the Commission found that, with adequate oversight by exchanges of their members, eliminating prescriptive information barrier requirements should not reduce the effectiveness of exchange rules requiring members to establish and maintain systems to supervise the activities of members, including written procedures reasonably designed to ensure compliance with applicable federal securities laws and regulations,

[211] *See* PHLX Rule 1014(g)(v)(D).

[212] *See* NYSE Arca Rules 6.47(a) and 6.75.

[213] Proposed Rule 8530 is based on PHLX Rule 1039.

[214] *See* proposed changes to Rules 7130, 7150, and 7245.

[215] As is the case today, information barriers of new entrants would be subject to review as part of a new firm application. Moreover, the policies and procedures of Market Makers, including those relating to information barriers, would be subject to review by the Exchange.

[216] A principles based approach to protect against the misuse of material non-public information for all of its registered Options Participants is consistent with the rules of other options and equities exchanges, except for prescribed rules relating to floor-based designated market makers on the NYSE, who have access to specified non-public trading information. Further, the Exchange believes that the principles-based approach is appropriate with regard to BOX's market structure because it provides greater flexibility for how BOX Option Participants modify their internal policies and procedures in order to reflect their business model, business activities, or to their securities market itself. The Exchange also believes that the principles-based approach will provide for broader protections rather than a more prescriptive approach which would only protect certain defined non-public information.

[217] *See* Securities Exchange Act Release No. 75432 (July 13, 2015), 80 FR 42597 (July 17, 2015) (Order Approving Adopting a Principles-Based Approach to Prohibit the Misuse of Material Nonpublic Information by Specialists and e-Specialists by Deleting Rule 927.3NY and Section (f) of Rule 927.5NY). See also Securities Exchange Act Release Nos. 60604 (Sept. 2, 2009), 76 FR 46272 (Sept. 8, 2009) (SR–NYSEArca–2009–78) (Order approving elimination of NYSE Arca rule that required market makers to establish and maintain specifically prescribed information barriers, including discussion of NYSE Arca and Nasdaq rules) (''Arca Approval Order''); and 72534 (July 3, 2014), 79 FR 39440 (July 10, 2014), [sic] SR–NYSE–2014–12) (Order approving amendments to NYSE Rule 98 governing designated market makers to move to a principles-based approach to prohibit the misuse of material non-public information) (''NYSE Approval Order'').

and with the rules of the applicable exchange.

The Exchange notes that the design of the proposed Trading Floor alleviates certain concerns related to misuse of information on trading floors. Specifically, the Exchange is not proposing to have a specialist on the Trading Floor, and, therefore, there are no concerns raised related to a specialist and an affiliated Market Maker coordinating their market making or otherwise sharing information. Further, the Exchange is not proposing to change what is considered to be material, non-public information that an affiliate of a Floor Participant could share with the Floor Participant. In that regard, Rule 3090 does not permit affiliates to have access to any non-public order or quote information of the Floor Participant, including hidden or undisplayed size or price information on such orders or quotes. Affiliates of Floor Participants would only have access to order and quotes that are publicly available to all market participants and the Exchange believes the current surveillance procedures are sufficient to monitor and protecting against the misuse of material non-public information with regard to any communications on and off the Trading Floor.

The Exchange notes that all current Options Participants already have in place written policies and procedures to comply with Rule 3090 and such policies and procedures have been approved by BOX Regulation.[218] As such, Floor Participants would be obligated to ensure that their policies and procedures reflect the current state of their business and continue to be reasonably designed to achieve compliance with applicable federal securities laws and regulations, including Section 15(g) of the Act,[219] and with applicable Exchange rules, including being reasonably designed to protect against the misuse of material, non-public information. While information barriers are not required, Rule 3090(a) requires that a Participant consider its business model or business activities in structuring its policies and procedures, which may dictate that an information barrier or a functional separation be part of the appropriate set of policies and procedures that would be reasonably designed to achieve compliance with applicable securities law and regulations and with applicable Exchange rules.

The Exchange believes that the reliance on Rule 3090 ensures that all BOX Participants are required to protect against the misuse of any material non-public information. Rule 3090(b)(2) requires that a firm refrain from trading while in possession of material non-public information concerning imminent transactions in the security or a related product. The Exchange believes that this principles based approach provides all BOX Participants the flexibility when managing risk across the firm, including integrating options positions with other positions of the firm, or as applicable, by respective trading unit.

Finally, FINRA has an exam program that reviews Participants for compliance with such procedures. As such, Floor Participants will be subject to FINRA's review when implementing such policies and procedures for the Trading Floor. In addition, once implemented, FINRA would continue to monitor a Floor Participant's compliance with those policies and procedures consistent with the current exam-based regulatory program associated with BOX Rule 3090.

Lastly, the Exchange notes that it will submit a separate filing to the SEC which will cover minor rule violations on the Trading Floor. Specifically, the Exchange will file with the SEC to amend the Exchange's Minor Rule Violation Plan in Rule 12140. The Exchange will not commence operation of the Trading Floor until the Minor Rule Violation Plan has been amended to include violations which occur on the Trading Floor.

Trading Floor Data

The Exchange will provide the Commission with data related to activity on the Trading Floor. Specifically, the Exchange will provide information regarding size, participation, price improvement by spread and trade type, effective spread, Floor Market Maker participation, and BOX Book participation. This information will be provided on a confidential basis with non-firm specific information being available quarterly on the Exchange's Web site.

2. Statutory Basis

Insert text from Item 3b. [sic] The Exchange believes that its proposal is consistent with Section 6(b) of the Act[220] in general, and furthers the objectives of Section 6(b)(5) of the Act[221] in particular, in that it is 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.

General

BOX believes that the proposal is consistent with the Act and furthers the foregoing objectives by increasing the opportunities for Participants to execute orders and provide an additional venue for seeking liquidity. The Exchange believes the adoption of the proposed rules allowing for an open-outcry floor is consistent with the goals of the Act to remove the impediments to and perfect the mechanism of a free and open market because it will benefit Participants by providing an additional mechanism for Participants to provide and seek liquidity for large and complex orders. The Exchange believes that the nature of open outcry transactions lends itself better to larger-sized transactions than the liquidity that is generally available electronically and the proposed rules would encourage greater participation in such large trades. Therefore, the proposed rule changes will benefit the market as a whole by providing an additional venue for market participants to seek liquidity for large-sized and complex orders. Providing an additional venue for these orders will benefit investors, the national market system, Participants, and the Exchange's market by increasing competition for order flow and executions, and thereby spur product enhancements and lower prices. The Exchange believes that the proposal is designed to prevent fraudulent and manipulative acts and practices because all surveillance coverage currently performed by the Exchange will cover trading from the Trading Floor. Additionally, the Exchange will have surveillance coverage in place to monitor issues unique to the Trading Floor.

The Exchange believes the proposed changes to Rule 100(a) to include definitions of Floor Participant and Trading Floor are consistent with the goals of the Act. Specifically, the proposed changes are designed to protect investors and the public interest by providing background and clarity in the Rulebook. Additionally, proposed Rule 100(b) will provide additional clarity in the Rulebook. Specifically, the definition for Presiding Exchange Officials provides Floor Participants with notice of who is responsible for monitoring and regulating the Trading Floor. The other sections of proposed

[218] FINRA currently approves Rule 3090 procedures on behalf of BOX Regulation pursuant to a Regulatory Services Agreement.

[219] 15 U.S.C. 780(g).

[220] 15 U.S.C. 78f(b).

[221] 15 U.S.C. 78f(b)(5).

Rule 100(b) provide general background for Floor Participants in the beginning of the Rulebook that will aid in understanding the applicable rules throughout, which will protect investors and the public by making the Exchange's Rulebook simpler to understand. Additionally, the Exchange notes that the various sections of proposed Rule 100(b) are based on the rules of another exchange with an open-outcry floor.[222]

The Exchange believes that the proposed Rule detailing the requirements for public outcry[223] is reasonable and consistent with the Act. Specifically, the Exchange believes this proposal is designed to protect investors and public interest by making clear the requirements for open outcry. The Exchange believes that the default of a Floor Market Maker being ''out'' promotes just and equitable principles of trade by ensuring a Floor Market Maker is only allocated if he desires. Additionally, the Exchange believes that requiring a Floor Broker to give Floor Participants a reasonable amount of time to respond to an order will protect investors and the public interest by ensuring that there is an opportunity for robust interaction on the Trading Floor.

Participant Eligibility and Registration

The Exchange believes that the proposed registration requirements, including floor trading examinations, if required, for Floor Brokers,[224] Floor Market Makers and registered representatives on the Trading Floor, are reasonable and further the objectives of the Act.[225] Specifically, these examinations address industry and Exchange specific topics that establish the foundation for the regulatory and procedural knowledge necessary for individuals required to register as Floor Brokers or Floor Market Makers and for such individuals to appropriately register under the Exchange's Rules. Requiring these examinations will help promote consistency in examination requirements and uniformity across the markets. Additionally, the registration requirements for Floor Participants are reasonable because they will help the Exchange to determine if a registrant is qualified to be a Floor Broker or Floor Market Maker and therefore will protect investors and the public interest.

Similarly, the Exchange believes that prescribing appropriate registration requirements including floor trading examinations for all other Trading Floor personnel, including clerks, interns, stock execution clerks and other associated persons, are reasonable as well. Specifically, these examinations address industry and Exchange specific topics that establish the foundation for the regulatory and procedural knowledge necessary to appropriately register under the Exchange rules. The proposed registration requirements for associated persons are reasonable because they will help the Exchange to determine if a registrant is qualified to be on the Trading Floor and therefore will protect investors and the public interest. Additionally, the proposed Rules covering eligibility and registration are based on the rules of another exchange that has an open-outcry floor.[226]

Trading on the Exchange Floor

The Exchange believes that the proposed rules governing activity on the Trading Floor, including Trading Floor hours, opening the market, admittance, joint accounts, and dealings on the Trading Floor,[227] are reasonable restrictions that are designed to further the objectives of the Act. Specifically, the proposed rules are designed to maintain order and structure on the Trading Floor and apply to all Floor Participants. Additionally, these rules are based on those of competing options exchanges that also have open-outcry floors.[228]

The Exchange believes the proposal to require each Options Participant that physically conducts business on the Trading Floor to procure and maintain liability insurance[229] should assist in preventing unnecessary waste of Exchange resources, which can be easily diverted to defending litigation claims and responding to non-Exchange related litigation matters on behalf of its Participants. The proposal is meant to prevent the Exchange from diverting valued resources away from its main regulatory responsibilities and being consumed in litigation designed to siphon Exchange monies and staff. The Exchange notes the proposal to require liability insurance is based on the rules of another exchange.[230]

The Exchange is proposing various rules related to Clerks on the Trading Floor[231] that the Exchange believes are reasonable and further the objectives of the Act. Specifically, the proposal relates to restrictions and conduct of Clerks on the Trading Floor that are designed to maintain order on the Trading Floor. Additionally, the proposal will make clear the rights and responsibilities of Clerks on the Trading Floor. The Exchange notes the proposed Rule related to Clerks on the Trading Floor is based on the rule of another exchange.[232]

The Exchange believes the proposed Rule relating to disputes on the Trading Floor will provide clarity and direction for the resolution of such disputes.[233] The proposed Rule will contribute to the maintenance of a fair and orderly market by clearly laying out the dispute resolution process. Additionally, by first allowing the interested Floor Participants an opportunity to settle the disagreement, the Exchange is providing a reasonable opportunity for the interested parties to reach an equitable agreement. The Exchange believes that allowing an Options Exchange Official to settle disputes is reasonable and is designed to promote just and equitable principles of trade by having an independent third party settle the dispute. The Exchange believes that the dispute resolution process is further strengthened by allowing Floor Participants the ability to appeal an Options Exchange Official's ruling. In addition, the Exchange believes that its proposal is consistent with Section 6(b) of the Act[234] in general, and furthers the objective of Section 6(b)(4) of the Act[235] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members. The Exchange believes that this proposal is equitable in that the appeal fee would apply to all Participants equally. The Exchange believes the appeal fee amount is reasonable as a similar fee exists on other option exchange with an open outcry trading floor.[236] The addition of the appeal fee will help the Exchange offset costs associated with reviewing contested rulings by an Options Exchange Official.

The Exchange believes it is reasonable to exclude Floor Market Makers and Floor Brokers who do not conduct business with the public from Rule 4180.[237] Rule 4180 deals with requirements for Participants that are approved to transact business with the public; therefore the proposed Rule is

[222] *See* PHLX Rules 1000(e), 1000(f), 1000(g),1080.06, and CBOE Rule 6.74(a).

[223] *See* proposed Rule 100(b)(5).

[224] Floor Brokers are required to complete a floor trading examination. *See* proposed Rules 2020(h) and 7550.

[225] *See* proposed Rules 2020(h) and (i).

[226] *See* PHLX Rule 620(a) and (b).

[227] *See* proposed Rules 7070(d), 7500, 7510, 7520, and 7650.

[228] *See* PHLX Rules 1017(c), 102, 104, 443, and 772.

[229] *See* proposed Rule 7230(f).

[230] *See* PHLX Rule 652(c)(2).

[231] *See* proposed Rule 7630.

[232] *See* PHLX Rule 1090.

[233] *See* proposed Rule 7640.

[234] 15 U.S.C. 78f(b).

[235] 15 U.S.C. 78f(b)(4).

[236] *See* PHLX Rule 124(d)(iii).

[237] *See* proposed Rule 4180(g).

simply clarifying that Rule 4180 will not apply to Floor Market Makers and Floor Brokers who do not conduct business with the Public. The Exchange notes the proposed Rule is based on the rule of another exchange.[238]

The proposal outlining bids and offers made on the Trading Floor and the solicitation of quotations on the Trading Floor [239] provides clarifying information to Floor Participants on how bidding and offering on the Trading Floor will work; therefore, the proposal is designed to protect investors and the public interest by making the proposed operation of the Trading Floor clear in the Exchange's rules. The proposal is based on the rules of another exchange.[240]

Floor Brokers

The Exchange believes that the proposed rules applicable to Floor Brokers,[241] including responsibilities and restrictions, are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. Specifically, the proposed rules will provide guidance and restrictions for Floor Brokers operating on the Trading Floor. The proposed registration requirements for Floor Brokers will protect investors and the public interest by ensuring that all Floor Brokers are registered with the Exchange and that the Exchange approved each Floor Broker before they were admitted to the Trading Floor.

The proposed responsibilities for Floor Brokers [242] are designed to further the goals of the Act. Specifically, the requirement that a Floor Broker use due diligence in handling an order and the requirement to ascertain that at least one Floor Market Maker is present when the order is announced on the Trading Floor, are designed to promote just and equitable principles of trade, and, in general to protect investors and the public interest by providing the opportunity for additional interaction and price improvement from any Floor Market Maker. The Exchange believes the various restrictions on Floor Brokers are reasonable and are in line with those on another exchange with an open-outcry floor.[243]

Executions and Priority

The proposed rule change is consistent with Section 11(a) of the Act and the rules thereunder. The Commission has stated that it believes all electronic executions executed against interest on the BOX Book are consistent with the requirements of Section 11(a) of the Act.

Under the proposed rule change, Participants will be prohibited from utilizing the Trading Floor to effect any transaction for covered accounts. Participants are subject to review with respect to such compliance.

Under the proposed rules, no covered account transactions utilizing the Trading Floor may use the G Exemption. Participants may only rely upon other exceptions to Section 11(a)(1) of the Act when interacting with the Trading Floor or the BOX Book utilizing the Trading Floor.[244] The proposed rule changes would not limit in any way the obligation of a BOX Participant, while acting as a Floor Broker or otherwise, to comply with Section 11(a) or the rules thereunder.[245]

Notwithstanding proposed IM–7600–5, under Rule 11a2–2(T), the so-called ''effect vs. execute'' rule, a Participant may effect transactions on the Trading Floor for its covered accounts by using another Participant, acting as a Floor Broker, provided that (i) the executing Floor Broker is not an associated person of the initiating Participant, (ii) the covered account order must be transmitted from off the Trading Floor, (iii) neither the initiating Participant nor any associated person of the initiating Participant participates in execution of the order after the covered account order has been transmitted for execution from off the Trading Floor (referred to below as the ''non-participation requirement''); and (iv) if the transaction is being effected for an account over which the initiating Participant or an associated person of that Participant exercises investment discretion, neither the initiating Participant nor any associated person may retain any compensation in connection with effecting the transaction unless express written consent to such retention has been obtained from the person or persons authorized to transact business for the managed account in the manner provided in the rule. Thus, a Participant (not acting in a market-making capacity) could submit an order for a covered account from off the Trading Floor to an unaffiliated Floor Broker for representation on the Trading Floor and use the effect versus execute exemption (assuming the other conditions of the rule are satisfied).[246] A Participant, relying on the ''effect versus execute'' exemption, could not submit an order for a covered account to its ''house'' Floor Broker on the Trading Floor for execution. At no time following the submission of an order utilizing the Trading Floor will the submitting Participant or any associated person of such Participant acquire control or influence over the result or timing of the order's execution.

The Exchange believes that the proposed rules applicable to executions and priority [247] are designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest. As explained above, executions from the Trading Floor will be consistent with options trade-through and priority rules and the Exchange's systems are designed to help ensure that an execution from the Trading Floor cannot occur in violation of those rules. Specifically, when a QOO Order is submitted to the Trading Host for execution, the Exchange's system will evaluate the current market conditions to ensure that the execution price is equal to or better than the NBBO. It is the Exchange's understanding that traditionally on trading floors when a Floor Broker executed an order in the trading crowd verbally, that order was deemed executed; when the Floor Broker then entered the execution price electronically to complete the processing of the trade, including trade reporting to the tape, markets can change such that the execution price was outside the NBBO or violated the priority of orders now resting on the electronic book of the exchange. By having the QOO Order execute when it is received by the Trading Host, the Exchange is providing a system that will prevent executions that appear to be at prices that are worse than the NBBO due to the time they are reported. Specifically, the Exchange's system will automatically enforce BOX Book

[238] *See* PHLX Rule 705(f)(1)(B).

[239] *See* proposed Rule 7040(d).

[240] *See* PHLX Rule 1033(a).

[241] *See* proposed Rules 7540, 7550, 7570, 7580, and 7590.

[242] *See* proposed Rule 7580.

[243] *See* PHLX Rules 155, 1063, and 1065.

[244] For example, other § 11(a)(1) exemptions include, the ''effect vs. execute'' exemption, the market maker exemption, and the error account exemption.

[245] A Floor Broker may utilize the Trading Floor to effect a transaction for a covered account only pursuant to proposed Rule 7540 and for purposes of liquidating error positions.

[246] Orders for covered accounts that rely on the ''effect versus execute'' exemption will be transmitted from a remote location directly to the Trading Floor by electronic means.

[247] *See* proposed Rules 7600 and 7610.

priority [248] and trade-through provisions.

The Exchange further believes that protecting non-Public Customer interest on the BOX Book that is ranked ahead of Public Customer interest is consistent with just and equitable principles of trade because it maintains the Exchange's existing price/time priority rules by protecting interest that has time priority over Public Customer interest that has priority. The Exchange also notes that this proposed priority interaction with the BOX Book is the same as NYSE Arca.[249] Additionally, the Exchange's proposed interaction with orders on the BOX Book actually provides additional opportunities for orders on the BOX Book to interact with trades on the Trading Floor as compared to other exchanges with open-outcry floors. Specifically, other exchanges with open-outcry floors only require floor trades to yield priority to Public Customer Orders on the electronic book.[250]

The Exchange believes that the proposal to provide a Floor Broker with a guarantee for certain orders initiating from the Trading Floor [251] is reasonable and is consistent with the Act. Specifically, the proposal will reward Floor Brokers who bring large orders to the Exchange by guaranteeing them the ability to cross a certain percentage. The Exchange notes that another options exchange provides a guarantee on their trading floor.[252] Additionally, the Exchange currently provides a guarantee with respect to auction transactions executed on the Exchange.[253]

The Exchange believes that the proposed priority provisions for Complex QOO Orders are reasonable because they align the Exchange's Rules with the rules of other exchanges with open-outcry floors.[254] Specifically, the Exchange will allow Complex QOO Orders from the Trading Floor to execute without giving priority to equivalent bids (offers) in the individual series legs on the initiating side, provided at least one options leg betters the corresponding bid or offer on the BOX Book by at least one minimum trading increment as set forth in Rule 7240(b)(1).[255] BOX believes this is consistent with the Act because it is providing at least one leg with an improved price compared to bids or offers on the BOX Book. Additionally, the Exchange notes that these Complex Orders executed on trading floors can be large and complex and the proposed treatment of Complex Orders on the Trading Floor will increase the ability for Floor Brokers to execute these complex trades to the benefit of market participants. The Exchange believes that allowing Floor Brokers to disable the NBBO aspect of the Complex Order Filter when executing a Complex QOO Order is reasonable because other exchanges do not have NBBO protection for complex orders.[256]

The Exchange believes that the Trading Host, including the BOG as a component of the Trading Host,[257] will further the objectives and goals of the Act. Specifically, the ability of the Trading Host to provide an electronic audit trail will help prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, and remove impediments to and perfect the mechanisms of a free and open market and a national market system. All transactions on the Trading Floor must be submitted through the BOG for processing by the Trading Host, which will allow the Exchange to provide a complete and accurate audit trail and minimize the occurrences of disputes and regulatory violations. The Trading Host is designed to prohibit trade-through violations by preventing an execution at a price worse than the NBBO.

The Exchange believes requiring that all transactions on the Trading Floor must be executed by the Trading Host will increase the speed and efficiency in which Floor Brokers handle orders, thereby making the Exchange's market more efficient, to the benefit of the investing public and consistent with promoting just and equitable principles of trade.

The Exchange believes that the proposal to adopt a new order type [258] for all executions originating on the Trading Floor is consistent with the Act. Specifically, as mentioned above, the new order type will help Floor Brokers initiating orders on the Trading Floor. The various elements of the QOO Order are designed to aid Floor Brokers in their duties on the Trading Floor. For example, by having the QOO Order execute when it is processed by the Trading Host, the Exchange is providing an accurate timestamp of when the order was executed. Additionally, the QOO Order is designed to ensure that all orders submitted by Floor Brokers are systematized before they are announced to the trading crowd.[259] The Exchange believes that the features of the QOO Order are designed to promote just and equitable principles of trade, to remove impediments to and protect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rules governing order allocation [260] are reasonable and consistent with the Act. Specifically, the proposed rules relating to the allocation of orders align the Exchange's Rules with the rules of another options exchange with an open outcry trading floor.[261] The Exchange believes the proposed rule change is designed to protect investors and the public interest by providing clarity and detail with regard to the allocation process on the Trading Floor. Additionally, the Exchange believes the proposed procedures a Floor Broker must follow when allocating an order are designed to promote just and equitable principles of trade by ensuring that priority on the Exchange is enforced.

The Exchange believes that the book sweep size in proposed Rule 7600(h) is consistent with Section 6(b)(5) of the Act.[262] In particular, the book sweep size promotes just and equitable principles of trade, removes impediments to and perfects the mechanism of a free and open market and a national market system and, in general protects investors and the public interest by increasing the interaction of the Trading Floor with the BOX Book, which will be beneficial to all market participants. Specifically, the Exchange believes that the book sweep functionality will enhance execution efficiency and regulatory oversight on the Trading Floor by making certain that a Floor Broker's order will first trade with all available Public Customer interest on the BOX Book and any non-Public Customer interest ranked ahead of such Public Customer interest at the execution price. The Exchange believes that without the book sweep size, the Exchange Act's goal of creating an

[248] Floor Brokers are responsible for complying with priority among Floor Participants on the Trading Floor.

[249] *See* NYSE Arca Rules 6.47 and 6.75.

[250] *See* PHLX Rule 1014.05(c), CBOE Rule 6.45(a), and NYSE MKT Rule 963NY(a).

[251] *See* proposed Rule 7600(f).

[252] *See* PHLX Rule 1064.02.

[253] *See* Rule 7150 Price Improvement Period.

[254] *See* NYSE Arca Rule 6.75(g).

