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DEPARTMENT OF HOMELAND SECURITY

8 CFR Part 100

Customs and Border Protection

19 CFR Part 101

[Docket No. USCBP–2012–0037; CBP Dec. 14–08]

Closing of the Jamieson Line, New York Border Crossing

AGENCY: U.S. Customs and Border Protection, DHS.

ACTION: Final rule.

SUMMARY: This final rule amends the Department of Homeland Security (DHS) regulations pertaining to the field organization of U.S. Customs and Border Protection (CBP) by closing the Jamieson Line, New York border crossing. The change is part of CBP's continuing program to utilize its personnel, facilities, and resources more efficiently, and to provide better service to carriers, importers, and the general public.

DATES: This final rule is effective on August 21, 2014.

FOR FURTHER INFORMATION CONTACT: Mr. Roger Kaplan, Office of Field Operations, U.S. Customs and Border Protection, (202) 325–4543, or by email at *Roger.Kaplan@cbp.dhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On September 24, 2012, CBP published a Notice of Proposed Rulemaking (NPRM) in the **Federal Register** (77 FR 58782), proposing to close the Jamieson Line, New York, border crossing and amend the lists of CBP Customs stations at 19 CFR 101.4(c) and the CBP ports of entry at 8 CFR 100.4(a) to reflect the change. The primary reason for the proposed closure was the Canada Border Services Agency's (CBSA) closure of its adjacent port of entry of Jamieson's Line port in Quebec, Canada on April 1, 2011. As set forth in the NPRM, other factors were the very limited usage of the port; the locations of the alternative ports of entry of Trout River, New York and Chateaugay, New York; the lack of infrastructure at the border crossing to meet modern operational, safety, and technological demands of ports of entry; and the analysis of the net benefit of the port closure, including the cost of necessary renovations were the port to remain open.

II. Analysis of Comments

CBP received nine public comments in response to the NPRM. Three commenters supported the closure of the Jamieson Line border crossing and six commenters opposed it. The following section summarizes the comments and CBP responses, grouped into three general categories: impact on travelers, impact on surrounding area, and costs.

1. Impact on Travelers

Comments: Several commenters wrote that the closure would require a detour during their frequent trips from Canada to the United States resulting in additional travel time, vehicle wear and tear, and added fuel costs. One of the commenters stated that, as a senior citizen on a very limited pension, the additional travel time to the Chateaugay border crossing and the added fuel cost would be a great burden.

A commenter supporting the proposed closure of the border crossing wrote that traveling the six to nine extra miles to the next closest border crossing is not a substantial burden given that the Jamieson Line border crossing is infrequently used. Another commenter wrote that the border crossings at Chateaugay and Trout River are on state highways (as opposed to the Jamieson Line border crossing which is on a country road) and stated that re-routing the traffic to state highways would provide a more direct route for most travelers. One of the commenters queried whether the Jamieson Line border crossing has historically had significantly higher traffic numbers than in more recent years.

CBP Response: The Jamieson Line border crossing is one of CBP's least trafficked border crossings. The border crossing has processed an average of less than six privately owned vehicles per day and had the eighth lowest traffic volume of all CBP land border crossings for the past four fiscal years (2009–2012).[1] As explained in detail below, CBP would incur substantial costs in order to keep the border crossing open. Although CBP sincerely regrets the disruptions to personal and business routines that some individuals will experience due to the closure of the Jamieson Line border crossing, CBP cannot justify the substantial costs for so few vehicles.

2. Impact on Surrounding Area

Comments: One commenter wrote that the closing of the Jamieson Line border crossing would lead to job loss and economic hardship within the local community of Burke, New