[255] *See* proposed Rule 7600(c).

[256] *See* ISE Rule 722(b)(3).

[257] *See* proposed Rule 100(b)(2).

[258] *See* proposed Rule 7600.

[259] In order to execute a QOO Order from the Trading Floor, it must be sent from a Floor Broker's system to the BOG. This requires that the Floor Broker adequately systemized the QOO Order. The Exchange also notes that Floor Brokers will be subject to regulatory oversight by the Exchange to review whether Floor Brokers are properly systematizing orders.

[260] *See* proposed Rule 7600(d).

[261] *See* NYSE Arca Rules 6.47 and 6.75.

[262] 15 U.S.C. 78(f)(b)(5).

efficient market system will not be supported, as a Floor Broker may attempt to execute an order without first exhausting priority interest. Instead, the proposed book sweep size removes impediments to and perfects the mechanism of a free and open market and a national market system by providing an alternative that will increase the opportunity for orders on the Trading Floor to interact with interest on the BOX Book, which in turn has the potential to increase liquidity for all orders on the BOX Book. The Exchange notes that this approach is not entirely novel; as mentioned above, PHLX's FBMS contains a functionality that will help a Floor Broker clear PHLX's electronic book so a floor based order can execute.[263] Specifically, if a Floor Broker on PHLX enters a two-sided order through the FBMS, and there is interest on the PHLX electronic book at a price that would prevent the Floor Broker's order from executing, the FBMS will provide the Floor Broker with the quantity of contracts on the electronic book that have priority and need to be satisfied before the Floor Broker's order can execute at the agreed upon price.[264] If the Floor Broker wishes to still execute his order, he can cause a portion of the floor based order to trade against this priority interest on the electronic book, thereby clearing the interest and permitting the remainder of the Floor Broker's order to trade at the desired price. The PHLX FBMS functionality is optional, and a Floor Broker can decide not to trade against the electronic book and therefore not execute his two-sided order at the particular price. The Exchange believes that the Trading Floor book sweep size improves upon PHLX's FBMS functionality by either immediately executing or rejecting the order depending on the book sweep size provided and the level of priority interest on the BOX Book. The Exchange believes the immediate execute or reject feature will allow for more execution certainty and incentivize Floor Brokers on BOX to provide an adequate book sweep size if they want the order to be eligible for execution. The Exchange does not believe that the immediate execution or rejection will disadvantage Floor Brokers on BOX compared to PHLX because it will provide certainty to Floor Brokers. The Exchange believes that the proposed book sweep size will protect investors and the public interest generally by establishing more execution oversight. Specifically, the Exchange believes that the book sweep size will allow BOX to electronically link in a single audit trail the Floor Broker execution and any execution with interest on the BOX Book.

The Exchange believes that the proposal outlining the resolution of uncompared trades[265] will provide clarity and direction for Floor Participants when a disagreement arises from an uncompared Exchange options transaction that cannot be resolved by mutual agreement. The Exchange believes this proposal is designed to protect investors and public interest by making the proposed resolution of uncompared trades clear in the Exchange's rules. Further, the proposal is based on the rules of another exchange.[266]

Communications and Equipment

The Exchange believes the proposed Rule involving communications and equipment on the Trading Floor[267] includes reasonable restrictions that are consistent with the requirements of the Act. Specifically, the proposed Rule will provide the Exchange with the ability to monitor equipment on the Trading Floor and therefore provide adequate oversight of the Trading Floor. Additionally, the proposal will allow the Exchange to limit use of a communication device when such device interferes with normal operation of the Exchange's own systems or facilities or with the Exchange's regulatory duties, is inconsistent with the public interest, the protection of investors or just and equitable principles of trade, or interferes with the obligations of a Participant to fulfill its duties under, or is used to facilitate any violation of the Act or rules thereunder, or Exchange rules. Additionally, the Exchange notes that the proposal is consistent with rules of other exchanges.[268]

Market Makers

The Exchange believes that the proposed Rules applicable to Floor Market Makers[269] are reasonable and will foster cooperation and coordination with persons engaged in facilitating transactions in securities and will remove impediments to and perfect the mechanism of a free and open market and a national market system. The Exchange also believes the proposed changes enhance the Exchange's ability to fairly and efficiently regulate its Floor Market Makers by utilizing a consistent rule set of obligations and restrictions. The Exchange believes the proposed changes reflect similar Market Maker obligations and restrictions already in place on BOX's electronic exchange.[270] The proposed changes simply align the existent obligations and restrictions of Market Makers with the use of a trading floor with certain exceptions. Specifically, instead of providing $5 bid/ask differentials as provided in Rule 8040(a)(7), the Exchange is proposing stricter bid/ask differentials. The Exchange believes that the proposed bid/ask differentials for Floor Market Makers are reasonable and will protect investors and the public interest by providing the opportunity for better execution prices on the Trading Floor when a Floor Market Maker is involved. Additionally, the Exchange believes that the proposed changes fall in line with similar trading floor rules at other exchanges.[271]

The Exchange believes that the proposed continuous open outcry quoting requirement for Floor Market Makers in proposed Rule 8510(c)(2) is consistent with Section 6(b)(5) of the Act. In particular, the continuous quoting requirement is designed to promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect the investors and the public interest. Specifically, the Exchange believes that the continuous open outcry quoting requirement for Market Makers will benefit investors, the national market system, Participants, and the Exchange by ensuring that Floor Market Makers provide liquidity to the Trading Floor to the benefit of market participants. Lastly, the Exchange believes that the proposed rule is non-discriminatory as it will apply to all Floor Market Makers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that other exchanges currently offer open-outcry floors. The Exchange believes that the proposed rules will allow the Exchange to compete with these other exchanges. Additionally, while the proposed rule changes would permit BOX to operate a Trading Floor, the Exchange is not

[263] *See* PHLX Rule 1063(e)(iv).

[264] *See* Securities Exchange Act Release No. 68960 (February 20, 2013), 78 FR 13132 (February 26, 2013) (SR– Phlx–2013–09) at 13134.

[265] *See* proposed Rule 8530.

[266] *See* PHLX Rule 1039.

[267] *See* proposed Rule 7660.

[268] *See* PHLX Rule 606 and CBOE Rule 6.23.

[269] *See* proposed Rules 8500 and 8510.

[270] *See* BOX Rules 8000, 8030, 8040, and 8050.

[271] *See* PHLX Rules 1020 and 1014.

requiring that Participants register and have a presence on the Trading Floor. Therefore, the proposed rule changes do not impose a burden on intra-market competition.

Overall, the proposal is pro-competitive for several reasons. In particular, by helping Floor Brokers at the Exchange compete for executions against floor brokers at other exchanges, it also helps them to be more efficient and provide a better audit trail of their executions on the Trading Floor. This, in turn, helps the Exchange compete against other exchanges in a deeply competitive landscape. The Exchange believes its proposed unique features for open-outcry trading will provide value to Floor Participants, which in turn, will help the Exchange compete.[272]

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule change.

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning Amendment No. 2, 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–BOX–2016–48 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–BOX–2016–48. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2016–48 and should be submitted on or before June 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[273]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10588 Filed 5–22–17; 8:45 am]

BILLING CODE 8011–01–P

[272] Unique features include proposed Rules 7600(h) and 100(b)(5).

[273] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80709; File No. SR–BatsBZX–2017–35]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To Amend Rule 20.6, Nullification and Adjustment of Options Transactions Including Obvious Errors

May 17, 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 May 5, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 20.6, entitled ''Nullification and Adjustment of Options Transactions including Obvious Errors.'' Rule 20.6 relates to the adjustment and nullification of transactions that occur on the Exchange's equity options platform (''BZX Options'').

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Background

The Exchange and other options exchanges recently adopted a new, harmonized rule related to the adjustment and nullification of erroneous options transactions, including a specific provision related to coordination in connection with large-scale events involving erroneous options transactions.[3] The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion. Specifically, as described in the Initial Filing, the Exchange and all other options exchanges have been working to

[3] *See* Securities Exchange Act Release No. 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067); *see also* Securities Exchange Act Release No. 73884 (December 18, 2014), 79 FR 77557 (December 24, 2014) (the ''Initial Filing'').

further improve the review of potentially erroneous transactions as well as their subsequent adjustment by creating an objective and universal way to determine Theoretical Price in the event a reliable NBBO is not available. Because this initiative required additional exchange and industry discussion as well as additional time for development and implementation, the Exchange and the other options exchanges determined to proceed with the Initial Filing and to undergo a secondary initiative to complete any additional improvements to the applicable rule. In this filing, the Exchange proposes to adopt procedures that will lead to a more objective and uniform way to determine Theoretical Price in the event a reliable NBBO is not available. In addition to this change, the Exchange has proposed two additional minor changes to its rules. The Exchange understands that other options exchanges intend to file changes substantially similar to this proposal, if approved. Finally, the Exchange notes that options exchanges that offer complex orders on their options platforms have also been working on and have filed proposals related to rules for handling the adjustment and nullification of erroneous complex order transactions, which proposals have recently been approved by the Commission or filed on an immediately effective basis.[4]

Calculation of Theoretical Price Using a Third Party Provider

Under the harmonized rule, when reviewing a transaction as potentially erroneous, the Exchange needs to first determine the ''Theoretical Price'' of the option, *i.e.,* the Exchange's estimate of the correct market price for the option. Pursuant to Rule 20.6, if the applicable option series is traded on at least one other options exchange, then the Theoretical Price of an option series is the last national best bid (''NBB'') just prior to the trade in question with respect to an erroneous sell transaction or the last national best offer (''NBO'') just prior to the trade in question with respect to an erroneous buy transaction unless one of the exceptions described below exists. Thus, whenever the Exchange has a reliable NBB or NBO, as applicable, just prior to the transaction, then the Exchange uses this NBB or NBO as the Theoretical Price.

The Rule also contains various provisions governing specific situations where the NBB or NBO is not available or may not be reliable. Specifically, the Rule specifies situations in which there are no quotes or no valid quotes for comparison purposes, when the national best bid or offer (''NBBO'') is determined to be too wide to be reliable, and at the open of trading on each trading day. In each of these circumstances, in turn, because the NBB or NBO is not available or is deemed to be unreliable, the Exchange determines Theoretical Price. Under the current Rule, when determining Theoretical Price, Exchange personnel generally consult and refer to data such as the prices of related series, especially the closest strikes in the option in question. Exchange personnel may also take into account the price of the underlying security and the volatility characteristics of the option as well as historical pricing of the option and/or similar options. Although the Rule is administered by experienced personnel and the Exchange believes the process is currently appropriate, the Exchange recognizes that it is also subjective and could lead to disparate results for a transaction that spans multiple options exchanges.

The Exchange proposes to adopt Interpretation and Policy .03 to specify how the Exchange will determine Theoretical Price when required by sub-paragraphs (b)(1)–(3) of the Rule (*i.e.,* at the open, when there are no valid quotes or when there is a wide quote). In particular, the Exchange has been working with other options exchanges to identify and select a reliable third party vendor (''TP Provider'') that would provide Theoretical Price to the Exchange whenever one or more transactions is under review pursuant to Rule 20.6 and the NBBO is unavailable or deemed unreliable pursuant to Rule 20.6(b). The Exchange and other options exchanges have selected CBOE Livevol, LLC (''Livevol'') as the TP Provider, as described below. As further described below, proposed Interpretation and Policy .03 would codify the use of the TP Provider as well as limited exceptions where the Exchange would be able to deviate from the Theoretical Price given by the TP Provider.

Pursuant to proposed Interpretation and Policy .03, when the Exchange must determine Theoretical Price pursuant to the sub-paragraphs (b)(1)–(3) of the Rule, the Exchange will request Theoretical Price from the third party vendor to which the Exchange and all other options exchanges have subscribed. Thus, as set forth in this proposed language, Theoretical Price would be provided to the Exchange by the TP Provider on request and not through a streaming data feed.[5] This language also makes clear that the Exchange and all other options exchanges will use the same TP Provider. As noted above, the proposed TP Provider selected by the Exchange and other options exchanges is Livevol. The Exchange proposes to codify this selection in proposed paragraph (d) to Interpretation and Policy .03. As such, the Exchange would file a rule proposal and would provide notice to the options industry of any proposed change to the TP Provider.

The Exchange and other options exchanges have selected Livevol as the proposed TP Provider after diligence into various alternatives. Livevol has, since 2009, been the options industry leader in providing equity and index options market data and analytics services.[6] The Exchange believes that Livevol has established itself within the options industry as a trusted provider of such services and notes that it and all other options exchanges already subscribe to various Livevol services. In connection with this proposal, Livevol will develop a new tool based on its existing technology and services that will supply Theoretical Price to the Exchange and other options exchanges upon request. The Theoretical Price tool will leverage current market data and surrounding strikes to assist in a relative value pricing approach to generating a Theoretical Price. When relative value methods are incapable of generating a valid Theoretical Price, the Theoretical Price tool will utilize historical trade and quote data to calculate Theoretical Price.

Because the purpose of the proposal is to move away from a subjective determination by Exchange personnel when the NBBO is unavailable or unreliable, the Exchange intends to use the Theoretical Price provided by the TP Provider in all such circumstances. However, the Exchange believes it is necessary to retain the ability to contact the TP Provider if it believes that the

[4] *See e.g.,* Securities Exchange Act Release Nos. 80040 (February 14, 2017), 82 FR 11248 (February 21, 2017) (SR–CBOE–2016–088) (granting approval of CBOE proposal related to the nullification and adjustment of complex orders); 80298 (March 22, 2017), 82 FR 15393 (March 28, 2017) (SR–C2–2017–011) (notice of filing and immediate effectiveness of C2 proposal related to the nullification and adjustment of complex orders); 80284 (March 21, 2017), 82 FR 15251 (March 27, 2017) (SR–MIAX–2017–13) (notice of filing and immediate effectiveness of MIAX proposal related to the nullification and adjustment of complex orders).

[5] Though the Exchange and other options exchanges considered a streaming feed, it was determined that it would be more feasible to develop and implement an on demand service and that such a service would satisfy the goals of the initiative.

[6] The Exchange notes that in 2015, Livevol was acquired by CBOE Holdings, Inc., the ultimate parent company of the Chicago Board Options Exchange (''CBOE'') and C2 Options Exchange (''C2'').

Theoretical Price provided is fundamentally incorrect and to determine the Theoretical Price in the limited circumstance of a systems issue experienced by the TP Provider, as described below.

As proposed, to the extent an Official[7] of the Exchange believes that the Theoretical Price provided by the TP Provider is fundamentally incorrect and cannot be used consistent with the maintenance of a fair and orderly market, the Official shall contact the TP Provider to notify the TP Provider of the reason the Official believes such Theoretical Price is inaccurate and to request a review and correction of the calculated Theoretical Price. For example, if an Official received from the TP Provider a Theoretical Price of $80 in a series that the Official might expect to be instead in the range of $8 to $10 because of a recent corporate action in the underlying, the Official would request that the TP Provider review and confirm its calculation and determine whether it had appropriately accounted for the corporate action. In order to ensure that other options exchanges that may potentially be relying on the same Theoretical Price that, in turn, the Official believes to be fundamentally incorrect, the Exchange also proposes to promptly provide notice to other options exchanges that the TP Provider has been contacted to review and correct the calculated Theoretical Price at issue and to include a brief explanation of the reason for the request.[8] Although not directly addressed by the proposed Rule, the Exchange expects that all other options exchanges once in receipt of this notification would await the determination of the TP Provider and would use the corrected price as soon as it is available. The Exchange further notes that it expects the TP Provider to cooperate with, but to be independent of, the Exchange and other options exchanges.[9]

The Exchange believes that the proposed provision to allow an Official to contact the TP Provider if he or she believes the provided Theoretical Price is fundamentally incorrect is necessary, particularly because the Exchange and other options exchanges will be using the new process for the first time. Although the exchanges have conducted thorough diligence with respect to Livevol as the selected TP Provider and would do so with any potential replacement TP Provider, the Exchange is concerned that certain scenarios could arise where the Theoretical Price generated by the TP Provider does not take into account relevant factors and would result in an unfair result for market participants involved in a transaction. The Exchange notes that if such situations do indeed arise, to the extent practicable the Exchange will also work with the TP Provider and other options exchanges to improve the TP Provider's calculation of Theoretical Price in future situations. For instance, if the Exchange determines that a particular type of corporate action is not being appropriately captured by the TP Provider when such provider is generating Theoretical Price, while the Exchange believes that it needs the ability to request a review and correction of the Theoretical Price in connection with a specific review in order to provide a timely decision to market participants, the Exchange would share information regarding the specific situation with the TP Provider and other options exchanges in an effort to improve the Theoretical Price service for future use. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, the Theoretical Price used by the Exchange in connection with its rulings will always be that received from the TP Provider and the Exchange has not proposed the ability to deviate from such price.[10]

Pursuant to proposed paragraph (c) to Interpretation and Policy .03, an Official of the Exchange may determine the Theoretical Price if the TP Provider has experienced a systems issue that has rendered its services unavailable to accurately calculate Theoretical Price and such issue cannot be corrected in a timely manner. The Exchange notes that it does not anticipate needing to rely on this provision frequently, if at all, but believes the provision is necessary nonetheless to best prepare for all potential circumstances. Further, consistent with existing text in Rule 20.6(e)(4), the Exchange has not proposed a specific time by which the service must be available in order to be considered timely.[11] The Exchange expects that it would await the TP Provider's services becoming available again so long as the Exchange was able to obtain information regarding the issue and the TP Provider had a reasonable expectation of being able to resume normal operations within the next several hours based on communications with the TP Provider. More specifically with respect to Livevol, Livevol has business continuity and disaster recovery procedures that will help to ensure that the Theoretical Price tool remains available or, in the event of an outage, that service is restored in a timely manner.

The Exchange also notes that if a wide-scale event occurred, even if such event did not qualify as a ''Significant Market Event'' pursuant to Rule 20.6(e), and the TP Provider was unavailable or otherwise experiencing difficulty, the Exchange believes that it and other options exchanges would seek to coordinate to the extent possible. In particular, the Exchange and other options exchanges now have a process, administered by the Options Clearing Corporation, to invoke a discussion amongst all options exchanges in the event of any widespread or significant market events. The Exchange believes that this process could be used in the event necessary if there were an issue with the TP Provider.

The Exchange also proposes to adopt language in paragraph (d) of Interpretation and Policy .03 to Rule 20.6 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price. Specifically, the proposed rule would state that neither the Exchange, the TP Provider, nor any affiliate of the TP Provider (the TP Provider and its affiliates are referred to collectively as the ''TP Provider''), makes any warranty, express or implied, as to the results to be obtained by any person or entity from the use of the TP Provider pursuant to Interpretation .03. The proposed rule would further state that the TP Provider does not guarantee the accuracy or completeness of the calculated Theoretical Price and that the

[7] For purposes of the Rule, an Official is an Officer of the Exchange or such other employee designee of the Exchange that is trained in the application of Rule 20.6.

[8] *See* proposed paragraph (b) to Interpretation and Policy .03.

[9] The Exchange expects any TP Provider selected by the Exchange and other options exchanges to act independently in its determination and calculation of Theoretical Price. With respect to Livevol specifically, the Exchange again notes that Livevol is a subsidiary of CBOE Holdings, Inc., which is also the ultimate parent company of multiple options exchanges. The Exchange expects Livevol to calculate Theoretical Price independent of its affiliated exchanges in the same way it will calculate Theoretical Price independent of non-affiliated exchanges.

[10] To the extent the TP Provider has been contacted by an Official of the Exchange, reviews the Theoretical Price provided but disagrees that there has been any error, then the Exchange would be bound to use the Theoretical Price provided by the TP Provider.

[11] In the context of a Significant Market Event, the Exchange may determine, ''in consultation with other options exchanges . . . that timely adjustment is not feasible due to the extraordinary nature of the situation.'' *See* Rule 20.6(e)(4).

TP Provider disclaims all warranties of merchantability or fitness for a particular purpose or use with respect to such Theoretical Price. Finally, the proposed Rule would state that neither the Exchange nor the TP Provider shall have any liability for any damages, claims, losses (including any indirect or consequential losses), expenses, or delays, whether direct or indirect, foreseen or unforeseen, suffered by any person arising out of any circumstance or occurrence relating to the use of such Theoretical Price or arising out of any errors or delays in calculating such Theoretical Price. This proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices.[12]

In connection with the proposed change described above, the Exchange proposes to modify Rule 20.6 to state that the Exchange will rely on paragraph (b) and Interpretation and Policy .03 when determining Theoretical Price.

No Valid Quotes—Market Participant Quoting on Multiple Exchanges

As described above, one of the times where the NBB or NBO is deemed to be unreliable for purposes of Theoretical Price is when there are no quotes or no valid quotes for the affected series. In addition to when there are no quotes, the Exchange does not consider the following to be valid quotes: (i) All quotes in the applicable option series published at a time where the last NBB is higher than the last NBO in such series (a ''crossed market''); (ii) quotes published by the Exchange that were submitted by either party to the transaction in question; and (iii) quotes published by another options exchange against which the Exchange has declared self-help. In recognition of today's market structure where certain participants actively provide liquidity on multiple exchanges simultaneously, the Exchange proposes to add an additional category of invalid quotes. Specifically, in order to avoid a situation where a market participant has established the market at an erroneous price on multiple exchanges, the Exchange proposes to consider as invalid the quotes in a series published by another options exchange if either party to the transaction in question submitted the quotes in the series representing such options exchange's best bid or offer. Thus, similar to being able to ignore for purposes of the Rule the quotes published by the Exchange if submitted by either party to the transaction in question, the Exchange would be able to ignore for purposes of the rule quotations on other options exchanges by that same market participant.

In order to continue to apply the Rule in a timely and organized fashion, however, the Exchange proposes to initially limit the scope of this proposed provision in two ways. First, because the process will take considerable coordination with other options exchanges to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange, the Exchange proposes to limit this provision to apply to up to twenty-five (25) total options series (*i.e.,* whether such series all relate to the same underlying security or multiple underlying securities). Second, the Exchange proposes to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by such party and published by other options exchanges. In other words, as proposed, the burden will be on the party seeking that the Exchange disregard their quotations on other options exchanges to identify such quotations. In turn, the Exchange will verify with such other options exchanges that such quotations were indeed submitted by such party.

Below are examples of both the current rule and the rule as proposed to be amended.

Example 1—Current Rule, Member Erroneously Quotes on One Exchange Assumptions

For purposes of this example, assume the following:

- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange (and only the Exchange).
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 x $1.05 (with the Exchange representing the NBBO based on Market Maker A's quotes).
- Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.
- Assume Market Maker A submits to the Exchange a timely request for review of the trades with Member A as potentially erroneous transactions to buy.

Result

- Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations invalid pursuant to Rule 20.6(b)(2).
- As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.
- Assume the Exchange determines a Theoretical Price of $0.05.
  - The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.
  - Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.
  - The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.

Example 2—Current Rule, Member Erroneously Quotes on Multiple Exchanges Assumptions

For purposes of this example, assume the following:

- A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').
- Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.
- In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.
- Therefore, the NBBO in the twenty series at issue is $1.00 x $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).

[12] *See, e.g.,* Rule 29.13, which relates to index options potentially listed and traded on the Exchange and disclaims liability for a reporting authority and their affiliates; *see also, e.g.,* Rules 14.11(b)(10), 14.11(c)(10), which relate to certain types of equity securities potentially listed and traded on the Exchange and disclaim liability for the Exchange, a reporting authority and any agent of the Exchange.

• Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.

• Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy.

Result

• Based on the Exchange's current rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 20.6(b)(2). The Exchange, however, would view the Away Exchange's quotations as valid, and would thus determine Theoretical Price to be $1.05 (*i.e.,* the NBO in the case of a potentially erroneous buy transaction).

• The execution price of $1.00 does not exceed the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $1.05 + $0.25 = $1.30) so any execution at or above this price is an obvious error.

• The transactions on the Exchange would not be nullified or adjusted.

• As the Exchange and all other options exchanges have identical rules with respect to the process described above, the transactions on the Away Exchange would not be nullified or adjusted.

Example 3—Proposed Rule, Member Erroneously Quotes on Multiple Exchanges [13] Assumptions

For purposes of this example, assume the following:

• A Member acting as a Market Maker on the Exchange (''Market Maker A'') is quoting in twenty series of options underlying security ABCD on the Exchange and on a second exchange (''Away Exchange'').[14]

• Market Maker A makes an error in calculating the market for options on ABCD, and publishes quotes on both the Exchange and the Away Exchange in all twenty series to buy options at $1.00 and to sell options at $1.05.

• In fact, options on ABCD in these series are nearly worthless and no other market participant is quoting in such series.

• Therefore, the NBBO in the twenty series at issue is $1.00 x $1.05 (with the Exchange and the Away Exchange representing the NBBO based on Market Maker A's quotes).

• Assume Member A immediately enters sell orders and executes against Market Maker A's quotes at $1.00.

• Assume Market Maker A submits to the Exchange and to the Away Exchange timely requests for review of the trades with Member A as potentially erroneous transactions to buy. At the time of submitting the requests for review to the Exchange and the Away Exchange, Market Maker A identifies to the Exchange the quotes on the Away Exchange as quotes also represented by Market Maker A (and to the Away Exchange, the quotes on the Exchange as quotes also represented by Market Maker A).

Result

• Based on the proposed rules, the Exchange would identify Market Maker A as a participant to the trades at issue and would consider Market Maker A's quotations on the Exchange invalid pursuant to Rule 20.6(b)(2).

• The Exchange and the Away Exchange would also coordinate to confirm that the quotations identified by Market Maker A on the other exchange were indeed Market Maker A's quotations. Once confirmed, each of the Exchange and the Away Exchange would also consider invalid the quotations published on the other exchange.

• As there were no other valid quotes to use as a reference price, the Exchange would then determine Theoretical Price.

• Assume the Exchange determines a Theoretical Price of $0.05.

○ The execution price of $1.00 exceeds the $0.25 minimum amount set forth in the Exchange's table to determine whether an obvious error has occurred (*i.e.,* $0.05 + $0.25 = $0.30) so any execution at or above this price is an obvious error.

○ Accordingly, the executions in all series would be adjusted by the Exchange to executions at $0.20 per contract (Theoretical Price of $0.05 plus $0.15) to the extent the incoming orders submitted by Member A were non-Customer orders.

○ The executions in all series would be nullified to the extent the incoming orders submitted by Member A were Customer orders.

• As the Exchange and all other options exchanges would have identical rules with respect to the process described above, as other options exchanges intend to adopt the same rule if the proposed rule is approved, the transactions on the Away Exchange would also be nullified or adjusted as set forth above.

• If this example was instead modified such that Market Maker A was quoting in 200 series rather than 20, the Exchange notes that Market Maker A could only request that the Exchange consider as invalid their quotations in 25 of those series on other exchanges. As noted above, the Exchange has proposed to limit the proposed rule to 25 series in order to continue to process requests for review in a timely and organized fashion in order to provide certainty to market participants. This is due to the amount of coordination that will be necessary in such a scenario to confirm that the quotations in question on an away options exchange were indeed submitted by a party to a transaction on the Exchange.

Trading Halts—Clarifying Change to Rule 20.3

Exchange Rule 20.3 describes the Exchange's authority to declare trading halts in one or more options traded on the Exchange. Currently, Rule 20.3 states that the Exchange shall nullify any transaction that occurs during a trading halt in the affected option on the Exchange or, with respect to equity options, during a *trading halt on the primary listing market* for the underlying security. The Exchange proposes to make clear with respect to equity options that it shall nullify any transaction that occurs during a *regulatory halt as declared by the primary listing market* for the underlying security. The Exchange believes this change is necessary to distinguish a declared regulatory halt, where the underlying security should not be actively trading on any venue, from an operational issue on the primary listing exchange where the security continues to safely trade on other trading venues.

Implementation Date

In order to ensure that other options exchanges are able to adopt rules consistent with this proposal, if approved, and to coordinate the effectiveness of such harmonized rules, including the necessary implementation of technology to apply the harmonized rules using information received from the TP Provider, the Exchange proposes to delay the operative date of this proposal to a date within ninety (90) days following the approval of the proposal. The Exchange will announce the operative date in a Regulatory Circular made available to its Members.

[13] The Exchange notes that its proposed rule will not impact the proposed handling of a request for review where a market participant is quoting only on the Exchange, thus, the Exchange has not included a separate example for such a fact-pattern.

[14] The Exchange notes that the proposed rule would operate the same if Market Maker A was quoting on more than two exchanges. The Exchange has limited the example to two exchanges for simplicity.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[15] Specifically, the proposal is consistent with Section 6(b)(5) of the Act [16] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest.

As described above, the Exchange and other options exchanges are seeking to further modify their harmonized rules related to the adjustment and nullification of erroneous options transactions. The Exchange believes that the proposal to utilize a TP Provider in the event the NBBO is unavailable or unreliable will provide greater transparency and clarity with respect to the adjustment and nullification of erroneous options transactions. Particularly, the proposed changes seek to achieve consistent results for participants across U.S. options exchanges while maintaining a fair and orderly market, protecting investors and protecting the public interest. Thus, the Exchange believes that the proposal is consistent with Section 6(b)(5) of the Act [17] in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Exchange again reiterates that it has retained the standard of the current rule for most reviews of options transactions pursuant to Rule 20.6, which is to rely on the NBBO to determine Theoretical Price if such NBBO can reasonably be relied upon. The proposal to use a TP Provider when the NBBO is unavailable or unreliable is consistent with Section 6(b)(5) of the Act [18] in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by further reducing the possibility of disparate results between options exchanges and increasing the objectivity of the application of Rule 20.6. Further, the Exchange believes that the proposed Rule is transparent with respect to the limited circumstances under which the Exchange will request a review and correction of Theoretical Price from the TP Provider, and has sought to limit such circumstances as much as possible. The Exchange notes that under the current Rule, Exchange personnel are required to determine Theoretical Price in certain circumstances and yet rarely do so because such circumstances have already been significantly limited under the harmonized rule (for example, because the wide quote provision of the harmonized rule only applies if the quote was narrower and then gapped but does not apply if the quote had been persistently wide). Thus, the Exchange believes it will need to request Theoretical Price from the TP Provider only in very rare circumstances and in turn, the Exchange anticipates that the need to contact the TP Provider for additional review of the Theoretical Price provided by the TP Provider will be even rarer. Similarly, the Exchange believes it is unlikely that an Exchange Official will ever be required to determine Theoretical Price, as such circumstance would only be in the event of a systems issue that has rendered the TP Provider's services unavailable and such issue cannot be corrected in a timely manner.

The Exchange also believes its proposal to adopt language in paragraph (d) of Interpretation and Policy .03 to Rule 20.6 to disclaim the liability of the Exchange and the TP Provider in connection with the proposed Rule, the TP Provider's calculation of Theoretical Price, and the Exchange's use of such Theoretical Price is consistent with the Act. As noted above, this proposed language is modeled after existing language in Exchange Rules regarding ''reporting authorities'' that calculate indices,[19] and is consistent with Section 6(b)(5) of the Act [20] in that the proposed Rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

As described above, the Exchange proposes a modification to the valid quotes provision to also exclude quotes in a series published by another options exchange if either party to the transaction in question submitted the orders or [sic] quotes in the series representing such options exchange's best bid or offer. The Exchange believes this proposal is consistent with Section 6(b)(5) of the Act [21] because the application of the rule will foster cooperation and coordination with persons engaged in regulating and facilitating transactions by allowing the Exchange to coordinate with other options exchanges to determine whether a market participant that is party to a potentially erroneous transaction on the Exchange established the market in an option on other options exchanges; to the extent this can be established, the Exchange believes such participant's quotes should be excluded in the same way such quotes are excluded on the Exchange. The Exchange also believes it is reasonable to limit the scope of this provision to twenty-five (25) series and to require the party that believes it established the best bid or offer on one or more other options exchanges to identify to the Exchange the quotes which were submitted by that party and published by other options exchanges. The Exchange believes these limitations are consistent with Section 6(b)(5) of the Act [22] because they will ensure that the Exchange is able to continue to apply the Rule in a timely and organized fashion, thus fostering cooperation and coordination with persons engaged in regulating and facilitating transactions and also removing impediments to and perfecting the mechanism of a free and open market and a national market system.

Finally, with respect to the proposed modification to the Exchange's trading halt rule, Rule 20.3, the Exchange believes that this proposal is consistent with Section 6(b)(5) of the Act [23] because such proposal clarifies the provision by distinguishing between a trading halt in an underlying security where the security has halted trading across the industry (*i.e.,* a regulatory halt) from a situation where the primary exchange has experienced a technical issue but the underlying security continues to trade on other equities platforms. The Exchange notes that this distinction is already clear in the rules of certain other options exchanges, and thus, has been found to be consistent with the Act.[24]

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the entire proposal is consistent with Section 6(b)(8) of the Act [25] in that it does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act as explained below.

Importantly, the Exchange does not believe that the proposal will impose a burden on intermarket competition but rather that it will alleviate any burden on competition because it is the result

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

[18] *Id.*

[19] *See supra,* note 12.

[20] 15 U.S.C. 78f(b)(5).

[21] 15 U.S.C. 78f(b)(5).

[22] 15 U.S.C. 78f(b)(5).

[23] *Id.*

[24] *See, e.g.,* Interpretation and Policy .07 to CBOE Rule 6.3.

[25] 15 U.S.C. 78f(b)(8).

of a collaborative effort by all options exchanges to further harmonize and improve the process related to the adjustment and nullification of erroneous options transactions. The Exchange does not believe that the rules applicable to such process is an area where options exchanges should compete, but rather, that all options exchanges should have consistent rules to the extent possible. Particularly where a market participant trades on several different exchanges and an erroneous trade may occur on multiple markets nearly simultaneously, the Exchange believes that a participant should have a consistent experience with respect to the nullification or adjustment of transactions. To that end, the selection and implementation of a TP Provider utilized by all options exchanges will further reduce the possibility that participants with potentially erroneous transactions that span multiple options exchanges are handled differently on such exchanges. Similarly, the proposed ability to consider quotations invalid on another options exchange if ultimately originating from a party to a potentially erroneous transaction on the Exchange represents a proposal intended to further foster cooperation by the options exchanges with respect to market events. The Exchange understands that all other options exchanges intend to file proposals that are substantially similar to this proposal.

The Exchange does not believe that the proposed rule change imposes a burden on intramarket competition because the proposed provisions apply to all market participants equally.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve or disapprove such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2017–35 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2017–35. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2017–35, and should be submitted on or before June 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10465 Filed 5–22–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80708; File No. SR–NASDAQ–2017–040]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Continued Listing Standards for Exchange-Traded Products

May 17, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 3, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the previously approved continued listing requirements for exchange-traded products (''ETPs'') in the Nasdaq Rule 5700 Series, as well as Nasdaq Rule 5810 (Notification of Deficiency by the Listing Qualifications Department), to make a number of conforming and housekeeping changes.[3]

The Exchange also proposes to delay the implementation date of the previously approved changes to the continued listing standards from August 1, 2017 to October 1, 2017.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79784 (Jan. 12, 2017), 82 FR 6664 (Jan. 19, 2017) (SR–NASDAQ–2016–135).

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

Earlier this year, the Commission approved a Nasdaq filing (the ''Prior Filing'') to amend the continued listing requirements for ETPs.[4] The Exchange now proposes to make a number of housekeeping changes, as well as conform the language in the Nasdaq Rule 5700 Series (Other Securities) and Nasdaq Rule 5810 (Notification of Deficiency by the Listing Qualifications Department) to either the current rule language for NYSE Arca, Inc. (''Arca'') and Bats BZX Exchange, Inc. (''Bats'') or to the rule language included in approved filings for both Arca[5] and Bats[6] (the ''Arca and Bats Filings'').

Most of the proposed changes are to the Nasdaq Rule 5700 Series where the current rule text refers to statements or representations regarding the applicability of Nasdaq rules and surveillance procedures. The proposed changes revise this language from ''the applicability of Nasdaq rules and surveillance procedures'' to ''the applicability of Nasdaq listing rules specified in such proposals''. These changes are consistent with the language in the Arca[7] and Bats[8] Filings.

The amendment to Nasdaq Rule 5810(c)(2)(A) changes the language therein to specify that a failure to meet a continued listing requirement contained in the Rule 5700 Series does not require a company to pay a compliance plan review fee of $5,000. This change is consistent with the practice of Arca and Bats in that neither imposes such a fee.

The proposed change to Nasdaq Rule 5720(c)(7)(F) (Trust Issued Receipts) is to reinsert a word deleted by the Prior Filing. Specifically, the word ''initially'' will be reinserted into the following rule language: ''The most heavily weighted component security may not initially represent more than 20% of the overall value of the Trust Issued Receipt.'' Adding the word ''initially'' back into the designated rule properly reflects the intended meaning of the language and is in keeping with language as it was initially adopted and conforms to the rules of Arca and Bats.

The proposed change to Nasdaq Rule 5745(d)(2)(C)(iv)(c) to delete the word ''portfolio'' from the phrase ''dissemination and availability of the portfolio, reference asset, or intraday indicative values'' is because it is not applicable in this context as to Exchange-Traded Managed Fund Shares (''NextShares'').

Additionally, the Exchange proposes to delay the implementation date of the previously approved changes to the continued listing standards[9] from August 1, 2017 to October 1, 2017. Given the scope of the proposed rule changes, the Exchange believes that this will ensure that Nasdaq has adequate time to develop and put into operation the new processes and systems necessitated by them. Also, an implementation date of October 1, 2017 will match the implementation dates set forth in the Arca and Bats Filings. This will benefit those impacted by the amended continued listing standards by providing for a single implementation date across the exchanges, which will promote clarity in the timing of these significant changes to the continued listing standards and lessen potential confusion.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest.

The Exchange believes that the proposed rule changes to conform the Nasdaq Rule 5700 Series and Nasdaq Rule 5810 with either the current rule language for Arca and Bats or to the rule language included in the Arca and Bats Filings will promote just and equitable principles of trade, and, in general to protect investors and the public interest since it will promote the application of consistent listing standards across the exchanges. Also, the proposed rule change to reinsert the word ''initially'' into Nasdaq Rule 5720(c)(7)(F), as well as to delete the word ''portfolio'' in Nasdaq Rule 5745(d)(2)(C)(iv)(c), will provide clarity and accurately reflect the intent of the rule to the benefit of investors and the public interest. Changing the implementation date to October 1, 2017 also will provide clarity and lessen confusion to the benefit of investors and the public interest.

For these reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended. Instead, the Exchange believes that the proposed rule change to conform the Nasdaq Rule 5700 Series and Nasdaq Rule 5810 with either the current rule language for Arca and Bats or the approved rule text included in the Arca and Bats Filings may enhance competition since the exchanges will have substantially similar and consistent listing requirements for ETPs.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act[12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

[4] *Id.*

[5] *See* Securities Exchange Act Release No. 80189 (Mar. 9, 2017), 82 FR 13889 (Mar. 15, 2017) (SR–NYSEArca–2017–01).

[6] *See* Securities Exchange Act Release No. 80169 (Mar. 7, 2017), 82 FR 13536 (Mar. 13, 2017) (SR–BatsBZX–2016–80).

[7] *Supra* note 5.

[8] *Supra* note 6.

[9] *Supra* note 3.

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file

Continued

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–040 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–040. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–040 and should be submitted on or before June 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10464 Filed 5–22–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80706; File No. SR–ICEEU–2017–005]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Filing of Proposed Rule Change, Security-Based Swap Submission or Advance Notice Relating to Clearing House Contributions to CDS Default Resources

May 17, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 4, 2017, ICE Clear Europe Limited (''ICE Clear Europe'' or ''Clearing House'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been primarily prepared by ICE Clear Europe. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change, Security-Based Swap Submission, or Advance Notice

The principal purpose of the changes is to modify the ICE Clear Europe Finance Procedures to implement certain changes to the Clearing House CDS Contributions.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

In its filing with the Commission, ICE Clear Europe 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. ICE Clear Europe has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change, Security-Based Swap Submission or Advance Notice

1. Purpose

ICE Clear Europe proposes revising its Finance Procedures to implement certain changes to the Clearing House CDS Contributions. These revisions do not involve any changes to the ICE Clear Europe Clearing Rules.[3]

ICE Clear Europe maintains a waterfall of defined default resources, including its CDS Guaranty Fund, to provide financial resources to cover potential losses resulting from the default of a CDS Clearing Member.[4] The CDS Guaranty Fund consists of required contributions made by CDS Clearing Members. Currently, ICE Clear Europe's contribution to CDS default resources is split into two parts—namely, a Clearing House CDS Initial Contribution and a Clearing House CDS GF Contribution. Under the default resource waterfall, assets (including margin and CDS Guaranty Fund contributions) provided by the defaulting CDS Clearing Member are used first to cover default losses. In the event the Clearing House experiences losses from the default of a CDS Clearing Member that exceed the resources provided by the defaulter, the Clearing House CDS Initial Contribution would, in accordance with the Rules, be applied next, and prior the use of CDS Guaranty Fund contributions of non-defaulting CDS Clearing Members. Following exhaustion of the Clearing House CDS Initial Contribution, the CDS Guaranty Fund contributions of non-defaulting CDS Clearing Members and the Clearing House CDS GF Contribution would be applied to cover

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.

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Capitalized terms used but not defined herein have the meanings specified in the ICE Clear Europe Clearing Rules (the ''Rules'').

[4] The waterfall of application of default resources upon the default of a CDS Clearing Member is set out in ICE Clear Europe Rules 908(c) and (g), and is summarized here for reference.

CDS default losses, on a pro rata basis. The respective amounts of the Clearing House CDS Initial Contribution and Clearing House CDS GF Contribution are determined in accordance with paragraph 15.2 of the Finance Procedures, and are notified to Clearing Members by Circular.

ICE Clear Europe proposes to amend paragraph 15.2 of the Finance Procedures in order to permit the Clearing House to redesignate all or a part of the Clearing House CDS GF Contribution as additional Clearing House CDS Initial Contribution. ICE Clear Europe does not propose to change the aggregate amount of, or basis for calculating, the Clearing House CDS GF Contribution and Clearing House CDS Initial Contribution. The effect of any such redesignation would be that more of ICE Clear Europe's contribution to CDS default resources would be used at an earlier point in the waterfall of default resources, prior to the use of CDS Guaranty Fund contributions of non-defaulting CDS Clearing Members. Such a redesignation will thus provide greater protection of CDS Clearing Member contributions of non-defaulting CDS Clearing Members, and reduce the likelihood that the use of CDS Clearing Member contributions will be necessary in a default scenario.

Specifically, paragraph 15.2(a) of the Finance Procedures, which establishes the amount of the Clearing House CDS Initial Contribution, would be amended to provide that the Clearing House can increase such amount by redesignating all or part of the Clearing House CDS GF Contribution as a Clearing House CDS Initial Contribution. ICE Clear Europe would be required to notify Clearing Members by circular of any such redesignation.

Conforming amendments have been made in paragraph 15.2(b) to refer to amounts so redesignated as Clearing House CDS Initial Contributions, as well as to clarify a cross-reference. Similar conforming changes are made in paragraph 15.2(c), which establishes the amount of required Clearing House CDS GF Contributions, to take into account any amounts thereof that are redesignated as Clearing House CDS Initial Contributions. Paragraph 15.2(d) would be revised to clarify the obligation to replenish Clearing CDS GF Contributions (including such amounts that are redesignated as Clearing House Initial CDS Contributions) when applied in accordance with the Rules, as well as to provide that any required replenishments of the Clearing House CDS GF Contribution could similarly be redesignated as Clearing House CDS Initial Contributions and to clarify a cross-reference. Paragraph 15.2(g) would be revised to clarify that the Clearing House would not be required or permitted to redesignate any amount as Clearing House CDS Initial Contributions as Clearing House CDS GF Contributions solely as a result of changes in the amounts of a Clearing House CDS Contribution because of exchange rate fluctuations.

The decision to redesignate any amount of Clearing House CDS GF Contribution as Clearing House CDS Initial Contribution (and to make any change in any such redesignation) would be made by the ICE Clear Europe Board, in consultation with the CDS Risk Committee.

2. Statutory Basis

ICE Clear Europe believes that the changes described herein are consistent with the requirements of Section 17A of the Act [5] and the regulations thereunder applicable to it, including the standards under Rule 17Ad–22,[6] and are consistent with the prompt and accurate clearance of and settlement of securities transactions and, to the extent applicable, derivative agreements, contracts and transactions, the safeguarding of securities and funds in the custody or control of ICE Clear Europe or for which it is responsible and the protection of investors and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[7] ICE Clear Europe is not changing the aggregate level of its contributions to CDS default resources, or the overall level of CDS default resources generally. The amendments will provide the Clearing House the ability to move its own contributions to CDS default resources higher in the waterfall of default resources, so that more of such contributions will be used prior to the CDS Guaranty Fund contributions of non-defaulting CDS Clearing Members. Such a redesignation will make it less likely that the Clearing House would need to use the CDS Guaranty Fund contributions of non-defaulting CDS Clearing Members, and thus provide additional protection to such contributions of non-defaulting CDS Clearing Members. ICE Clear Europe notes in this regard ongoing industry discussions concerning the appropriate level and seniority of clearing house contributions to default resources generally.[8] In light of the evolving views of market participants on these issues, ICE Clear Europe believes that the amendments will provide it appropriate flexibility to determine to change the balance between Clearing House CDS Initial Contributions and Clearing House CDS GF Contributions to place more of its own assets at risk earlier in the waterfall of default resources. In ICE Clear Europe's view, the amendments will thus promote the prompt and accurate clearance and settlement of cleared contracts, and the protection of market participants and the public interest, within the meaning of Section 17A(b)(3)(F) of the Act.[9] For similar reasons, ICE Clear Europe believes that the amendments are also consistent with the requirements regarding financial resources in Rule 17Ad–22(b)(3) [10] and Rule 17Ad–22(e)(4).[11] As noted above, the decision to redesignate any amount of Clearing House CDS GF Contribution as Clearing House CDS Initial Contribution (and to make any change in any such redesignation) would be made by the ICE Clear Europe Board, in consultation with the CDS Risk Committee. As a result, in ICE Clear Europe's view, the amendments incorporate governance arrangements that fulfill the requirements of Rule 17Ad–22(e)(2),[12] including that the governance arrangements, among other matters, support the public interest requirements of Section 17A of the Act and the objectives of participants, as set forth above.

B. Clearing Agency's Statement on Burden on Competition

ICE Clear Europe does not believe the proposed changes to the rules would have any impact, or impose any burden, on competition not necessary or appropriate in furtherance of the purpose of the Act. The amendments will solely affect the relative priority of ICE Clear Europe's contributions to CDS default resources, in a manner that will allow ICE Clear Europe to use more such resources prior to the use of any CDS Guaranty Fund contributions of non-defaulting CDS Clearing Members. ICE Clear Europe does not believe the amendments would adversely affect Clearing Members, materially affect the cost of clearing, adversely affect access to clearing in CDS Contracts for Clearing Members or their customers, or otherwise adversely affect competition in clearing services. As a result, ICE

[5] 15 U.S.C. 78q–1.

[6] 17 CFR 240.17Ad–22.

[7] 15 U.S.C. 78q–1(b)(3)(F).

[8] *See, e.g.,* Committee on Payment and Market Infrastructures/Board of the International Organization of Securities Commissions, *Resilience and Recovery of Central Counterparties (CCPs): Further Guidance on the PFMIs* (consultative report) (August 2016), paragraph 6.

[9] 15 U.S.C. 78q–1(b)(3)(F).

[10] 17 CFR 240.17Ad–22(b)(3).

[11] 17 CFR 240.17Ad–22(e)(4).

[12] 17 CFR 240.17Ad–22(e)(2).

Clear Europe does not believe that the amendments would impose any impact or burden on competition that is not appropriate in furtherance of the purpose of the Act.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed changes to the rules have not been solicited or received. ICE Clear Europe will notify the Commission of any written comments received by ICE Clear Europe.

III. Date of Effectiveness of the Proposed Rule Change, Security-Based Swap Submission and Advance Notice and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, security-based swap submission or advance notice 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–ICEEU–2017–005 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–ICEEU–2017–005. 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, security-based swap submission or advance notice that are filed with the Commission, and all written communications relating to the proposed rule change, security-based swap submission or advance notice between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filings will also be available for inspection and copying at the principal office of ICE Clear Europe and on ICE Clear Europe's Web site at *https://www.theice.com/clear-europe/regulation#rule-filings*.

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–ICEEU–2017–005 and should be submitted on or before June 13, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–10462 Filed 5–22–17; 8:45 am]

BILLING CODE 8011–01–P

[13] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[Docket No. SSA 2016–0042]

Privacy Act of 1974; Matching Program

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a New Matching Program.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a new computer matching program that we are currently conducting with the States, including tribal agencies and United States (U.S.) territories.

DATES: The deadline to submit comments on the proposed matching program is 30 days from the date of publication of this notice. The matching program will be effective on July 1, 2017 and will expire on December 31, 2018.

ADDRESSES: Interested parties may comment on this notice by either telefaxing to (410) 966–0869, writing to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, Social Security Administration, 617 Altmeyer Building, 6401 Security Boulevard, Baltimore, MD 21235–6401, or emailing at *Mary.Ann.Zimmerman@ssa.gov.* All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: Interested parties may submit general questions about the matching program to Mary Ann Zimmerman, Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel, by any of the means shown above.

SUPPLEMENTARY INFORMATION: The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the conditions under which computer matching involving the Federal government could be performed and adding certain protections for persons applying for, and receiving, Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such persons.

The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain approval of the matching agreement by the Data Integrity Boards of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating, or

denying a person's benefits or payments.

We have taken action to ensure that all of our computer matching programs comply with the requirements of the Privacy Act, as amended.

Mary Ann Zimmerman,

Acting Executive Director, Office of Privacy and Disclosure, Office of the General Counsel.

Participating Agencies: SSA and the States, tribal agencies, and U.S. territories

Authority for Conducting the Matching Program: The legal authority to disclose data and the States' authority to collect, maintain, and use data protected under our systems of records (SOR) for specified purposes is:

- Sections 453, 1106(b), and 1137 of the Social Security Act (Act) (42 U.S.C. 653, 1306(b), and 1320b–7) (income and eligibility verification data);
- 26 U.S.C. 6103(l)(7) and (8) (tax return data);
- Section 202(x)(3)(B)(iv) of the Act (42 U.S.C. 402(x)(3)(B)(iv)) and Section 1611(e)(1)(I)(iii) of the Act (42 U.S.C. 1382(e)(1)(I)(iii)) (prisoner data);
- Section 205(r)(3) of the Act (42 U.S.C. 405(r)(3)) and the Intelligence Reform and Terrorism Prevention Act of 2004, Public Law 108–458, 7213(a)(2) (death data);
- Sections 402, 412, 421, and 435 of Public Law 104–193 (8 U.S.C. 1612, 1622, 1631, and 1645) (quarters of coverage data);
- Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA), Public Law 111–3 (citizenship data); and
- Routine use exception to the Privacy Act, 5 U.S.C. 552a(b)(3) (data necessary to administer other programs compatible with our programs).

This Agreement further carries out section 1106(a) of the Act (42 U.S.C. 1306), the regulations promulgated pursuant to that section (20 CFR part 401), the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (CMPPA), related Office of Management and Budget (OMB) guidelines, the Federal Information Security Management Act of 2002 (44 U.S.C. 3541, *et seq.*), as amended by the Federal Information Security Modernization Act of 2014 (Pub. L. 113–283), and related National Institute of Standards and Technology guidelines, which provide the requirements that States must follow with regard to use, treatment, and safeguarding of data.

Purpose: The purpose of this matching program is to set forth the terms and conditions governing disclosures of records, information, or data (collectively referred to herein as ''data'') made by us to various State agencies and departments (State Agencies), tribal agencies, and U.S. territories that administer federally funded benefit programs, including those under various provisions of the Act, such as section 1137 (42 U.S.C. 1320b–7), as well as the state-funded state supplementary payment programs under Title XVI of the Act. SSA provides electronic data to the States, tribal agencies, and U.S. territories for use in determining entitlement and eligibility for federally funded benefit programs—such as Medicare and Medicaid, subsidized housing, Supplemental Nutrition Assistance Program, and Temporary Assistance to Needy Families—as well as other federally funded, state administered benefit programs. To receive SSA data to administer federally funded, state-administered benefit programs, the State or State agency, tribal agency, or U.S. territory must sign a Computer Matching Agreement and an Information Exchange Agreement. The terms and conditions of this Agreement ensure that we make such disclosures of data, and the States, tribal agencies, and U.S. territories use such disclosed data, in accordance with the requirements of the Privacy Act of 1974, as amended by the CMPPA, 5 U.S.C. 552a.

Under section 1137 of the Act, States are required to use an income and eligibility verification system to administer specified federally funded benefit programs, including the state-funded state supplementary payment programs under Title XVI of the Act. To assist the States, tribal agencies, and U.S. territories in determining entitlement to and eligibility for benefits under those programs, as well as other federally funded benefit programs, we disclose certain data about applicants (and in limited circumstances, members of an applicant's household), for state benefits from our Privacy Act SORs and verify the Social Security numbers (SSN) of the applicants.

Individual agreements with the States, tribal agencies, or U.S. territories describe the information we will disclose and the conditions under which we agree to disclose the information.

Categories of Individuals: Individuals whose information is involved in the matching program are those who apply for federally funded, state-administered benefits, as well as current beneficiaries, recipients, and annuitants under the programs covered by this Agreement.

Categories of Records: The maximum number of records involved in this matching activity is the number of records maintained in our SORs. Data elements disclosed in computer matching governed by this Agreement are Personally Identifiable Information from our specified SORs, including names, SSNs, addresses, amounts, and other information related to our benefits and earnings information. Specific listings of data elements are available at: *http://www.ssa.gov/dataexchange/.*

Systems of Records (SOR): Our SORs used for purposes of the subject data exchanges include:

- 60–0058—Master Files of SSN Holders and SSN Applications;
- 60–0059—Earnings Recording and Self-Employment Income System;
- 60–0090—Master Beneficiary Record;
- 60–0103—Supplemental Security Income Record (SSR) and Special Veterans Benefits (SVB);
- 60–0269—Prisoner Update Processing System (PUPS); and
- 60–0321—Medicare Part D and Part D Subsidy File.

States will ensure that the tax return data contained in SOR 60–0059 (Earnings Recording and Self-Employment Income System) will only be used in accordance with 26 U.S.C. 6103.

[FR Doc. 2017–10484 Filed 5–22–17; 8:45 am]

BILLING CODE 4191–02–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2017–0028]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB) Office of Management and Budget, Attn: Desk Officer for SSA,

Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA) Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2017–0028].

I. The information collection below is pending at SSA. SSA will submit it to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than July 24, 2017. Individuals can obtain copies of the collection instrument by writing to the above email address.

Statement Regarding Date of Birth and Citizenship—20CFR 404.716—0960–0016. Section 205(a) of the Social Security Act (Act) gives the Commissioner of SSA the authority to make rules and regulations and to establish procedures for collecting evidence from individuals applying for Social Security benefits. When individuals apply for Social Security benefits and cannot provide preferred methods of proving age or citizenship, SSA uses Form SSA–702 to establish these facts. Specifically, SSA uses the SSA–702 to establish age as a factor of entitlement to Social Security benefits, or U.S. citizenship as a payment factor. Respondents are individuals with knowledge about the date of birth or citizenship of applicants filing for one or more Social Security benefits who need to establish age or citizenship.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–702	1,200	1	10	200

II. SSA submitted the information collections below to OMB for clearance. Your comments regarding the information collections would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than June 22, 2017. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov*.

1. Authorization for the Social Security Administration to Obtain Wage and Employment Information from Payroll Data Providers—0960–NEW. Section 824 of the Bipartisan Budget Act (BBA) of 2015, Public Law 114–74, authorizes the Social Security Administration (SSA) to enter into information exchanges with payroll data providers for the purposes of improving program administration and preventing improper payments in the Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) programs. SSA will use Form SSA–8240, ''Authorization for the Social Security Administration to Obtain Wage and Employment Information from Payroll Data Providers,'' to secure the authorization needed from the relevant members of the public to obtain their wage and employment information from payroll data providers. Ultimately, SSA will use this wage and employment information to help determine program eligibility and payment amounts.

The public will be able to complete form SSA–8240 using the following modalities: A paper form; the Internet; and an in-office or telephone interview, during which an SSA employee will document the wage and employment information authorization information on one of SSA's internal systems ((the Modernized Claims System (MCS); the Modernized Supplemental Security Income Claims System (MSSICS); eWork; or iMain)). The individual's authorization will remain effective until one of the following four events occurs:

- SSA makes a final adverse decision on the application for benefits, and the applicant has filed no other claims or appeals under the Title for which SSA obtained the authorization;
- the individual's eligibility for payments ends, and the individual has not filed other claims or appeals under the Title for which SSA obtained the authorization;
- the individual revokes the authorization verbally or in writing; or
- the deeming relationship ends (for SSI purposes only).

SSA will request authorization on an as-needed basis as part of the following processes: (a) SSDI and SSI initial claims; (b) SSI redeterminations; and (c) SSDI Work Continuing Disability Reviews. The respondents are individuals who file for or are currently receiving SSDI or SSI payments, and any person whose income and resources SSA counts when determining an individual's SSI eligibility or payment amount.

Type of Request: Request for a new information collection.

Modality of completion	Number of respondents	Frequency of response (per annum)	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–8240 (paper)	136,150	1	6	13,615
Title II & Title XVI Electronic (MCS, MSSICS, and eWork)	2,769,800	1	2	92,327
Internet	927,504	1	2	30,917
Revoking Authorization	191,673	1	10	31,946
Totals	4,025,127			168,805

2. Farm Arrangement Questionnaire—20 CFR 404.1082(c)—0960–0064. When self-employed workers submit earnings data to SSA, they cannot count rental income from a farm unless they demonstrate ''material participation'' in the farm's operation. A material participation arrangement means the farm owners must perform a combination of physical duties; management decisions; and capital investment in the farm they rent out. SSA uses Form SSA–7157, the Farm Arrangement Questionnaire, to document material participation. The

respondents are workers who are renting farmland to others; are involved in the operation of the farm; and want to claim countable income from work they perform relating to the farm.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–7157	2,304	1	30	1,152

3. Railroad Employment Questionnaire—20 CFR 404.1401, 404.1406–404.1408—0960–0078. Railroad workers, their dependents, or survivors can concurrently apply for railroad retirement and Social Security benefits at SSA if the number holder, or claimant on the number holder's Social Security Number, worked in the railroad industry. SSA uses Form SSA–671 to coordinate Social Security claims processing with the Railroad Retirement Board, and to determine benefit entitlement and amount. The respondents are Social Security benefit applicants previously employed by a railroad or dependents of railroad workers.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–671	125,000	1	5	10,417

4. Employee Identification Statement—20 CFR 404.702—0960–0473. When two or more individuals report earnings under the same Social Security Number (SSN), SSA collects information on Form SSA–4156 to credit the earnings to the correct individual and SSN. We send the SSA–4156 to the employer to: (1) Identify the employees involved; (2) resolve the discrepancy; and (3) credit the earnings to the correct SSN. The respondents are employers involved in erroneous wage reporting for an employee.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–4156	4,750	1	10	792

5. Appeal of Determination for Help with Medicare Prescription Drug Plan Costs—0960–0695. Public Law 108–173, the MMA of 2003 established the Medicare Part D program for voluntary prescription drug coverage for certain low-income individuals. The MMA stipulates the provision of subsidies for individuals who are eligible for the program and who meet eligibility criteria for help with premium, deductible, and co-payment costs. SSA uses Form SSA–1021, Appeal of Determination for Help With Medicare Prescription Drug Plan Costs, to obtain information from individuals who appeal SSA's decisions regarding eligibility or continuing eligibility for a Medicare Part D subsidy. The respondents are Medicare beneficiaries, or proper applicants acting on behalf of a Medicare beneficiary, who do not agree with the outcome of an SSA subsidy eligibility determination, and are filing an appeal.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1021 (Paper Version)	3,283	1	10	547
SSA–1021 (Internet Version; Medicare Application Processing System)	11,037	1	10	1,840
Totals	14,320			2,387

Dated: May 17, 2017.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2017–10470 Filed 5–22–17; 8:45 am]

BILLING CODE 4191–02–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 33 (Sub-No. 282X)]

Union Pacific Railroad Company—Discontinuance of Service Exemption—in Iroquois County, IL

Union Pacific Railroad Company (UP) has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments and Discontinuances of Service* to discontinue service over a 6.03-mile portion of the Cissna Park Industrial Lead between milepost 98.20 and milepost 104.23 at Cissna Park in Iroquois County, Ill. (the Line). The Line traverses United States Postal Service Zip Codes 60924 and 60953.

UP has certified that: (1) no local or overhead traffic has moved over the Line for at least two years; (2) there is no need to reroute any traffic over other lines; (3) no formal complaint filed by a user of rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is pending either with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the discontinuance of service shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will be effective on June 21, 2017, unless stayed pending reconsideration.[1] Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by June 1, 2017.[3] Petitions to reopen must be filed by June 9, 2017, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to Mack H. Shumate, Jr., Union Pacific Railroad Company, 101 North Wacker Drive, Room 1920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void ab initio.

Board decisions and notices are available on our Web site at ''*WWW.STB.GOV*.''

Decided: May 17, 2017.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–10611 Filed 5–22–17; 8:45 am]

BILLING CODE 4915–01–P

SURFACE TRANSPORTATION BOARD

30-Day Notice of Intent To Seek Extension of Approval: Information Collection Activities (Report of Fuel Cost, Consumption, and Surcharge Revenue)

AGENCY: Surface Transportation Board.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act of 1995 (PRA), the Surface Transportation Board (STB or Board) gives notice that it is requesting from the Office of Management and Budget (OMB) an extension of approval for the collection of the Report of Fuel Cost, Consumption, and Surcharge Revenue. The Board previously published a notice about this collection in the **Federal Register** on March 8, 2017. That notice allowed for a 60-day public review and comment period. No comments were received.

DATES: Comments on this information collection should be submitted by June 22, 2017.

ADDRESSES: Written comments should be identified as ''Paperwork Reduction Act Comments, Surface Transportation Board: Report of Fuel Cost, Consumption, and Surcharge Revenue.'' These comments should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Chad Lallemand, Surface Transportation Board Desk Officer, by email at *oira_submission@omb.eop.gov*; by fax at (202) 395–6974; or by mail to Room 10235, 725 17th Street NW., Washington, DC 20503. Please also direct comments to Chris Oehrle, PRA Officer, Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001, or to *pra@stb.gov.*

FOR FURTHER INFORMATION CONTACT: For further information regarding this collection, contact Pedro Ramirez at (202) 245–0333 or at *pedro.ramirez@stb.gov*. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: For each collection, comments are requested concerning: (1) The accuracy of the Board's burden estimates; (2) ways to enhance the quality, utility, and clarity of the information collected; (3) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology, when appropriate; and (4) whether the collection of information is necessary for the proper performance of the functions of the Board, including whether the collection has practical utility. Submitted comments will be summarized and included in the Board's request for OMB approval.

Description of Collection

Title: Report of Fuel Cost, Consumption, and Surcharge Revenue 49 CFR 1243.3.

OMB Control Number: 2140–0014.

STB Form Number: None.

Type of Review: Extension without change.

Respondents: Class I railroads (carriers having revenues more than 250 million dollars in 1991 dollars).

Number of Respondents: Seven.

Estimated Time per Response: One hour.

Frequency: Quarterly.

Total Burden Hours (annually including all respondents): 28.

Total ''*Non-hour Burden*'' *Cost:* None identified.

Needs and Uses: Under 49 U.S.C. 10702, the Board has the authority to

[1] Although UP states in its verified notice that the proposed consummation date of this transaction is June 19, 2017, this transaction cannot be consummated until June 21, 2017 (50 days from its filing date). 49 CFR 1152.50(d)(2).

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,700. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, interim trail use/rail banking and public use conditions are not appropriate. Because there will be an environmental review during abandonment, this discontinuance does not require an environmental review.

address the reasonableness of a rail carrier's practices. This information collection brings transparency to the use of fuel surcharges by Class I carriers and permits the Board to monitor this practice. Under 49 CFR 1243.3, the Board monitors the current fuel surcharge practices of Class I carriers in order to provide an overall picture of the use of fuel surcharges and bring some transparency to the use of fuel surcharges by rail carriers. Failure to collect this information would impede the Board's ability to fulfill its statutory responsibilities. The Board has authority to collect information about rail costs and revenues under 49 U.S.C. 11144 and 11145.

Under the PRA, 44 U.S.C. 3501–3521, a federal agency that conducts or sponsors a collection of information must display a currently valid OMB control number. A collection of information, which is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c), includes agency requirements that persons submit reports, keep records, or provide information to the agency, third parties, or the public. Section 3507(b) of the PRA requires, concurrent with an agency's submitting a collection to OMB for approval, a 30-day notice and comment period through publication in the **Federal Register** concerning each proposed collection of information.

Dated: May 17, 2017.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–10419 Filed 5–22–17; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request for Comments on Negotiating Objectives Regarding Modernization of the North American Free Trade Agreement With Canada and Mexico

AGENCY: Office of the United States Trade Representative.

ACTION: Request for comments and notice of public hearing.

SUMMARY: The United States intends to commence negotiations with Canada and Mexico regarding modernization of the North American Free Trade Agreement (NAFTA). The NAFTA was negotiated more than 25 years ago, and, while our economy and U.S. businesses have changed considerably over that period, NAFTA has not. The United States seeks to support higher-paying jobs in the United States and to grow the U.S. economy by improving U.S. opportunities under NAFTA. Our specific objectives for this negotiation will comply with the specific objectives set forth by Congress in section 102 of the Bipartisan Congressional Trade Priorities and Accountability Act of 2015. The Office of the United States Trade Representative (USTR) is seeking public comments on matters relevant to the modernization of NAFTA in order to inform development of U.S. negotiating positions.

DATES: If you want to testify at the hearing, you must provide written notification and a summary of your testimony by Monday, June 12, 2017. Written comments also are due by Monday, June 12, 2017. A hearing will be held at 9 a.m. in the Main Hearing Room of the United States International Trade Commission, 500 E Street SW., Washington, DC 20436, on Tuesday, June 27, 2017.

ADDRESSES: You should submit notifications of intent to testify and written comments through the Federal eRulemaking Portal: *http://www.regulations.gov.* Follow the instructions for submitting comments in part 3 below. For alternatives to on-line submissions, please contact Yvonne Jamison, Trade Policy Staff Committee, at (202) 395–3475.

FOR FURTHER INFORMATION CONTACT: For procedural questions concerning written comments or participation in the public hearing, contact Yvonne Jamison at (202) 395–3475. Direct all other questions regarding this notice to Daniel Watson, Deputy Assistant United States Trade Representative for North America, at (202) 395–9587.

SUPPLEMENTARY INFORMATION:

1. Background

The United States commenced bilateral trade negotiations with Canada more than 30 years ago, resulting in the U.S.-Canada Free Trade Agreement, which entered into force on January 1, 1989. In 1991, bilateral talks began with Mexico, which Canada joined. The NAFTA followed, entering into force on January 1, 1994. Tariffs were eliminated progressively and all duties and quantitative restrictions, with the exception of those on a limited number of agricultural products traded with Canada, were eliminated by 2008. NAFTA also includes chapters covering rules of origin, customs procedures, agriculture and sanitary and phytosanitary measures, government procurement, investment, trade in services, protection of intellectual property rights, and dispute settlement procedures. For the full NAFTA text, please see *https://www.nafta-sec-alena.org/Home/Texts-of-the-Agreement/North-American-Free-Trade-Agreement.*

On May 18, 2017, following consultations with relevant Congressional committees, the U.S. Trade Representative informed Congress that the President intends to commence negotiations with Canada and Mexico with respect to the NAFTA.

2. Public Comment and Hearing

To assist USTR as it develops its negotiating objectives and positions for the agreement, the Trade Policy Staff Committee (TPSC) invites interested persons to submit comments and/or oral testimony at a public hearing on matters relevant to the modernization of the NAFTA. In particular, the TPSC invites comments addressed to:

(a) General and product-specific negotiating objectives for Canada and Mexico in the context of a NAFTA modernization.

(b) Economic costs and benefits to U.S. producers and consumers of removal of any remaining tariffs and removal or reduction of non-tariff barriers on articles traded with Canada and Mexico.

(c) Treatment of specific goods (described by HTSUS numbers), including comments on—

(1) Product-specific import or export interests or barriers,

(2) Experience with particular measures that should be addressed in negotiations, and

(3) Addressing any remaining tariffs on articles traded with Canada, including ways to address export priorities and import sensitivities related to Canada and Mexico in the context of the NAFTA.

(d) Customs and trade facilitation issues that should be addressed in the negotiations.

(e) Appropriate modifications to rules of origin or origin procedures for NAFTA qualifying goods.

(f) Any unwarranted sanitary and phytosanitary measures and technical barriers to trade imposed by Canada and Mexico that should be addressed in the negotiations.

(g) Relevant barriers to trade in services between the United States and Canada and Mexico that should be addressed in the negotiations.

(h) Relevant digital trade issues that should be addressed in the negotiations.

(i) Relevant trade-related intellectual property rights issues that should be addressed in the negotiations.

(j) Relevant investment issues that should be addressed in the negotiations.

(k) Relevant competition-related matters that should be addressed in the negotiations.

(l) Relevant government procurement issues that should be addressed in the negotiations.

(m) Relevant environmental issues that should be addressed in the negotiations.

(n) Relevant labor issues that should be addressed in the negotiations.

(o) Issues of particular relevance to small and medium-sized businesses that should be addressed in the negotiations.

(p) Relevant trade remedy issues that should be addressed in the negotiations.

(q) Relevant state-owned enterprise issues that should be addressed in the negotiations.

USTR must receive written comments no later than Monday, June 12, 2017.

A hearing will be held on Tuesday, June 27, 2017 at 9:00 a.m., in the Main Hearing Room at the U.S. International Trade Commission, 500 E St. SW., Washington, DC 20436. If necessary, the hearing will continue on the next business day. Persons wishing to testify orally at the hearing must provide written notification of their intention by Monday, June 12, 2017. The intent to testify notification must be made in the ''Type Comment'' field under docket number USTR–2017–0006 on the *regulations.gov* Web site and should include the name, address and telephone number of the person presenting the testimony. You should attach a summary of the testimony by using the ''Upload File'' field. The name of the file also should include who will be presenting the testimony. Remarks at the hearing should be limited to no more than five minutes to allow for possible questions from the TPSC.

You should submit all documents in accordance with the instructions in section 3 below.

3. Requirements for Submissions

Persons submitting a notification of intent to testify and/or written comments must do so in English and must identify (on the first page of the submission) ''NAFTA Negotiations.''

In order to ensure the timely receipt and consideration of comments, USTR strongly encourages commenters to make on-line submissions, using the *www.regulations.gov* Web site. To submit comments via *www.regulations.gov,* enter docket number USTR–2017–0006 on the home page and click ''search.'' The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice and click on the link entitled ''Comment Now!'' (For further information on using the *www.regulations.gov* Web site, please consult the resources provided on the Web site by clicking on ''How to Use This Site'' on the left side of the home page.)

The *www.regulations.gov* Web site allows users to provide comments by filling in a ''Type Comment'' field, or by attaching a document using an ''Upload File'' field. USTR prefers that comments be provided in an attached document. If a document is attached, it is sufficient to type ''See attached'' in the ''Type Comment'' field. USTR prefers submissions in Microsoft Word (.doc) or Adobe Acrobat (.pdf). If the submission is in a different application, please indicate the name of the application in the ''Type Comment'' field.

For any comments submitted electronically containing business confidential information, the file name of the business confidential version should begin with the characters ''BC.'' Any page containing business confidential information must be clearly marked ''BUSINESS CONFIDENTIAL'' on the top of that page. Filers of submissions containing business confidential information must also submit a public version of their comments. The file name of the public version should begin with the character ''P.'' The ''BC'' and ''P'' should be followed by the name of the person or entity submitting the comments. Filers submitting comments containing no business confidential information should name their file using the name of the person or entity submitting the comments.

Please do not attach separate cover letters to electronic submissions; rather, include any information that might appear in a cover letter in the comments themselves. Similarly, to the extent possible, please include any exhibits, annexes, or other attachments in the same file as the submission itself, not as separate files.

As noted above, USTR strongly urges submitters to file comments through *www.regulations.gov.* Any alternative arrangements must be made with Yvonne Jamison in advance of transmitting the comments. You can contact Ms. Jamison at (202) 395–3475. General information concerning USTR is available at *www.ustr.gov.*

Comments will be placed in the docket and open to public inspection, except business confidential information. Comments may be viewed on the *www.regulations.gov* Web site by entering the relevant docket number in the search field on the home page.

Edward Gresser,

Chair of the Trade Policy Staff Committee, Office of the United States Trade Representative.

[FR Doc. 2017–10603 Filed 5–22–17; 8:45 am]

BILLING CODE 3290–F7–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Request To Release Airport Property Release at the Mobile Regional Airport, Mobile, Alabama

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent to rule on land release request.

SUMMARY: The FAA is considering a request from the Mobile Airport Authority to release 5.38± acres of non-aeronautical airport property located at the Mobile Regional Airport in Mobile, Alabama, to be sold to the County of Mobile.

DATES: Comments must be received on or before June 22, 2017.

ADDRESSES: Comments on this notice may be mailed or delivered in triplicate to the FAA to the following address: Jackson Airports District Office, Attn: Kevin Morgan, Program Manager, 100 West Cross Street, Suite B, Jackson, MS 39208–2307.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Jennifer F. Shearer, C.M., Director of Aviation, P.O. Box 88004, 8400 Airport Blvd., Mobile, AL 36608–0004.

FOR FURTHER INFORMATION CONTACT: Kevin Morgan, Program Manager, Jackson Airports District Office, 100 West Cross Street, Suite B, Jackson, MS 39208–2307, (601) 664–9891. The land release request may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by Mobile Airport Authority to release 5.38 acres of property at the Mobile Regional Airport under the provisions of Title 49, U.S.C. Section 47107(h). The property will be purchased by County of Mobile for right-of-way acquisition project to widen Tanner Williams Road. The property is adjacent to Tanner Williams Road on the northwest portion of airport property consisting of seventeen different partial parcels totaling 5.38 acres. The net proceeds from the sale of this property will be used for eligible

airport improvement projects at the Mobile Regional Airport.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Mobile Regional Airport (MOB).

Issued in Jackson, Mississippi on May 16, 2017.

Rans D. Black,

Manager, Jackson Airports District Office, Southern Region.

[FR Doc. 2017–10561 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on Surplus Property Release at Greenville SCTAC Airport, Greenville, South Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: Notice is being given that the Federal Aviation Administration (FAA) is considering a request from the City and County of Greenville to waive the requirement that one parcel (1.35 acres) of surplus property, located at the Greenville SCTAC Airport be used for aeronautical purposes. Currently, ownership of the property provides for protection of FAR Part 77 surfaces and compatible land use which would continue to be protected with deed restrictions required in the transfer of land ownership.

DATES: Comments must be received on or before June 22, 2017.

ADDRESSES: Documents are available for review by prior appointment at the following location:

Atlanta Airports District Office, Attn: Anna Lynch, Program Manager, 1701 Columbia Ave., Room 220, College Park, Georgia 30337–2747, Telephone: (404) 305–6746.

Comments on this notice may be mailed or delivered in triplicate to the FAA at the following address:

Atlanta Airports District Office, Attn: Anna Lynch, Program Manager, 1701 Columbia Ave., Room 220, College Park, Georgia 30337–2747.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Danny Moyd, Director of Properties, SCTAC at the following address:

South Carolina Technology & Aviation Center SCTAC, 2 Exchange Street, Greenville, South Carolina 29605.

FOR FURTHER INFORMATION CONTACT: Anna Lynch, Program Manager, Atlanta Airports District Office, 1701 Columbia Ave., Room 220, College Park, Georgia 30337–2747, (404) 305–6746. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA is reviewing a request by the City and County of Greenville to release one parcel of surplus property (1.35 acres) at the Greenville SCTAC Airport. The parcel was originally conveyed to the City and County of Greenville on January 1964 under the powers and authority contained in the provisions of the Surplus Property Act of 1944. The surplus property will become the site of an expansion of an existing manufacturing facility.

Any person may inspect the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**. In addition, any person may, upon request, inspect the request, notice and other documents germane to the request in person at the Greenville SCTAC Airport.

Issued in Atlanta, Georgia, on May 15, 2017.

Larry F. Clark,

Manager, Atlanta Airports District Office, Southern Region.

[FR Doc. 2017–10447 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Land Use Change and Release of Grant Assurance Restrictions at the Reid Hill View Airport and San Martin Airport, Santa Clara County, California

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of a non-aeronautical land-use change.

SUMMARY: The Federal Aviation Administration (FAA) proposes to rule and invites public comment on the application for a land-use change for approximately 2.7 acres of airport property at Reid Hill View Airport, and approximately 2.999 acres at San Martin Airport, Santa Clara County, California. The land use change will allow a partial release of airport land from the aeronautical use provisions of the Grant Assurances that require it to serve an airport purposes since the land is not needed for aeronautical uses. The land for partial release is 2.7 acres of a 55.09 acre parcel at Reid Hill View Airport and is currently vacant. The land for partial release is 2.999 acres of a 63.79 acre parcel at San Martin Airport and is also currently vacant. Solar systems will be placed on the leased parcels to generate clean renewable energy for Santa Clara County. In return, fair market value rent will be paid as lease revenue at both airports. This project will serve the interest of civil aviation by contributing to the self-sustainability of the two airports.

DATES: Comments must be received on or before June 22, 2017.

FOR FURTHER INFORMATION CONTACT: Comments on the request may be mailed or delivered to the FAA at the following address: Mr. James W. Lomen, Manager, Federal Aviation Administration, San Francisco Airports District Office, **Federal Register** Comment, 1000 Marina Boulevard, Suite 220, Brisbane, CA 94005. In addition, one copy of the comment submitted to the FAA must be mailed or delivered to Mr. Lin Ortega, Utilities Engineer Program Manager, 2310 N. 1st Street, Suite 200, San Jose, California 95131.

SUPPLEMENTARY INFORMATION: In accordance with the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century (AIR 21), Public Law 106–181 (Apr. 5, 2000; 114 Stat. 61), this notice must be published in the **Federal Register** 30 days before the Secretary may waive any condition imposed on a federally obligated airport by surplus property conveyance deeds or grant agreements.

The following is a brief overview of the request:

The County of Santa Clara, California requested a modification to the conditions in the Grant Assurances to permit a partial release of 2.7 acres of a 55.09 acre parcel at Reid Hill View Airport and 2.999 acres of a 63.79 acre parcel at San Martin Airport for the construction, maintenance, and operation of two proposed solar PV (photovoltaic) systems. The release will allow the affected airport land to be used for a non-aeronautical purpose. Fair market value lease revenue will be paid on an annual basis at both airports. This project will serve the interest of civil aviation by making the airports as self-sustaining as possible.

Issued in Brisbane, California, on May 16, 2017.

James W. Lomen,

Manager, San Francisco Airports District Office, Western-Pacific Region.

[FR Doc. 2017–10567 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Transportation Project in Washington State

AGENCY: Federal Highway Administration (FHWA), Department of Transportation (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 agencies related to the Index-Galena Road, Milepost 6.4 to 6.9 project in Snohomish County, Washington, that are final. Project sponsor: Snohomish County. Project description: The project will repair this flood-damaged roadway. It would construct a relocated roadway that will extend from an area in proximity to the lower washout at Index-Galena Road Milepost 6.4 to an area in proximity to the upper washout at Milepost 6.9. The relocated roadway will re-establish roadway connectivity on Index-Galena Road for residences, emergency service providers, recreationists, and land managed by the U. S. Forest Service. The U.S. Forest Service is a Cooperating Agency on this project.

DATES: A claim seeking judicial review of the Federal agency actions on the listed highway project will be barred unless the claim is filed on or before October 20, 2017. If the Federal law that authorizes judicial review of a claim provides a time period of less than 150 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: For FHWA, contact Jeff Horton, Area Engineer, Washington Division, Federal Highway Administration, 711 S. Capitol Way, Suite 501, Olympia, WA 98501–1284, 360–753–9411, or *jeff.horton@dot.gov.* Regular office hours are from 8:00 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays. Further information and documentation can be found at *http://snohomishcountywa.gov/624/Index-Galena-Rd-MP-64-69-Index-TBD.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency actions within the meaning of 23 U.S.C. 139*(l)*(1) by issuing a NEPA Finding of No Significant Impact for the Index-Galena Road, Milepost 6.4 to Milepost 6.9 project. The Environmental Assessment (EA) for the project was signed on September 6, 2016. This notice applies to all Federal agency decisions, actions, approvals, licenses, and permits made as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4370h]
2. Federal-Aid Highway Act [23 U.S.C. 109]
3. Clean Air Act [42 U.S.C. 7401–7671(q)] (transportation conformity)
4. Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]
5. Fish and Wildlife Coordination Act [16 U.S.C. 661–667(e)]
6. Magnuson-Stevens Fishery Conservation and Management Act of 1976, [16 U.S.C. 1801–1882]
7. Section 106 of the National Historic Preservation Act of 1966, as amended [54 U.S.C. 306108]
8. Clean Water Act, 33 U.S.C. 1251–1387 (Section 404, Section 401)
9. General Bridge Act of 1946 [33 U.S.C. 525–533]
10. National Forest Management Act of 1976 [16 U.S.C. 1601–1610]
11. E.O. 11990 Protection of Wetlands
12. E.O. 11988 Floodplain Management
13. E.O. 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations

Authority: 23 U.S.C. 139(*l*)(1)

Issued on: May 9, 2017.

Daniel M. Mathis,

FHWA Division Administrator, Olympia, WA.

[FR Doc. 2017–10261 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2002–13411; FMCSA–2003–14223; FMCSA–2004–18885; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0231; FMCSA–2008–0292; FMCSA–2008–0340; FMCSA–2008–0398; FMCSA–2010–0161; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2010–0354; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2010–0413; FMCSA–2011–0010; FMCSA–2012–0106; FMCSA–2012–0161; FMCSA–2012–0215; FMCSA–2012–0280; FMCSA–2012–0337; FMCSA–2012–0338; FMCSA–2013–0021; FMCSA–2013–0022; FMCSA–2013–0023; FMCSA–2014–0003; FMCSA–2014–0006; FMCSA–2014–0011; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2014–0300; FMCSA–2014–0301; FMCSA–2014–0302; FMCSA–2014–0304]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions for 126 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) for interstate commercial motor vehicle (CMV) drivers. The exemptions enable these individuals to continue to operate CMVs in interstate commerce without meeting the vision requirement in one eye.

DATES: Each group of renewed exemptions was effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or

comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On March 27, 2017, FMCSA published a notice announcing its decision to renew exemptions for 126 individuals from the vision requirement in 49 CFR 391.41(b)(10) to operate a CMV in interstate commerce and requested comments from the public (82 FR 15277). The public comment period ended on April 26, 2017, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(10).

The physical qualification standard for drivers regarding vision found in 49 CFR 391.41(b)(10) states that a person is physically qualified to driver a CMV if that person:

> Has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber.

III. Discussion of Comments

FMCSA received no comments in this preceding.

VI. Conclusion

As of April 1, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 49 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (65 FR 66286; 66 FR 13824; 67 FR 68719; 67 FR 76439; 68 FR 2629; 68 FR 10298; 68 FR 13360; 69 FR 53493; 69 FR 62742; 69 FR 71100; 70 FR 2701; 70 FR 7545; 70 FR 12265; 70 FR 16887; 71 FR 62148; 71 FR 63379; 72 FR 180; 72 FR 1051; 72 FR 1053; 72 FR 7812; 72 FR 9397; 72 FR 11425; 72 FR 11426; 73 FR 46973; 73 FR 54888; 73 FR 61922; 73 FR 61925; 73 FR 74565; 73 FR 75803; 73 FR 76440; 73 FR 78423; 74 FR 6209; 74 FR 6211; 74 FR 6689; 74 FR 8302; 74 FR 8842; 75 FR 39725; 79 FR 59327; 75 FR 61833; 75 FR 64396; 75 FR 69737; 75 FR 72863; 75 FR 77942; 75 FR 77949; 75 FR 79083; 75 FR 80887; 76 FR 1493; 76 FR 1499; 76 FR 2190; 76 FR 5425; 76 FR 8809; 76 FR 9859; 76 FR 9865; 76 FR 12215; 76 FR 12216; 76 FR 12406; 77 FR 33017; 77 FR 41879; 77 FR 44708; 77 FR 52381; 77 FR 52391; 77 FR 56262; 77 FR 64582; 77 FR 64839; 77 FR 64841; 77 FR 68202; 77 FR 70534; 77 FR 74273; 77 FR 74731; 77 FR 74733; 77 FR 74734; 77 FR 75494; 77 FR 76167; 78 FR 8689; 78 FR 9772; 78 FR 10250; 78 FR 10250; 78 FR 11731; 78 FR 12811; 78 FR 12813; 78 FR 12822; 78 FR 14410; 79 FR 14571; 79 FR 56099; 79 FR 56104; 79 FR 58856; 79 FR 59357; 79 FR 65759; 79 FR 65760; 79 FR 69985; 79 FR 70928; 79 FR 72754; 79 FR 73393; 79 FR 73686; 79 FR 73687; 79 FR 74168; 80 FR 2473; 80 FR 3308; 80 FR 3723; 80 FR 6162; 80 FR 7678; 80 FR 7679; 80 FR 8751; 80 FR 8927; 80 FR 9304; 80 FR 12254; 80 FR 15859; 80 FR 18693; 80 FR 20562):

David B. Albers, Sr. (UT)
Sava A. Andjelich (IN)
Kreis C. Baldridge (TN)
Robert W. Blankenship (CA)
John R. Bohman (OH)
Dale A. Braton (MN)
Wilfred J. Brinkman (OH)
Ricky D. Cain (NM)
Balwinder S. Chatha (CA)
Cody W. Cook (OK)
Jose G. Cruz Romero (TX)
Dewayne L. Cunningham (IL)
Joseph A. Dean (AR)
Michael L. Dean (MI)
Michael A. Fouch (NJ)
Steven C. Fox (NC)
Wilfred J. Gagnon (VT)
Anthony A. Gibson (IL)
Kenneth L. Handy (IA)
Jerome A. Henderson (VA)
Andrew F. Hill (TX)
Arlan T. Hrubes (TX)
Thomas J. Ivins (FL)
Daniel L. Jacobs (AZ)
Jason P. Jones (IN)
Scott A. Lambertson (MN)
Bryon K. Lavender (OH)
Jose M. Limon-Alvarado (WA)
Carl A. Lohrbach (OH)
James W. Long (AR)
Victor M. McCants (AL)
Duffy P. Metrejean, Jr. (LA)
James G. Mitchell (AL)
Jason N. Moore (VA)
Robert A. Moss (MO)
Jay C. Naccarato (WA)
William K. Otwell (LA)
Michael J. Paul (LA)
Walter B. Peltier (AZ)
Dennis W. Pevey (GA)
Reginald I. Powell (I)
Charles E. Queen (OH)
Andrew H. Rusk (IL)
Gerald E. Skalitzky (WI)
Dennis J. Smith (CO)
Karl H. Strangfeld (UT)
Artis Suitt (NC)
Donald L. Weston (PA)
Henry P. Wurtz (SD)

The drivers were included in one of the following docket Nos: FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2002–13411; FMCSA–2004–18885; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2006–26066; FMCSA–2008–0231; FMCSA–2008–0292; FMCSA–2008–0340; FMCSA–2010–0161; FMCSA–2010–0287; FMCSA–2010–0354; FMCSA–2010–0385; FMCSA–2010–0413; FMCSA–2012–0106; FMCSA–2012–0161; FMCSA–2012–0215; FMCSA–2012–0280; FMCSA–2012–0337; FMCSA–2012–0338; FMCSA–2014–0003; FMCSA–2014–0006; FMCSA–2014–0011; FMCSA–2014–0296; FMCSA–2014–0298; FMCSA–2014–0300; FMCSA–2014–0301. Their exemptions are effective as of April 1, 2017, and will expire on April 1, 2019.

As of April 4, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 3 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (78 FR 10251; 78 FR 20379; 80 FR 12251):

Michael L. Bergman (KS)
Efrain Gonzalez (UT)
Daniel E. Nestel (IN)

The drivers were included in docket No. FMCSA–2013–0021. Their exemptions are effective as of April 4, 2017, and will expire on April 4, 2019.

As of April 5, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 3 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (63 FR 66226; 64 FR 16517; 65 FR 20245; 65 FR 57230; 66 FR 17994; 67 FR 57266; 68 FR 15037; 69 FR 52741; 70 FR 2701; 70 FR 14747; 70 FR 16887; 72 FR 12665; 74 FR 9329; 76 FR 15360; 78 FR 16035; 80 FR 13070):

Richard D. Carlson (MN)
Donald P. Dodson, Jr. (WV)
Ralph A. Thompson (KY)

The drivers were included in one of the following docket Nos: FMCSA–1998–4334; FMCSA–2000–7006; FMCSA–2005–20027. Their exemptions are effective as of April 5, 2017, and will expire on April 5, 2019.

As of April 6, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 6 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (74 FR 7097; 74 FR 15584; 76 FR 15361; 78 FR 16761; 80 FR 12547):

Michael L. Ayers (AL)
Paul V. Daluisio (NY)
Darrel R. Martin (MD)
Pahl M. Olson (WI)
James E. Russell (AZ)
Forrest L. Wright (AL)

The drivers were included in docket No. FMCSA–2008–0398. Their exemptions are effective as of April 6, 2017, and will expire on April 6, 2019.

As of April 7, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (80 FR 12248; 80 FR 29152):

Justin C. Bruchman (WI)
Bradley J. Compton (ID)
Anthony C. Curtis (WA)
Lloyd A. Dornbusch (PA)
Paul E. Emmons (RI)
Thomas P. Fitzsimmons (NC)
Steve L. Frisby (CA)
Daryl G. Gibson (FL)
Carl E. Hess (PA)
Alex D. McCrady (NH)
Paul C. Swanson (IL)

The drivers were included in docket No. FMCSA–2014–0302. Their exemptions are effective as of April 7, 2017, and will expire on April 7, 2019.

As of April 11, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (63 FR 66226; 64 FR 16517; 66 FR 17994; 68 FR 15037; 70 FR 14747; 72 FR 12665; 74 FR 9329; 75 FR 77492; 76 FR 1493; 76 FR 5425; 76 FR 7894; 76 FR 9856; 76 FR 12408; 76 FR 15360; 76 FR 20076; 76 FR 20078; 78 FR 12822; 78 FR 800; 78 FR 16762; 80 FR 15863):

Gary W. Balcom (MI)
Wesley M. Creamer (NM)
Bruce J. Greil (WI)
Charles R. Hoeppner (MD)
Paul J. Jones (NY)
Lester H. Killingsworth (TX)
Stephanie D. Klang (MO)
Pedro G. Limon (TX)
Kenneth H. Morris (NC)
Donald R. Pointer (CO)
Larry D. Robinson (MO)
George D. Ruth (PA)
Bobby Sawyers (PA)

The drivers were included in one of the following docket Nos: FMCSA–1998–4334; FMCSA–2010–0372; FMCSA–2010–0385; FMCSA–2010–0413; FMCSA–2011–0010. Their exemptions are effective as of April 11, 2017, and will expire on April 11, 2019.

As of April 16, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 5 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (78 FR 12815; 78 FR 22602; 80 FR 14220):

Terry R. Hunt (FL)
James P. O'Berry (GA)
Larry B. Peterson (AR)
Franklin P. Reigle II (MD)
Scott Wallbank (MA)

The drivers were included in docket No. FMCSA–2013–0022. Their exemptions are effective as of April 16, 2017, and will expire on April 16, 2019.

As of April 18, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 20 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (80 FR 14223; 80 FR 33011):

Dakota A. Albrecht (MN)
Randy A. Cimei (IL)
David E. Crane (OH)
Ronald A. Doyle (NY)
Darin T. Eubank (VA)
Phillip E. Fitzpatrick (NM)
Lucien W. Foote (NH)
Jimmy F. Garrett (AR)
Odus P. Gautney (TX)
Dale R. Goodell (SD)
Ronald J. Gruszecki (IL)
Alan L. Helfer (IL)
William F. Laforce (VT)
Robert N. Lewis (OH)
Elmer Y. Mendoza (VA)
Andrew M. Miller (IA)
J.W. Peebles (TN)
John R. Ropp (IL)
Nelson J. Stokke (CA)
Darwin L. Stuart (IL)

The drivers were included in docket No. FMCSA–2014–0304. Their exemptions are effective as of April 18, 2017, and will expire on April 18, 2019.

As of April 21, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 14 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (65 FR 66286; 66 FR 13825; 67 FR 68719; 68 FR 2629; 68 FR 10300; 68 FR 10301; 68 FR 19596; 70 FR 2701; 70 FR 7546; 70 FR 14747; 70 FR 16886; 70 FR 16887; 72 FR 180; 72 FR 7111; 72 FR 9397; 72 FR 11425; 72 FR 18726; 74 FR 7097; 74 FR 11991; 74 FR 15584; 75 FR 47883; 75 FR 63257; 75 FR 69737; 76 FR 1499; 76 FR 7894; 76 FR 15361; 76 FR 17483; 76 FR 20078; 77 FR 60010; 78 FR 128152; 78 FR 16761; 78 FR 18667; 78 FR 22602; 80 FR 16500):

Rodger B. Anders (MD)
John D. Bolding, Jr. (OK)
David B. Bowman (PA)
Michael P. Curtin (IL)
James G. Etheridge (TX)
Michael E. Herrera, Jr. (NM)
Michael R. Holmes (SD)
James R. Petre (MD)
Zeljko Popovac (VT)
Jerald W. Rehnke (MN)
James R. Rieck (CA)
Richie J. Schwendy (IL)
Janusz Tyrpien (FL)
Charles F. Wotring (OH)

The drivers were included in one of the following docket Nos: FMCSA–2000–7918; FMCSA–2002–12844; FMCSA–2003–14223; FMCSA–2005–20027; FMCSA–2006–25246; FMCSA–2008–0398; FMCSA–2010–0187; FMCSA–2010–0287; FMCSA–2010–0372; FMCSA–2013–0022. Their exemptions are effective as of April 21, 2017, and will expire on April 21, 2019.

As of April 24, 2017, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 2 individuals have satisfied the conditions for obtaining a renewed exemption from the vision requirements (78 FR 14405; 78 FR 24296; 80 FR 16509):

David Doub (IN)
Gale L. Smith (PA)

The drivers were included in docket No. FMCSA–2013–0023. Their exemptions are effective as of April 24, 2017, and will expire on April 24, 2019.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: May 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–10566 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2012–0032]

Commercial Driver's License Standards: Application for Exemption; Daimler Trucks North America (Daimler)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition; grant of application for exemption.

SUMMARY: FMCSA announces its decision to grant an exemption to Daimler Trucks North America (Daimler) for one of its commercial motor vehicle (CMV) drivers. Daimler requested a 5-year exemption from the Federal requirement to hold a U.S. commercial driver's license (CDL) for Mr. Kai Zeuner, a project engineer for the Daimler Trucks and Bus Division. Mr. Zeuner holds a valid German commercial license and wants to test-drive Daimler vehicles on U.S. roads to better understand product requirements for these systems in ''real world'' environments, and verify results. Daimler believes the requirements for a German commercial license ensure that holders of the license will likely achieve a level of safety equal to or greater than that of drivers who hold a U.S. State-issued CDL.

DATES: This exemption is effective May 23, 2017 and expires May 23, 2022.

ADDRESSES:

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614–942–6477. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to *www.regulations.gov* and insert the docket number, ''FMCSA–2012–0032 in the ''Keyword'' box and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document to review. If you do not have access to the Internet, you may view the docket online by visiting the Docket Management Facility in Room W12–140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from the Federal Motor Carrier Safety Regulations. FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews the safety analyses and the public comments, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reason for the grant or denial, and, if granted, the specific person or class of persons receiving the exemption, and the regulatory provision or provisions from which exemption is granted. The notice must also specify the effective period of the exemption (up to 5 years), and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

Request for Exemption

On behalf of Mr. Kai Zeuner, Daimler has applied for a 5-year exemption from 49 CFR 383.23, which prescribes licensing requirements for drivers operating CMVs in interstate or intrastate commerce. Mr. Zeuner is unable to obtain a CDL in any of the States due to his lack of residency in the United States. A copy of the application is in Docket No. FMCSA–2012–0032.

The exemption would allow Mr. Zeuner to operate CMVs in interstate or intrastate commerce to support Daimler field tests designed to meet future vehicle safety and environmental requirements and to develop improved safety and emission technologies. Mr. Zeuner needs to drive Daimler vehicles on public roads to better understand ''real world'' environments in the U.S. market. According to Daimler, Mr. Zeuner will typically drive for no more than 6 hours per day for 2 consecutive days, and 10 percent of the test driving will be on two-lane State highways, while 90 percent will be on interstate highways. The driving will consist of no more than 200 miles per day, for a total of 400 miles during a two-day period on a quarterly basis. He will in all cases be accompanied by a holder of a U.S. CDL who is familiar with the routes to be traveled.

Mr. Zeuner would be required to comply with all applicable Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399) except the CDL provisions described in this notice.

Mr. Zeuner holds a valid German commercial license, and as explained by Daimler in its exemption request, the requirements for that license ensure that the same level of safety is met or exceeded as if this driver had a U.S. CDL. Furthermore, according to Daimler, Mr. Zeuner is familiar with the operation of CMVs worldwide.

IV. Method To Ensure an Equivalent or Greater Level of Safety

FMCSA has previously determined that the process for obtaining a German commercial license is comparable to, or as effective as, the requirements of part 383, and adequately assesses the driver's ability to operate CMVs in the U.S. Since 2012, FMCSA has granted Daimler drivers similar exemptions [May 25, 2012 (77 FR 31422); July 22, 2014 (79 FR 42626); March 27, 2015 (80 FR 16511); October 5, 2015 (80 FR 60220); December 7, 2015 (80 FR 76059); December 21, 2015 (80 FR 79410)].

V. Public Comments

On January 6, 2017, FMCSA published notice of this application and requested public comments (82 FR 1782). Two comments were submitted, which neither opposed nor supported the requested exemption.

VI. FMCSA Decision

Based upon the merits of this application, including Mr. Zeuner's

extensive driving experience and safety record, FMCSA has concluded that the exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption, in accordance with § 381.305(a).

VII. Terms and Conditions for the Exemption

FMCSA grants Daimler and Kai Zeuner an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Zeuner to drive CMVs in this country without a U.S. State-issued CDL, subject to the following terms and conditions: (1) The driver and carrier must comply with all other applicable provisions of the FMCSRs (49 CFR parts 350–399); (2) the driver must be in possession of the exemption document and a valid German commercial license; (3) the driver must be employed by and operate the CMV within the scope of his duties for Daimler; (4) at all times while operating a CMV under this exemption, the driver must be accompanied by a holder of a U.S. CDL who is familiar with the routes traveled; (5) Daimler must notify FMCSA in writing within 5 business days of any accident, as defined in 49 CFR 390.5, involving this driver; and (6) Daimler must notify FMCSA in writing if this driver is convicted of a disqualifying offense under § 383.51 or § 391.15 of the FMCSRs.

In accordance with 49 U.S.C. 31315 and 31136(e), the exemption will be valid for 5 years unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Zeuner fails to comply with the terms and conditions of the exemption; (2) the exemption results in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would be inconsistent with the goals and objectives of 49 U.S.C. 31315 and 31136.

VIII. Preemption

In accordance with 49 U.S.C. 31315(d), as implemented by 49 CFR 381.600, during the period this exemption is in effect, no State shall enforce any law or regulation applicable to interstate or intrastate commerce that conflicts with or is inconsistent with this exemption with respect to a firm or person operating under the exemption.

Issued on: May 17, 2017.

Daphne Y. Jefferson,

Deputy Administrator.

[FR Doc. 2017–10554 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–2575; FMCSA–2011–0193; FMCSA–2011–0194; FMCSA–2013–0183; FMCSA–2013–0186; FMCSA–2013–0188; FMCSA–2013–0189]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to renew exemptions of 90 individuals from its prohibition in the Federal Motor Carrier Safety Regulations (FMCSRs) against persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions enable these individuals with ITDM to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions was effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8 a.m. to 5:30 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On November 6, 2015, FMCSA published a notice announcing its decision to renew exemptions for 90 individuals from the insulin-treated diabetes mellitus prohibition in 49 CFR 391.41(b)(3) to operate a CMV in interstate commerce and requested comments from the public (80 FR 68895). The public comment period ended on December 7, 2015, and no comments were received.

As stated in the previous notice, FMCSA has evaluated the eligibility of these applicants and determined that renewing these exemptions would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(3).

The physical qualification standard for drivers regarding diabetes found in 49 CFR 391.41(b)(3) states that a person is physically qualified to drive a CMV if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control.

III. Discussion of Comments

FMCSA received no comments in this preceding.

IV. Conclusion

Based upon its evaluation of the 90 renewal exemption applications and that no comments were received, FMCSA confirms its' decision to exempt the following drivers from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce in 49 CFR 391.41(b)(3):

As of November 1, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 17 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 50482; 78 FR 65754; 80 FR 68895):

John K. Abels (IL)
Dean A. Bacon (IN)
Philip E. Banks (OH)
Anthony M. Bride (NJ)
Charles E. Dailey (AL)
Kenneth D. Denny (WA)
Adam M. Hogue (MS)
Allen D. LaFave (ND)
Greg P. Mason (NY)
Thomas D. Miller (MT)
Douglas A. Mulligan (KY)
David G. Peters (PA)
Robert J. Rispoli, Jr. (NY)

Mike P. Senn (MN)
Hames H. Suttles (AL)
Gregory F. Wendt (NE)
Michael J. Wickstrom (MI)

The drivers were included in docket No. FMCSA–2013–0183. Their exemptions are effective as of November 1, 2015, and will expire on November 1, 2017.

As of November 6, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, George J. Ehnot (PA) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (78 FR 56988; 78 FR 67459; 80 FR 68895).

This driver was included in docket No. FMCSA–2013–0186. The exemption is effective as of November 6, 2015, and will expire on November 6, 2017.

As of November 9, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 11 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 55460; 78 FR 69795; 80 FR 68895):

Mark A. Blanton (IN)
Howard T. Cash (IL)
Heath J. Chesser (AL)
Kevin F. Connacher (PA)
Darryl A. Daniels (OH)
Carrie L. Frisby (CA)
Dean M. Keeven (MI)
Christopher A. Labudde (IL)
Brian A. Mankowski (IL)
Robert E. Welling (OH)
Keith Weymouth (ME)

The drivers were included in docket No. FMCSA–2011–0193. Their exemptions are effective as of November 9, 2015, and will expire on November 9, 2017.

As of November 12, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 24 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (78 FR 56988; 78 FR 67459; 80 FR 68895):

Charles E. Andersen (MN)
Philip B. Blythe (IL)
Ryan T. Byndas (AZ)
Winfred G. Clemenson (WA)
Michael C. Crewse (IL)
James D. Crosson, Jr. (MN)
Bruce E. Feltenbarger (MI)
Charles A. Fleming (VA)
Brian W. Hannah (UT)
Michael P. Huck (MI)
Van K. Jarrett (KY)
Keith W. Lewis (MO)
Eugene M. Mikell (NH)
Ronny J. Moreau (NH)
James M. O'Rourke (MA)
Joshua T. Paumer (MT)
Vladimir B. Petkov (MO)
Luther S. Pickell (KS)
Robert J. Pulliam (AZ)
Andrew W. Sprester (ND)
Vincent J. Terrizzi, Sr. (PA)
Daniel C. Theis (FL)
Richard A. White (TN)
Mark A. Winning (IL)

The drivers were included in docket No. FMCSA–2013–0186. Their exemptions are effective as of November 12, 2015, and will expire on November 12, 2017.

As of November 16, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 13 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (76 FR 61140; 76 FR 71111; 80 FR 68895):

Mark D. Andersen (IA)
David A. Basher (MA)
Brian H. Berthiaume (VT)
Eric D. Blocker, Sr. (NC)
Berry W. Campbell (WI)
Raymond A. Jack (WA)
Quency T. Johnson (WI)
Kenny B. Keels, Jr. (SC)
Jason M. Pritchett (MI)
Steven R. Sibert (MN)
Cassie J. Silbernagel (SD)
Lewis B. Taylor (IL)
James A. Terilli (NY)

The drivers were included in docket No. FMCSA–2011–0194. Their exemptions are effective as of November 16, 2015, and will expire on November 16, 2017.

As of November 19, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, Marshall H. Evans (IL) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (76 FR 63280; 76 FR 76398; 80 FR 68895).

This driver was included in docket No. FMCSA–2013–0188. The exemption is effective as of November 19, 2015, and will expire on November 19, 2017.

As of November 20, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, the following 22 individuals have satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce (71 FR 58464; 71 FR 67201; 80 FR 68895):

John N. Anderson (MN)
Allan C. Boyum (MN)
Terry L. Brantley (NC)
Steven E. Brechting (MI)
Scott A. Carlson (WI)
Joseph L. Coggins (SC)
Stephanie D. Fry (WY)
Robert W. Gaultney, Jr. (MD)
Paul T. Kubish (WI)
David M. Levy (NY)
Sterling C. Madsen (UT)
David F. Morin (CA)
Jeffrey J. Morinelli (NE)
Ronald D. Murphy (WV)
Charles B. Page (PA)
John A. Remaklus (OH)
Michael D. Schooler (IN)
Arthur L. Stapleton, Jr. (OH)
Carolyn J. Taylor (IN)
Jeffrey M. Thew (WA)
Barney J. Wade (MS)
Dennis D. Wade (IL)

The drivers were included in docket No. FMCSA–2006–2575. Their exemptions are effective as of November 20, 2015, and will expire on November 20, 2017.

As of November 22, 2015, and in accordance with 49 U.S.C. 31136(e) and 31315, Steven R. Auger (NH) has satisfied the renewal conditions for obtaining an exemption from the rule prohibiting drivers with ITDM from driving CMVs in interstate commerce. (76 FR 63280; 76 FR 76398; 80 FR 68895).

This driver was included in docket No. FMCSA–2013–0188. The exemption is effective as of November 22, 2015, and will expire on November 22, 2017.

In accordance with 49 U.S.C. 31315, each exemption will be valid for two years from the effective date unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: May 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–10559 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2016–0315]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt eight individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were effective on May 5, 2017. The exemptions expire on May 5, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On March 16, 2017, FMCSA published a notice announcing receipt of applications from eight individuals requesting an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (82 FR 14104). The public comment period ended on April 17, 2017 and three comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

III. Discussion of Comments

FMCSA receive three comments in this proceeding. Two commenters provided support for granting these seizure exemptions. While a third anonymous commenter expressed concern for granting exemptions to individuals that have disorders which can result in unsafe driving. FMCSA evaluated the medical records of all eight applicants and determined that granting these exemptions would achieve an equivalent or greater level of safety than would be achieved without the exemption.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

In reaching the decision to grant these exemption requests, FMCSA considered the 2007 recommendations of the Agency's Medical Expert Panel (MEP). The January 15, 2013, **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to grant seizure exemptions.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA).

These eight applicants have been seizure-free over a range of 9 to 18 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

A summary of each applicant's seizure history was discussed in the March 16, 2017 **Federal Register** notice and will not be repeated in this notice.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

V. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

VI. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VII. Conclusion

Based upon its evaluation of the eight exemption applications, FMCSA exempts the following drivers from the epilepsy/seizure standard, 49 CFR 391.41(b)(8), subject to the requirements cited above:

Brian Justin Brown (PA)

Adam Cutler (ME)

Rick L. Gardener (WI)

Nathan J. Hanson (WI)

Larry Henington (UT)

Jason Speakman (IN)

Robert Lee Sprouse Jr. (VA)

Aaron M. Witt (NE)

In accordance with 49 U.S.C. 31315(b)(1), each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The individual fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: May 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–10560 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2016–0011]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt six individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to operate CMVs in interstate commerce.

DATES: The exemptions were effective on February 3, 2017. The exemptions will expire on February 3, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

You may see all the comments online through the Federal Document Management System (FDMS) at: *http://www.regulations.gov.*

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

II. Background

On December 29, 2016, FMCSA published a notice announcing receipt of applications from six individuals requesting an exemption from the epilepsy prohibition in 49 CFR 391.41(b)(8) and requested comments from the public (81 FR 96193). The public comment period ended on January 30, 2017, and no comments were received.

FMCSA has evaluated the eligibility of these applicants and determined that granting exemptions to these individuals would achieve a level of safety equivalent to or greater than the level that would be achieved by complying with the current regulation 49 CFR 391.41(b)(8).

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria [1] to assist medical examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section *H. Epilepsy: § 391.41(b)(8),* paragraphs 3, 4, and 5.]

III. Discussion of Comments

FMCSA received no comments in this proceeding.

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315(b), FMCSA may grant an exemption from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

In reaching the decision to grant these exemption requests, FMCSA considered the 2007 recommendations of the

[1] See *http://www.ecfr.gov/cgi-bin/text-idx?SID=e47b48a9ea42dd67d999246e23d97970&mc=true&node=pt49.5.391&rgn=div5#ap49.5.391_171.a* and *https://www.gpo.gov/fdsys/pkg/CFR-2015-title49-vol5/pdf/CFR-2015-title49-vol5-part391-appA.pdf.*

Agency's Medical Expert Panel (MEP). The January 15, 2013, **Federal Register** notice (78 FR 3069) provides the current MEP recommendations which is the criteria the Agency uses to grant seizure exemptions.

The Agency's decision regarding these exemption applications is based on an individualized assessment of each applicant's medical information, including the root cause of the respective seizure(s) and medical information about the applicant's seizure history, the length of time that has elapsed since the individual's last seizure, the stability of each individual's treatment regimen and the duration of time on or off of anti-seizure medication. In addition, the Agency reviewed the treating clinician's medical opinion related to the ability of the driver to safely operate a CMV with a history of seizure and each applicant's driving record found in the Commercial Driver's License Information System (CDLIS) for commercial driver's license (CDL) holders, and interstate and intrastate inspections recorded in the Motor Carrier Management Information System (MCMIS). For non-CDL holders, the Agency reviewed the driving records from the State Driver's Licensing Agency (SDLA).

These six applicants have been seizure-free over a range of 10 to 27 years while taking anti-seizure medication and maintained a stable medication treatment regimen for the last two years. In each case, the applicant's treating physician verified his or her seizure history and supports the ability to drive commercially.

A summary of each applicant's seizure history was discussed in the December 29, 2016, **Federal Register** notice (81 FR 96193) and will not be repeated in this notice.

The Agency acknowledges the potential consequences of a driver experiencing a seizure while operating a CMV. However, the Agency believes the drivers granted this exemption have demonstrated that they are unlikely to have a seizure and their medical condition does not pose a risk to public safety.

Consequently, FMCSA finds that in each case exempting these applicants from the epilepsy/seizure standard in 49 CFR 391.41(b)(8) is likely to achieve a level of safety equal to that existing without the exemption.

IV. Conditions and Requirements

The terms and conditions of the exemption are provided to the applicants in the exemption document and includes the following: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the six exemption applications, FMCSA exempts the following drivers from the epilepsy/seizure standard, 49 CFR 391.41(b)(8), subject to the requirements cited above:

Ryan Babler (WI)

Craig Lasecki (WI)

Larry Nicholson (NC)

Ralph Parrish Jr. (PA)

Wayne Woebkenberg (IN)

Daniel Zielinski (OR)

In accordance with 49 U.S.C. 31315(b)(1), each exemption is valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if the following occurs: (1) The individual fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained prior to being granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

Issued on: May 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–10557 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0378; FMCSA–2014–0379]

Qualification of Drivers; Exemption Applications; Epilepsy and Seizure Disorders

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of renewal of exemptions; request for comments.

SUMMARY: FMCSA announces its decision to renew exemptions of 11 individuals from the requirement in the Federal Motor Carrier Safety Regulations (FMCSRs) that interstate commercial motor vehicle (CMV) drivers have ''no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause loss of consciousness or any loss of ability to control a CMV.'' The exemptions enable these individuals who have had one or more seizures and are taking anti-seizure medication to continue to operate CMVs in interstate commerce.

DATES: Each group of renewed exemptions was effective on the dates stated in the discussions below and will expire on the dates stated in the discussions below. Comments must be received on or before June 22, 2017.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket No. FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0378; FMCSA–2014–0379 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Instructions: Each submission must include the Agency name and the docket number(s) for this notice. Note that all comments received will be posted without change to *http://*

www.regulations.gov, including any personal information provided. Please see the Privacy Act heading below for further information.

Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* at any time or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments online.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, 202–366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–224, Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Background

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for two years if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the two-year period.

The physical qualification standard for drivers regarding epilepsy found in 49 CFR 391.41(b)(8) states that a person is physically qualified to drive a CMV if that person:

> Has no established medical history or clinical diagnosis of epilepsy or any other condition which is likely to cause the loss of consciousness or any loss of ability to control a CMV.

In addition to the regulations, FMCSA has published advisory criteria to assist Medical Examiners in determining whether drivers with certain medical conditions are qualified to operate a CMV in interstate commerce. [49 CFR part 391, APPENDIX A TO PART 391—MEDICAL ADVISORY CRITERIA, section H. Epilepsy: § 391.41(b)(8), paragraphs 3, 4, and 5.]

The 11 individuals listed in this notice have requested renewal of their exemptions from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), in accordance with FMCSA procedures. Accordingly, FMCSA has evaluated these applications for renewal on their merits and decided to extend each exemption for a renewable two-year period.

II. Request for Comments

Interested parties or organizations possessing information that would otherwise show that any, or all, of these drivers are not currently achieving the statutory level of safety should immediately notify FMCSA. The Agency will evaluate any adverse evidence submitted and, if safety is being compromised or if continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315, FMCSA will take immediate steps to revoke the exemption of a driver.

III. Basis for Renewing Exemptions

Under 49 U.S.C. 31315(b)(1), an exemption may be granted for no longer than two years from its approval date and may be renewed upon application. In accordance with 49 U.S.C. 31136(e) and 31315, each of the 11 applicants has satisfied the conditions for obtaining an exemption from the Epilepsy and Seizure Disorder requirements and were published in the **Federal Register** (80 FR 16507; 80 FR 16497). In addition, for Commercial Driver's License (CDL) holders, the Commercial Driver's License information System (CDLIS) and the Motor Carrier Management Information System (MCMIS) are searched for crash and violation data. For non-CDL holders, the Agency reviews the driving records from the State Driver's Licensing Agency (SDLA). These factors provide an adequate basis for predicting each driver's ability to continue to safely operate a CMV in interstate commerce.

The 11 drivers in this notice remain in good standing with the Agency, have maintained their medical monitoring and have not exhibited any medical issues that would compromise their ability to safely operate a CMV during the previous two-year exemption period. FMCSA has concluded that renewing the exemptions for each of these applicants is likely to achieve a level of safety equal to that existing without the exemption. Therefore, FMCSA has decided to renew each exemption for a two-year period. In accordance with 49 U.S.C. 31136(e) and 31315, each driver has received a renewed exemption.

As of January 5, 2017, John Rinkema (IL) has satisfied the renewal conditions for obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), from driving CMVs in interstate commerce (80 FR 17139). This driver was included in FMCSA–2014–0378. The exemption was effective on January 5, 2017, and will expire on January 5, 2019.

As of January 7, 2017, the following three individuals have satisfied the renewal conditions for obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), from driving CMVs in interstate commerce (80 FR 55167): Dominick Rezza (TX); Edgar Snapp (IN); and Gregory Young (SC). These drivers were included in FMCSA–2014–0379. The exemptions were effective on January 7, 2017, and will expire on January 7, 2019.

As of January 15, 2017, the following seven individuals have satisfied the renewal conditions for obtaining an exemption from the Epilepsy and Seizure Disorders prohibition in 49 CFR 391.41(b)(8), from driving CMVs in interstate commerce (80 FR 16507): Daniel Forth (NY); Steven Hunsaker (ID); Henrietta Ketcham (NY); Brian Porter (PA); Wayne Sorenson (MN); Michael Thomas (KS); and Paul Warren (ME). These drivers were included in FMCSA–2006–24278; FMCSA–2006–25854; FMCSA–2008–0355; FMCSA–2010–0203; FMCSA–2012–0050; FMCSA–2014–0378; FMCSA–2014–0379. The exemptions were effective on January 15, 2017, and will expire on January 15, 2019.

IV. Conditions and Requirements

The exemptions are extended subject to the following conditions: (1) Each driver must remain seizure-free and maintain a stable treatment during the two-year exemption period; (2) each driver must submit annual reports from their treating physicians attesting to the stability of treatment and that the driver has remained seizure-free; (3) each driver must undergo an annual medical examination by a certified Medical Examiner, as defined by 49 CFR 390.5; and (4) each driver must provide a copy of the annual medical certification to the employer for retention in the

driver's qualification file, or keep a copy of his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the exemption when driving, for presentation to a duly authorized Federal, State, or local enforcement official. The exemption will be rescinded if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315.

V. Preemption

During the period the exemption is in effect, no State shall enforce any law or regulation that conflicts with this exemption with respect to a person operating under the exemption.

VI. Conclusion

Based upon its evaluation of the 11 exemption applications, FMCSA renews the exemptions of the aforementioned drivers from the Epilepsy and Seizure Disorders requirement in 49 CFR 391.41(b)(8). In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for two years unless revoked earlier by FMCSA.

Issued on: May 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–10569 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2016–0213]

Qualification of Drivers; Exemption Applications; Vision

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 18 individuals from the vision requirement in the Federal Motor Carrier Safety Regulations (FMCSRs). They are unable to meet the vision requirement in one eye for various reasons. The exemptions will enable these individuals to operate commercial motor vehicles (CMVs) in interstate commerce without meeting the prescribed vision requirement in one eye. The Agency has concluded that granting these exemptions will provide a level of safety that is equivalent to or greater than the level of safety maintained without the exemptions for these CMV drivers.

DATES: The exemptions were granted April 11, 2017. The exemptions expire on April 11, 2019.

FOR FURTHER INFORMATION CONTACT: Ms. Christine A. Hydock, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov,* FMCSA, Department of Transportation, 1200 New Jersey Avenue SE., Room W64–113, Washington, DC 20590–0001. Office hours are 8:30 a.m. to 5 p.m., e.t., Monday through Friday, except Federal holidays. If you have questions regarding viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Electronic Access

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Docket: For access to the docket to read background documents or comments, go to *http://www.regulations.gov* and/or Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.

Privacy Act: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

II. Background

On March 9, 2017, FMCSA published a notice of receipt of exemption applications from certain individuals, and requested comments from the public (82 FR 13187). That notice listed 18 applicants' case histories. The 18 individuals applied for exemptions from the vision requirement in 49 CFR 391.41(b)(10), for drivers who operate CMVs in interstate commerce.

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption for a 2-year period if it finds ''such exemption would likely achieve a level of safety that is equivalent to or greater than the level that would be achieved absent such exemption.'' The statute also allows the Agency to renew exemptions at the end of the 2-year period. Accordingly, FMCSA has evaluated the 18 applications on their merits and made a determination to grant exemptions to each of them.

III. Vision and Driving Experience of the Applicants

The vision requirement in the FMCSRs provides:

A person is physically qualified to drive a commercial motor vehicle if that person has distant visual acuity of at least 20/40 (Snellen) in each eye without corrective lenses or visual acuity separately corrected to 20/40 (Snellen) or better with corrective lenses, distant binocular acuity of a least 20/40 (Snellen) in both eyes with or without corrective lenses, field of vision of at least 70° in the horizontal meridian in each eye, and the ability to recognize the colors of traffic signals and devices showing red, green, and amber (49 CFR 391.41(b)(10)).

FMCSA recognizes that some drivers do not meet the vision requirement but have adapted their driving to accommodate their limitation and demonstrated their ability to drive safely. The 18 exemption applicants listed in this notice are in this category. They are unable to meet the vision requirement in one eye for various reasons, including amblyopia, aphakia, chorioretinal scar, corneal scar, dense corneal scar, macular degeneration, macular scar, neovascular macular degeneration, prosthetic eye, retinal detachment, and retinal hamartoma. In most cases, their eye conditions were not recently developed. Eleven of the applicants were either born with their vision impairments or have had them since childhood.

The 7 individuals that sustained their vision conditions as adults have had it for a range of 3 to 24 years.

Although each applicant has one eye which does not meet the vision requirement in 49 CFR 391.41(b)(10), each has at least 20/40 corrected vision in the other eye, and in a doctor's opinion, has sufficient vision to perform all the tasks necessary to operate a CMV. Doctors' opinions are supported by the applicants' possession of valid commercial driver's licenses (CDLs) or non-CDLs to operate CMVs. Before issuing CDLs, States subject drivers to knowledge and skills tests designed to evaluate their qualifications to operate a CMV.

All of these applicants satisfied the testing requirements for their State of residence. By meeting State licensing requirements, the applicants demonstrated their ability to operate a CMV, with their limited vision, to the satisfaction of the State.

While possessing a valid CDL or non-CDL, these 18 drivers have been authorized to drive a CMV in intrastate commerce, even though their vision

disqualified them from driving in interstate commerce. They have driven CMVs with their limited vision in careers ranging for 3 to 39 years. In the past three years, no drivers were involved in crashes and 2 drivers were convicted of moving violations in a CMV.

The qualifications, experience, and medical condition of each applicant were stated and discussed in detail in the March 9, 2017 notice (82 FR 13187).

IV. Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the vision requirement in 49 CFR 391.41(b)(10) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. Without the exemption, applicants will continue to be restricted to intrastate driving. With the exemption, applicants can drive in interstate commerce. Thus, our analysis focuses on whether an equal or greater level of safety is likely to be achieved by permitting each of these drivers to drive in interstate commerce as opposed to restricting him or her to driving in intrastate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered the medical reports about the applicants' vision as well as their driving records and experience with the vision deficiency.

To qualify for an exemption from the vision requirement, FMCSA requires a person to present verifiable evidence that he/she has driven a commercial vehicle safely with the vision deficiency for the past 3 years. Recent driving performance is especially important in evaluating future safety, according to several research studies designed to correlate past and future driving performance. Results of these studies support the principle that the best predictor of future performance by a driver is his/her past record of crashes and traffic violations. Copies of the studies may be found at Docket Number FMCSA–1998–3637.

FMCSA believes it can properly apply the principle to monocular drivers, because data from the Federal Highway Administration's (FHWA) former waiver study program clearly demonstrate the driving performance of experienced monocular drivers in the program is better than that of all CMV drivers collectively (See 61 FR 13338, 13345, March 26, 1996). The fact that experienced monocular drivers demonstrated safe driving records in the waiver program supports a conclusion that other monocular drivers, meeting the same qualifying conditions as those required by the waiver program, are also likely to have adapted to their vision deficiency and will continue to operate safely.

The first major research correlating past and future performance was done in England by Greenwood and Yule in 1920. Subsequent studies, building on that model, concluded that crash rates for the same individual exposed to certain risks for two different time periods vary only slightly (See Bates and Neyman, University of California Publications in Statistics, April 1952). Other studies demonstrated theories of predicting crash proneness from crash history coupled with other factors. These factors—such as age, sex, geographic location, mileage driven and conviction history—are used every day by insurance companies and motor vehicle bureaus to predict the probability of an individual experiencing future crashes (See Weber, Donald C., ''Accident Rate Potential: An Application of Multiple Regression Analysis of a Poisson Process,'' Journal of American Statistical Association, June 1971). A 1964 California Driver Record Study prepared by the California Department of Motor Vehicles concluded that the best overall crash predictor for both concurrent and nonconcurrent events is the number of single convictions. This study used 3 consecutive years of data, comparing the experiences of drivers in the first 2 years with their experiences in the final year.

Applying principles from these studies to the past 3-year record of the 18 applicants, no drivers were involved in crashes and 2 drivers were convicted of moving violations in a CMV. All the applicants achieved a record of safety while driving with their vision impairment, demonstrating the likelihood that they have adapted their driving skills to accommodate their condition. As the applicants' ample driving histories with their vision deficiencies are good predictors of future performance, FMCSA concludes their ability to drive safely can be projected into the future.

We believe that the applicants' intrastate driving experience and history provide an adequate basis for predicting their ability to drive safely in interstate commerce. Intrastate driving, like interstate operations, involves substantial driving on highways on the interstate system and on other roads built to interstate standards. Moreover, driving in congested urban areas exposes the driver to more pedestrian and vehicular traffic than exists on interstate highways. Faster reaction to traffic and traffic signals is generally required because distances between them are more compact. These conditions tax visual capacity and driver response just as intensely as interstate driving conditions. The veteran drivers in this proceeding have operated CMVs safely under those conditions for at least 3 years, most for much longer. Their experience and driving records lead us to believe that each applicant is capable of operating in interstate commerce as safely as he/she has been performing in intrastate commerce. Consequently, FMCSA finds that exempting these applicants from the vision requirement in 49 CFR 391.41(b)(10) is likely to achieve a level of safety equal to that existing without the exemption. For this reason, the Agency is granting the exemptions for the 2-year period allowed by 49 U.S.C. 31136(e) and 31315 to the 18 applicants listed in the notice of March 9, 2017 (82 FR 13187).

We recognize that the vision of an applicant may change and affect his/her ability to operate a CMV as safely as in the past. As a condition of the exemption, therefore, FMCSA will impose requirements on the 18 individuals consistent with the grandfathering provisions applied to drivers who participated in the Agency's vision waiver program.

Those requirements are found at 49 CFR 391.64(b) and include the following: (1) That each individual be physically examined every year (a) by an ophthalmologist or optometrist who attests that the vision in the better eye continues to meet the requirement in 49 CFR 391.41(b)(10) and (b) by a medical examiner who attests that the individual is otherwise physically qualified under 49 CFR 391.41; (2) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (3) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

V. Discussion of Comments

FMCSA received 3 comments in this proceeding. Wade C. Uhlir stated he believes the exemptions should be granted to the drivers. An anonymous commenter stated that they believe the exemptions should not be granted, citing safety concerns. FMCSA has reviewed the pertinent medical records and driving history of each driver on

this notice and determined that granting the exemption will create a level of safety equal to or greater than not granting the exemptions. A second anonymous commenter stated that anybody who uses or abuses alcohol or drugs with this exemption should no longer qualify for the exemption. In addition, they should not be able to reapply until they can prove at least 5 years of drug and/or alcohol rehabilitation. As stated previously, FMCSA has reviewed the pertinent medical records and driving history of each driver on this notice and determined that granting the exemption will create a level of safety equal to or greater than not granting the exemptions. Assessment and evaluation for drug and alcohol abuse is provided during the medical certification examination process by certified medical examiners on FMCSA's National Registry of certified medical examiners (MEs). Only drivers who meet the remaining physical qualification standards in the Federal Motor Carrier Safety Regulations [49 CFR 391.41(b)(1)–(13)] and are found ''otherwise qualified by the ME are eligible to apply for a vision exemption.

VI. Conclusion

Based upon its evaluation of the 18 exemption applications, FMCSA exempts the following drivers from the vision requirement in 49 CFR 391.41(b)(10):

James E. Demgard (NJ)
David L. Erickson (SD)
Ray A. Fields (KS)
Jeffrey L. Gardner (CA)
Thomas A. Grigsby (AR)
Eugene C. Hamilton (NC)
Jay A. Harding (OR)
Melvin L. Hispley III (MD)
Charlie E. Hoggard (TX)
Richard S. Huzzard (PA)
Kenneth E. Lewis (CA)
George J. Paxson, III (DDE)
Harlie C. Perryman, III (FL)
Menno H. Reiff (PA)
Steven R. Richter, Jr. (MN)
Robert R. Schwabe (WA)
Phillip Shelburne (TX)
Wade C. Uhlir (MN)

In accordance with 49 U.S.C. 31136(e) and 31315, each exemption will be valid for 2 years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136 and 31315.

If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: May 17, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–10563 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket No. PHMSA–2016–0136]

Pipeline Safety: Meeting of the Gas Pipeline Advisory Committee

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), DOT.

ACTION: Notice of advisory committee meeting.

SUMMARY: This notice announces a public meeting of the Technical Pipeline Safety Standards Committee, also known as the Gas Pipeline Advisory Committee (GPAC). The GPAC will meet to continue discussing topics and provisions for the proposed rule titled ''Safety of Gas Transmission and Gathering Pipelines.''

DATES: The committee will meet from 8:30 a.m. to 5 p.m. on both Tuesday, June 6, 2017, and Wednesday, June 7, 2017.

ADDRESSES: The meeting will be held at the Westin Arlington Gateway, 801 North Glebe Road, Arlington, VA 22203. The meeting agenda, and any additional information will be published on the following pipeline advisory committee meeting and registration page: *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=123.*

The meetings will not be webcast; however, presentations will be available on the meeting Web site and posted on the E-Gov Web site, *http://www.regulations.gov,* under docket number PHMSA–2016–0136 within 30 days following the meeting.

Public Participation

This meeting will be open to the public. Members of the public who wish to attend in person are asked to register at the meeting links above no later than Friday, June 2, 2017 in order to facilitate entry and guarantee seating. Members of the public who attend in person will also be provided an opportunity to make a statement during the meeting.

Written comments: Persons who wish to submit written comments on the meeting may submit them to the docket in the following ways:

E-Gov Web site: http://www.regulations.gov. This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Fax: 1–202–493–2251.

Mail: Docket Management Facility; U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., West Building, Room W12–140, Washington, DC 20590–0001.

Hand Delivery: Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except on Federal holidays.

Instructions: Identify the docket number PHMSA–2016–0136 at the beginning of your comments. Note that all comments received will be posted without change to *http://www.regulations.gov,* including any personal information provided. Anyone can search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). Therefore, consider reviewing DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477), or view the Privacy Notice at *http://www.regulations.gov* before submitting any such comments.

Docket: For access to the docket or to read background documents or comments, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground level of the DOT West Building, 1200 New Jersey Avenue SE., Washington, DC, between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays.

If you wish to receive confirmation of receipt of your written comments, please include a self-addressed, stamped postcard with the following statement: ''Comments on PHMSA–2016–0136.'' The docket clerk will date stamp the postcard prior to returning it to you via the U.S. mail.

Privacy Act Statement

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy.*

Services for Individuals with Disabilities: The public meeting will be physically accessible to people with disabilities. Individuals requiring accommodations, such as sign language interpretation or other ancillary aids, are asked to notify Cheryl Whetsel at *cheryl.whetsel@dot.gov* by Friday, June 2, 2017.

FOR FURTHER INFORMATION CONTACT: For information about the meeting, contact Cheryl Whetsel by phone at 202–366–4431 or by email at *cheryl.whetsel@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Meeting Details and Agenda

The GPAC will be considering the proposed rule titled, ''Safety of Gas Transmission and Gathering Pipelines,'' which was published in the **Federal Register** on April 8, 2016, (81 FR 20722) and on the associated regulatory analysis. In the proposed rule, PHMSA is proposing the following changes to Part 192:

- Require periodic assessments of pipelines in locations where persons are expected to be at risk that are not already covered under the integrity management program requirements.
- Modify the repair criteria, both inside and outside of high consequence areas (HCAs).
- Require inspections of pipelines in areas affected by extreme weather, man-made and natural disasters, and other similar events.
- Provide additional specificity for in-line inspections, including explicit requirements to account for uncertainty of reported inspection data when evaluating in-line inspection data to identify anomalies.
- Expand integrity assessment methods to explicitly address guided wave ultrasonic inspection and excavation with direct in-situ examination.
- Provide clearer functional requirements for conducting risk assessments for integrity management, including addressing seismic risks.
- Expand the mandatory data collection and integration requirements for integrity management, including data validation and seismicity.
- Add requirements to address management of change.
- Repeal the use of API Recommended Practice 80 for gathering lines.
- Apply Type B requirements along with emergency requirements to newly regulated greater than 8-inch Type A gathering lines in Class 1 locations (GAO Recommendation 14–667).
- Extend the reporting requirements to all gathering lines.
- Expand requirements for corrosion protection to specify additional post-construction quality checks, and periodic operational and maintenance checks to address coating integrity, cathodic protection, and gas quality monitoring.
- Require operators to report maximum allowable operating pressure exceedances.
- Require safety features on in-line inspection tool launchers and receivers.
- Add certain types of roadways to the definition of ''identified sites'' (NTSB P–14–1).
- Address grandfathered pipe and pipe with inadequate records.

The GPAC meeting agenda will include a discussion on the following topics as time permits:

—Corrosion control.

—Records.

—IM Clarifications.

—Strengthened assessment requirements.

—Assessments outside of HCAs.

—Repair criteria revisions.

—Material documentation.

—Integrity Verification Process for grandfathered segments.

The agenda will be published on the PHMSA meeting page *https://primis.phmsa.dot.gov/meetings/MtgHome.mtg?mtg=123,* once it is finalized.

II. Committee Background

The GPAC is a statutorily mandated advisory committee that advises PHMSA on proposed gas pipeline safety standards and their associated risk assessments. The committee is established in accordance with the Federal Advisory Committee Act (5 U.S.C. App. 2, as amended) and 49 U.S.C. 60115. The committee consists of 15 members with membership evenly divided among federal and state governments, the regulated industry, and the general public. The committees advise PHMSA on the technical feasibility, reasonableness, cost-effectiveness, and practicability of each proposed pipeline safety standard.

Issued in Washington, DC, on May 18, 2017, under authority delegated in 49 CFR 1.97.

Alan K. Mayberry,

Associate Administrator for Pipeline Safety.

[FR Doc. 2017–10621 Filed 5–22–17; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13382

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons whose property and interests in property are blocked pursuant to Executive Order (E.O.) 13382.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT: The Treasury Department's Office of Foreign Assets Control: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treas.gov/ofac*).

Notice of OFAC Actions

On May 17, 2017, OFAC's Acting Director determined that the property and interests in property of the following persons are blocked:

Individuals

1. RUNLING, Ruan (a.k.a. RUAN, Ricky; a.k.a. RUNLING, Ricky); DOB 02 Apr 1982; nationality China; Additional Sanctions Information—Subject to Secondary Sanctions; Passport P01519268 (China) expires 15 Feb 2017 (individual) [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of E.O. 13382 of June 28, 2005, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters'' because he has provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of SHIRAZ ELECTRONICS INDUSTRIES, an entity whose property and interests in property are blocked pursuant to E.O. 13382.

2. AHMADI, Rahim; DOB 07 Sep 1956; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Passport A0033560 (Iran); Director, Shahid Bakeri Industries Group (individual) [NPWMD] [IFSR] (Linked To: SHAHID BAKERI INDUSTRIAL GROUP).

Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, SHAHID BAKERI INDUSTRIAL GROUP, an entity whose property or interests in property are blocked pursuant to E.O. 13382.

3. FARASATPOUR, Morteza (a.k.a. FARASATPUR, Morteza); DOB 16 Nov 1964; nationality Iran; Additional Sanctions Information—Subject to Secondary Sanctions; Passport G9329851 (Iran); Deputy Director for Commerce, Defense Industries Organization (individual) [NPWMD] [IFSR] (Linked To: DEFENSE INDUSTRIES ORGANIZATION).

Designated pursuant to section 1(a)(iv) of E.O. 13382 for acting or purporting to act for or on behalf of, directly or indirectly, DEFENSE INDUSTRIES ORGANIZATION, an entity whose property or interests in property are blocked pursuant to E.O. 13382.

Entities

1. SHANGHAI GANG QUAN TRADE CO., Room 201, Building 1, Dahua Hotel, No. 1568 Hutai Road, Shanghai, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of SHIRAZ ELECTRONICS INDUSTRIES, an entity whose property and interests in property are blocked pursuant to E.O. 13382.

2. SHANGHAI NORTH BEGINS INTERNATIONAL (a.k.a. SHANGHAI BINGZHI GUOJI MAOYI YOUXIAN GONGSI), Room 2301, Building 6, Lane 1139, Pudong Avenue, Pudong New District, Shanghai, China; 118 Rijing Rd Sixth Floor, Rm 6090, Shanghai Free Trade Experiment District, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of SHIRAZ ELECTRONICS INDUSTRIES, an entity whose property and interests in property are blocked pursuant to E.O. 13382.

3. SHANGHAI NORTH TRANSWAY INTERNATIONAL TRADING CO., Room 201, Building 1, Dahua Hotel, No. 1568 Hutai Road, Shanghai, China; Room 2301, Building 6, Lane 1139, Pudong Avenue, Pudong New District, Shanghai, China; 181 Fute Rd 1st floor Rm 103, Shanghai Free Trade Experiment District, China; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of SHIRAZ ELECTRONICS INDUSTRIES, an entity whose property and interests in property are blocked pursuant to E.O. 13382.

4. MATIN SANAT NIK ANDISHAN (a.k.a. IRANIAN NOVIN SYSTEMS MANAGEMENT; a.k.a. ''MASNA''; a.k.a. ''MSNA''), Unit 13, Number 13, Kuhestan-e Sheshom, Nobonyad Square, Tehran, Iran; Additional Sanctions Information—Subject to Secondary Sanctions [NPWMD] [IFSR].

Designated pursuant to section 1(a)(iii) of E.O. 13382 for having provided, or attempted to provide, financial, material, technological, or other support for, or goods or services in support of SHAHID HEMMAT INDUSTRIES GROUP, an entity whose property and interests in property are blocked pursuant to E.O. 13382.

Dated: May 17, 2017.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–10441 Filed 5–22–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Update to the List of Medical Supplies for Ukraine-Related Sanctions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice, publication of updated list of items defined as medical supplies.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the list of items defined as medical supplies (List of Medical Supplies) and generally licensed for exportation or reexportation to the Crimea region of Ukraine pursuant to General License 4 under Executive Order 13685 of December 19, 2014, which is part of OFAC's Ukraine-related sanctions program. OFAC is publishing the List of Medical Supplies both as originally posted on December 19, 2014 and as updated on August 12, 2016 to include additional items.

DATES: *Effective Date:* August 12, 2016.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The text of the List of Medical Supplies, General License 4 under the Ukraine-related sanctions program, and additional information concerning OFAC are available from OFAC's Web site (*www.treasury.gov/ofac*).

Background

On December 19, 2014, OFAC issued and posted on its Web site (*www.treasury.gov/ofac*) General License 4 under the Ukraine-related sanctions program to authorize the exportation or reexportation from the United States or by a U.S. person of agricultural commodities, medicine, medical supplies, and replacement parts to the Crimea region of Ukraine. General License 4 defined the term ''medical supplies'' to mean those medical devices, as defined in paragraph (d)(3) of General License 4, that are included on the List of Medical Supplies on OFAC's Web site (*www.treasury.gov/ofac*) on the Ukraine-related Sanctions page. On the same day, OFAC also posted the List of Medical Supplies on its Web site. Most recently, on August 12, 2016, OFAC updated the List of Medical Supplies to include additional items.

As highlighted in the Note to paragraph (d)(4) of General License 4, the List of Medical Supplies is maintained on OFAC's Web site and will be published in the **Federal Register**, as will any changes to the list. Accordingly, both the current version of the List of Medical Supplies and the original version of the List of Medical Supplies are reproduced below. The versions below correct a typographical error in versions that were previously published on OFAC's Web site.

List of Medical Supplies as of August 12, 2016

On August 12, 2016, OFAC updated the List of Medical Supplies on its Web site to read as follows:

List of Medical Supplies (Updated August 12, 2016)

The list below comprises the medical supplies defined in Ukraine General License 4.

General Medical Equipment and Supplies

- Adhesive designed for human use
- Adhesive remover designed for human use
- Antiseptic wipes for human use (including alcohol, antimicrobial, benzalkonium, betadine, iodine, and witch hazel)
- *Beds:* Hospital beds, cribs, or bassinets; including mattresses, overlays, pillows, and bumpers
- Blood lancets
- Blood pressure monitors, gauges, cuffs, aneroids, or infusors
- Bottles (prescription)
- *Cabinets:* Medical supply or pharmaceutical
- Canes, crutches, walkers, rollators

- Capnographs
- *Carts:* Medical, medical utility, medical supply, food service, or hospital laundry carts
- Catheters—all sizes and types; including kits
- *Chairs:* Exam, treatment, surgical, dental, or phlebotomy
- Clinical basins, bowls, baths, pans, urinals, bags, and buckets; and holding devices for such items
- Clinical swabs, applicators, specimen collectors, sponges, pads, tongue depressors, wooden spoons, cotton balls, or cotton rolls
- Coils, guidewire
- Contraceptives (inter-uterine devices (IUDs), hormonal therapy methods, barrier methods), and condoms
- Continuous positive airway pressure (CPAP) systems and all components
- Ear plugs and muffs
- Ear syringes
- Ear wax removers
- Endoscopic devices including laryngoscopes, laparoscopes, anascopes, proctoscopes, arthroscopes, sinuscopes, dematoscopes, ophthalmoscopes, sigmoidscopes, otoscopes, retinoscopes, or colposcopes
- *Floor mats:* Safety, anti-fatigue or special-purpose medical floor mats
- Forceps
- Guidewires, all
- Human body or cadaver bags and shrouds
- Human body positioners including pads, wedges, cradles, pillows, rests, straps, supports, and holders
- Human specimen collectors and containers (*e.g.,* urine, blood, tissue)
- Humidifiers
- Hydrocollator heating units
- IV sets, bags, and armboards
- Jars and containers designed for medical supplies and instruments less than 5 L internal volume
- *Lights and lamps:* Surgical, or medical exam, magnifying
- Limb prosthesis devices
- *Manikins:* Medical training, CPR
- Medical bags for medical supplies and equipment; including pre-packed bags
- Medical bandages, gauze, dressings, tape, swabs, sponges, and burn dressings
- Medical carafes, cups, containers and tumblers
- Medical casts, padding; and casting and removal equipment
- Medical defibrillators
- Medical diagnostic kits, point-of-care; including EAR99 reagents
- *Medical flowmeters:* Oxygen & air
- Medical labels, labellers, stickers, forms, charts, signage, tags, cards, tape, wrist bands, documents, brochures, and graphics
- Medical lavage systems
- Medical linens (*e.g.,* blankets, sheets, pillow cases, towels, washcloths, drapes, covers)
- Medical penlights
- Medical pumps
- Medical scissors
- Medical tubing or hoses less than 2″ diameter; including associated adaptors, connectors, caps, clamps, retainers, brackets, valves, washers, vents, stopcocks, or flow sensors; and peristaltic pumps with flowrates of less than 600 liters/hr for such tubing (**Note:** Does not include tubing made of butyl rubber or greater than 35% fluoropolymers)
- Medicine cups
- Monitor for glucose management
- Non-electronic patient medical record file systems and organizers
- Orthopedic supports, braces, wraps, shoes, boots, or pads
- Orthopedic traction devices and tables
- Otology sponges
- Oxygen apparatus, all
- Paraffin baths
- *Patient heating and cooling devices:* Pads, packs, bottles, bags, warmers, blankets, patches, lamps, bags
- Patient safety devices including vests, aprons, finger mitts, limb or body holders, jackets, belts, restraints, cuffs, straps, or protectors
- Patient transfer chairs, lifts, benches, boards, slides, discs, slings, and sheets
- Patient vital-sign monitoring devices
- Patient wheelchairs, chairs, gurneys, stretchers, mats, and cots
- Privacy screens and curtains
- Pulse oximeters
- Reflex hammers
- *Refrigerator:* Compartmental for morgues
- Safety poles, rails, handles, benches, grab bars, commode aids, and shower aids
- Scales, stadiometers, rulers, sticks, tapes, protractors, volumeters, gauges, or callipers designed for human measurement
- Single-use medical procedure trays and kits
- Speculums
- Spirometers
- Splints
- *Stands:* IV, instrument, solution, or hamper
- Stethoscopes
- *Stools:* Designed for clinical use
- Surgical sutures and staples; and removal kits
- Syringes, aspirators, cannulas, and needles—all sizes and types; including kits
- *Tables:* Operating, exam, therapy, overbed, treatment, medical utility, or medical instrument
- Telemetry pouches designed for human use
- *Tents:* Pediatric, aerosol, and mist
- Thermometers for measuring human body temperature
- Tourniquets
- *Ventilator:* Adult and tubing and accessories
- *Warmers:* Bottle, gel, lotion, or blanket

Anaesthesiology

- Air bags and tidal volume bags
- Air bellows
- Anaesthesia circuits
- Anaesthesia machines, vaporizers, nebulizers, and inhalers designed for individual human use
- Anaesthesia masks (including laryngeal)
- Anti-siphon equipment
- Block and epidural trays packaged for individual use
- Endotrach tubes
- Head straps and harnesses
- Hyperinflation systems
- In-line filters and cartridges, thermometers, CO_2 detectors, sodalime canisters, and temperature and moisture exchangers (**Note:** Gas mask canisters, other than sodalime canisters designed for anaesthesia systems, require a specific license)
- Intubation sets, probes and related equipment
- Anaesthesiometers
- Oral airways
- Peripheral nerve stimulators
- Anaesthesia pressure tubes and controllers
- Cardiopulmonary resuscitation (CPR) training manikins and lung bags
- Vibration dampening mounts

Apparel

- Medical gowns, scrubs, aprons, uniforms, lab coats, and coveralls; only those without integrated hoods
- Patient clothing including gowns, slippers, underpads, or undergarments
- Head or beard covers and nets
- Medical shoe and boot covers
- Surgical sleeve protectors
- Ventilated Safety eyeshields and goggles (does not include full face shield or indirectly-vented goggles)
- Disposable latex, nitrile, polyethylene, vinyl gloves/finger cots or other medical gloves
- Surgical face or dust masks (does not include masks with respirators)

Cardiology

- Ablation devices
- Balloons extractor, retrieval
- *Cardiac monitors:* Implantable or external
- Cardiac pacemakers

- Cardiac programmers
- Cardiopulmonary oxygenation systems, devices, and monitors
- Coagulation machines
- Electrocardiography machines
- *Filters:* Arterial
- *Grafts:* Peripheral bypass
- *Heart positioners:* Surgical revascularization
- *Heart valves:* Surgical, transcatheter (non-surgical)
- **Inflation devices:** interventional

Dental Equipment and Supplies

- Bone graft matrices
- Dental and oral implants or devices
- Dental instrument cases, trays, mats or tray liners, racks, covers, wraps, stands, holders, stringers, or protectors
- Dental instruments—all types and sizes
- Denture and temporary oral device containers
- Dentures, crowns, molds, orthodontics, all
- Tooth and denture brushes
- Yankauers

Gynecology & Urology

- Bladder control pads, briefs, liners, underwear, pants, and diapers
- Bladder scanners
- Enema sets
- Extracorporeal lithotripters
- Fecal/stool management devices, kits, and catheters
- Feminine hygiene products
- Pouches, urostomy

Inherited Preventative Care

- Genetic testing products

Laboratory

- Autoclaves (20 liters or smaller only) for medical instrument sterilization and accessories
- Automated blood culture systems
- Automated clinical chemistry analyzers for patient care
- Bench-top dry bath incubators
- Clinical immunoassay analyzers
- Clinical laboratory water baths less than 10 liter
- Coagulation analyzers
- Co-oximeters for haemoglobin analysis
- Electrolyte analyzers
- Flow cytometry accessories, reagents, and components
- Hematology analyzers
- Histology and cytology strainers and tissue baths
- Laboratory balances and scales not to exceed 10 Kg
- Laboratory hot plates with less than 1.0 sq. ft. heating surface
- Laboratory pH meter (with or without temperature probe)
- Light microscopes
- Luminometers
- Medical bone densitometers
- Medical differential counters
- Medical refrigerators and freezers with less than 5.0 cu. ft. internal volume
- Medical specimen centrifuges
- Microplate readers/washers
- Osmometers
- Patient blood gas analyzers
- Pipettes
- Spectrophotometers, photometers, and colorimeters designed for clinical use
- Urinalysis analyzers

Nephrology

- Hemodialysis machines; and dialysis filters designed for such machines (Note: Other dialysis equipment, filters, and parts not used for hemodialysis require a specific license and may be controlled under 15 CFR, part. 774, supp. 1, ECCN 2B352.d)
- Hemodialysis connection or tubing kits

Neurology

- Electroencephalography machines
- Neurostimulators, implantable

Obstetrics and Maternity Care

- Assisted reproductive technology and related equipment
- Incubators/Isolettes
- Infant radiant warmer and parts and accessories
- Neonatal equipment (phototherapy, nasal CPAP, etc. and all components)
- Umbilical cord clamps
- *Ventilator:* Infant/pediatric and tubing and accessories

Ophthalmology and Optometry

- Contact Lens cleaning solutions
- Contact Lenses, corrective
- Eyecharts
- Glasses, corrective
- Phoropters
- Tonomets
- Vision/Optometry related machines and supplies

Otology and Neurotology

- Hearing aids, accessories, and components

Physical and Occupational Therapy

- Aquatic floats and training devices
- Balance pads, platforms, and beams
- Bath cubes, therapy
- Boots, mitts, and liners for therapeutic pain relief
- Cognitive measuring devices and equipment
- Dining aids
- Electrotherapy, muscle stimulators, and tens units
- Ergometers
- Exercise bars
- Exercise table
- Fine motor assessment equipment designed for human use
- Goniometers
- Hand bars
- Hydraulic dynamometer
- Manipulation boards
- Massaging equipment
- Mat Platforms
- Medical Whirlpools
- Mobility platforms, parallel bars, ladders, stairs
- Orthopedic shoes, boots, etc.
- Parallel bars
- Pedometers
- Protective headgear
- Rehabilitation exercise, weights, band, balls, boards, and mobility equipment
- Rulonmeters
- Scoliometer
- Tactile sensation, sensitization, and desensitization equipment
- Therapeutic putty
- Ultrasound stimulators

Radiology

- Computer tomography scanners (CT, MDCT)
- Contrasting agents, both injectable or non-injectable
- Magnetic resonance imaging (MRI) machines
- Medical ultrasound machines
- Medical/Dental film
- Nuclear medicine imaging machines
- Positron Emission Tomography (PET)
- PET cyclotron machines
- PET radiopharmaceutical tracer machines, including cassettes
- Scintillation Camera/Anger cameras for medical imaging
- Single Photon Emission Computed Tomography (SPECT) machines
- X-ray machines, including mammography machines
- Parts and accessories for medical imaging devices above that do not contain nuclear or chemical components

Sterilization

- Aseptic, germicidal, or disinfectant wipes or clothes for medical equipment, devices or furniture
- Ready-to-use disinfectant in 32 oz. containers or less
- Aseptic, germicidal, or medical-grade soap, detergent, pre-soak, or rinse in 1 gallon containers or less
- Hand sanitizer, lotion, soap, scrub, wash, gel, or foam; including dispensing devices
- Medical cleaning brushes for equipment, patients, and furniture
- Sterilization or disinfection indicator strips, tape, or test packs

- Medical instrument sterilization pouches, mats, protector guards, or tubing
- Sterilization containers or cases less than 0.3 cu. ft.
- Autoclaves with chamber size less than 0.3 cu. ft.; including trays, containers, cassettes, cases, and filters for such systems.

Surgery

- Blood transfusion equipment
- Cervical fusion kits
- Chest drains
- Cosmetic or reconstructive implants (jaw implants, breast implants, skin grafts)
- Electrosurgery devices and supporting equipment
- Lubricant specially-formulated for surgical equipment in 1 gallon containers or less
- Orthopedic plates/screws, fixators, implants, cement
- Stents—all types and sizes
- Stockinettes
- Surgical case carts
- Surgical clean-up kits
- Surgical clips
- Surgical imaging machines; including image-guiding surgery products, ear, nose and throat
- Surgical instrument cases, trays, mats or tray liners, racks, covers, wraps, stands, holders, stringers, or protectors
- Surgical instruments—all types and sizes
- Surgical linens, drapes, or covers
- Surgical mesh
- Surgical shunts
- Surgical smoke evacuators and specialized supporting equipment
- Tissue stabilizers, surgical revascularizations
- Wound drainage equipment

EAR99-classified components, accessories, and optional equipment that are designed for and are for use with an EAR99-classified medical device included elsewhere on the list.

List of Medical Supplies From December 10, 2014 Through August 11, 2016

Below is the List of Medical Supplies for General License 4 in effect from December 19, 2014 through August 11, 2016:

List of Medical Supplies (December 19, 2014)

The list below comprises the medical supplies defined in Ukraine General License 4.

General Medical Equipment and Supplies

- Syringes, cannulas, and needles—all sizes and types; including kits
- Catheters—all sizes and types; including kits
- Coils, guidewire
- Guidewires, all
- Medical tubing or hoses less than 2″ diameter; including associated adaptors, connectors, caps, clamps, retainers, brackets, valves, washers, vents, stopcocks, or flow sensors; and peristaltic pumps with flowrates of less than 600 liters/hr for such tubing (**Note:** Does not include tubing made of butyl rubber or greater than 35% fluoropolymers)
- Endoscopic devices including laryngoscopes, laparoscopes, anascopes, proctoscopes, arthroscopes, sinuscopes, dematoscopes, ophthalmoscopes, sigmoidscopes, otoscopes, retinoscopes, or colposcopes
- Blood pressure monitors, gauges, cuffs, aneroids, or infusors
- Monitor for glucose management
- Medical defibrillators
- Medical lavage systems
- IV sets, bags, and armboards
- Medical penlights
- Stethoscopes
- Speculums
- Medical scissors
- Forceps
- Single-use medical procedure trays and kits
- Medical diagnostic kits, point-of-care; including EAR99 reagents
- Reflex hammers
- Blood lancets
- Ear plugs and muffs
- Otology sponges
- Ear syringes
- Ear wax removers
- Clinical swabs, applicators, specimen collectors, sponges, pads, tongue depressors, wooden spoons, cotton balls, or cotton rolls
- Antiseptic wipes for human use (including alcohol, antimicrobial, benzalkonium, betadine, iodine, and witch hazel)
- Splints
- Canes, crutches, walkers, rollators
- Patient wheelchairs, chairs, gurneys, stretchers, mats, and cots
- Patient transfer chairs, lifts, benches, boards, slides, discs, slings, and sheets
- Safety poles, rails, handles, benches, grab bars, commode aids, and shower aids
- Patient vital-sign monitoring devices
- Limb prosthesis devices
- Orthopedic supports, braces, wraps, shoes, boots, or pads
- Medical casts, padding; and casting and removal equipment
- Orthopedic traction devices and tables
- Human body positioners including pads, wedges, cradles, pillows, rests, straps, supports, and holders
- Human specimen collectors and containers (*e.g.,* urine, blood, tissue)
- Medical bandages, gauze, dressings, tape, swabs, sponges, and burn dressings
- Surgical sutures and staples; and removal kits
- Tourniquets
- Thermometers for measuring human body temperature
- Clinical basins, bowls, baths, pans, urinals, bags, and buckets; and holding devices for such items
- Medical carafes, cups, containers and tumblers
- Medicine cups
- Syringe aspirators
- Medical bags for medical supplies and equipment; including pre-packed bags
- Condoms
- Medical labels, labellers, stickers, forms, charts, signage, tags, cards, tape, wrist bands, documents, brochures, and graphics
- Non-electronic patient medical record file systems and organizers
- *Beds:* Hospital beds, cribs, or bassinets; including mattresses, overlays, pillows, and bumpers
- Medical linens (*e.g.,* blankets, sheets, pillow cases, towels, washcloths, drapes, covers)
- *Chairs:* Exam, treatment, surgical, dental, or phlebotomy
- *Stools:* Designed for clinical use
- *Stands:* IV, instrument, solution, or hamper
- *Carts:* Medical, medical utility, medical supply, food service, or hospital laundry carts
- *Tables:* Operating, exam, therapy, overbed, treatment, medical utility, or medical instrument
- Jars and containers designed for medical supplies and instruments less than 5 L internal volume
- Privacy screens and curtains
- *Cabinets:* Medical supply or pharmaceutical
- *Floor mats:* Safety, anti-fatigue or special-purpose medical floor mats
- Hydrocollator heating units
- *Warmers:* Bottle, gel, lotion, or blanket
- *Patient heating and cooling devices:* Pads, packs, bottles, bags, warmers, blankets, patches, lamps, bags
- Paraffin baths
- *Lights and lamps:* Surgical, or medical exam, magnifying
- Scales, stadiometers, rulers, sticks, tapes, protractors, volumeters, gauges, or calipers designed for human measurement
- Patient safety devices including vests, aprons, finger mitts, limb or body holders, jackets, belts, restraints, cuffs, straps, or protectors
- Human body or cadaver bags and shrouds

- Adhesive designed for human use
- Adhesive remover designed for human use
- Telemetry pouches designed for human use

Anaesthesiology

- Air bags and tidal volume bags
- Air bellows
- Anaesthesia circuits
- Anaesthesia machines, vaporizers, nebulizers, and inhalers designed for individual human use
- Anaesthesia masks (including laryngeal)
- Anti-siphon equipment
- Block and epidural trays packaged for individual use
- Endotrach tubes
- Head straps and harnesses
- Hyperinflation systems
- In-line filters and cartridges, thermometers, CO_2 detectors, sodalime canisters, and temperature and moisture exchangers (**Note:** Gas mask canisters, other than sodalime canisters designed for anaesthesia systems, require a specific license)
- Intubation sets, probes and related equipment
- Anaesthesiometers
- Oral airways
- Peripheral nerve stimulators
- Anaesthesia pressure tubes and controllers
- Cardiopulmonary resuscitation (CPR) training manikins and lung bags
- Vibration dampening mounts

Apparel

- Medical gowns, scrubs, aprons, uniforms, lab coats, and coveralls; only those without integrated hoods
- Patient clothing including gowns, slippers, underpads, or undergarments
- Head or beard covers and nets
- Medical shoe and boot covers
- Surgical sleeve protectors
- Ventilated Safety eyeshields and goggles (does not include full face shield or indirectly-vented goggles)
- Disposable latex, nitrile, polyethylene, vinyl gloves/finger cots or other medical gloves
- Surgical face or dust masks (does not include masks with respirators)

Cardiology

- Electrocardiography machines

Dental Equipment and Supplies

- Dental instruments—all types and sizes
- Dental instrument cases, trays, mats or tray liners, racks, covers, wraps, stands, holders, stringers, or protectors
- Dental and oral implants or devices
- Tooth and denture brushes
- Denture and temporary oral device containers
- Yankauers

Gynecology & Urology

- Bladder scanners
- Pouches, urostomy
- Bladder control pads, briefs, liners, underwear, pants and diapers
- Feminine hygiene products
- Fecal/stool management devices, kits, and catheters
- Enema sets

Laboratory

- Laboratory balances and scales not to exceed 10 Kg
- Patient blood gas analyzers
- Medical specimen centrifuges
- Automated clinical chemistry analyzers for patient care
- Coagulation analyzers
- Co-oximeters for haemoglobin analysis
- Medical bone densitometers
- Medical differential counters
- Bench-top dry bath incubators
- Electrolyte analyzers
- Hematology analyzers
- Histology and cytology strainers and tissue baths
- Laboratory hot plates with less than 1.0 sq. ft. heating surface
- Clinical immunoassay analyzers
- Luminometers
- Laboratory pH meter (with or without temperature probe)
- Automated blood culture systems
- Microplate readers/washers
- Light microscopes
- Osmometers
- Pipettes
- Medical refrigerators and freezers with less than 5.0 cu. ft. internal volume
- Spectrophotometers, photometers, and colorimeters designed for clinical use
- Urinalysis analyzers
- Clinical laboratory water baths less than 10 liter

Nephrology

- Hemodialysis machines; and dialysis filters designed for such machines (Note: Other dialysis equipment, filters, and parts not used for hemodialysis require a specific license and may be controlled under 15 CFR, part 774, supp. 1, ECCN 2B352.d)
- Hemodialysis connection or tubing kits

Neurology

- Electroencephalography machines

Obstetrics and Maternity Care

- Umbilical cord clamps

Ophthalmology and Optometry

- Contact Lenses, corrective
- Contact Lens cleaning solutions
- Glasses, corrective
- Eyecharts

Physical and Occupational Therapy

- Parallel bars
- Exercise bars
- Hand bars
- Mat Platforms
- Exercise table
- Medical Whirlpools
- Mobility platforms, parallel bars, ladders, stairs
- Balance pads, platforms, and beams
- Cognitive measuring devices and equipment
- Manipulation boards
- Dining aids
- Hydraulic dynamometer
- Scoliometer
- Goniometers
- Pedometers
- Ergometers
- Rulonmeters
- Fine motor assessment equipment designed for human use
- Tactile sensation, sensitization, and desensitization equipment
- Rehabilitation exercise, weights, band, balls, boards, and mobility equipment
- Therapeutic putty
- Aquatic floats and training devices
- Protective headgear
- Electrotherapy, muscle stimulators, and tens units
- Ultrasound stimulators
- Massaging equipment

Radiology

- Medical ultrasound machines

Sterilization

- Aseptic, germicidal, or disinfectant wipes or clothes for medical equipment, devices or furniture
- Ready-to-use disinfectant in 32 oz. containers or less
- Aseptic, germicidal, or medical-grade soap, detergent, pre-soak, or rinse in 1 gallon containers or less
- Hand sanitizer, lotion, soap, scrub, wash, gel, or foam; including dispensing devices
- Medical cleaning brushes for equipment, patients, and furniture
- Sterilization or disinfection indicator strips, tape, or test packs
- Medical instrument sterilization pouches, mats, protector guards, or tubing
- Sterilization containers or cases less than 0.3 cu. ft.
- Autoclaves with chamber sizes less than 0.3 cu. ft.; including trays, containers, cassettes, cases, and filters for such systems

Surgery

- Surgical clips
- Surgical instruments—all types and sizes
- Surgical instrument cases, trays, mats or tray liners, racks, covers, wraps, stands, holders, stringers, or protectors
- Stents—all types and sizes
- Surgical linens, drapes, or covers
- Chest drains
- Surgical case carts
- Blood transfusion equipment
- Surgical clean-up kits
- Wound drainage equipment
- Stockinettes
- Surgical mesh
- Surgical smoke evacuators and specialized supporting equipment
- Electrosurgery devices and supporting equipment
- Lubricant specially-formulated for surgical equipment in 1 gallon containers or less

EAR99-classified components, accessories, and optional equipment that are designed for and are for use with an EAR99-classified medical device included elsewhere on the list.

Dated: May 18, 2017.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–10520 Filed 5–22–17; 8:45 am]

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DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Sanctions Actions Pursuant to Executive Order 13582, 13382, and 13572

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of 10 persons whose property and interests in property are blocked pursuant to Executive Orders (E.O.) 13582, 13382, and 13572.

DATES: OFAC's actions described in this notice were effective on May 16, 2017.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel. 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's Web site (*www.treasury.gov/ofac*).

Notice of OFAC Actions

On May 16, 2017, OFAC blocked the property and interests in property of two persons pursuant to E.O. 13582, ''Blocking Property of the Government of Syria and Prohibiting Certain Transactions with Respect to Syria''.

Individual

1. MAKHLUF, Iyad (a.k.a. MAKHLOUF, Eyad; a.k.a. MAKHLOUF, Iyad), Damascus, Syria; DOB 21 Jan 1973; Gender Male; Passport N001820740 (individual) [SYRIA].

Entity

2. CHAM ISLAMIC BANK (a.k.a. AL–CHAM ISLAMIC BANK; a.k.a. CHAM BANK), Al-Najmeh Square, Damascus, Syria; All offices worldwide [SYRIA].

In addition, OFAC also blocked the property and interests in property of the following two persons pursuant to E.O. 13382, ''Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters''.

Individual

1. QUWAYDIR, Muhammed Bin-Muhammed Faris (a.k.a. KWEIDER, Muhammad; a.k.a. KWEITER, Muhammad; a.k.a. QASSAR, Samir; a.k.a. QUAYDIR, Muhammad), Damascus, Syria; DOB 21 Jul 1967; Gender Male; Passport 004123298; Scientific Studies and Research Center Contracts Director (individual) [NPWMD] (Linked To: SCIENTIFIC STUDIES AND RESEARCH CENTER).

Entity

2. SYRIAN COMPANY FOR INFORMATION TECHNOLOGY (a.k.a. ''SCIT''), P.O. Box 11037, Damascus, Syria [NPWMD] (Linked To: ORGANIZATION FOR TECHNOLOGICAL INDUSTRIES).

In addition, OFAC also blocked the property and interests in property of the following six persons pursuant to E.O. 13572, ''Blocking Property of Certain Persons With Respect to Human Rights Abuses in Syria''.

Individuals

1. ABBAS, Muhammad (a.k.a. ABBAS, Mohammad Hasan; a.k.a. ABBAS, Mohammad Hassan), Damascus, Syria; DOB 01 Sep 1964; POB Al Ladhiqiyah, Syria; Gender Male (individual) [SYRIA] (Linked To: MAKHLUF, Rami).

2. MAKHLUF, Ihab (a.k.a. MAKHLOUF, Ehab; a.k.a. MAKHLOUF, Iehab; a.k.a. MAKHLOUF, Ihab), Damascus, Syria; DOB 21 Jan 1973; Gender Male; Passport N002848852 (individual) [SYRIA] (Linked To: MAKHLUF, Rami).

3. DARWISH, Samir Sakhir, Mezzah, Damascus, Syria; DOB 1971; alt. DOB 1970; alt. DOB 1972; Head of Al-Bustan Charity (individual) [SYRIA] (Linked To: AL–BUSTAN CHARITY).

Entities

4. AL–BUSTAN CHARITY (a.k.a. AL JAMAIYAH AL BUSTAN; a.k.a. AL–BUSTAN ASSOCIATION; a.k.a. AL–BUSTAN CHARITY ASSOCIATION; a.k.a. AL–BUSTAN CHARITY FOUNDATION; a.k.a. AL–BUSTAN CHARITY SOCIETY; a.k.a. AL–BUSTAN ORGANIZATION; a.k.a. JAMIAT AL–BUSTAN AL–KHAYRIYAH CHARITY), Mazza, Damascus, Syria [SYRIA] (Linked To: MAKHLUF, Rami).

5. AL–AJNIHAH (a.k.a. AJJNEHA; a.k.a. AL–AGNEHA COMPANY; a.k.a. AL–AJNIHAH PRIVATE JOINT STOCK CORPORATION), Damascus, Syria [SYRIA] (Linked To: ABBAS, Muhammad).

6. BARLY OFF–SHORE (a.k.a. BARLY OFF–SHORE S.A.L.), Lebanon [SYRIA] (Linked To: ABBAS, Muhammad).

Dated: May 16, 2017.

Andrea M. Gacki,

Acting Director, Office of Foreign Assets Control.

[FR Doc. 2017–10475 Filed 5–22–17; 8:45 am]

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LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List May 19, 2017

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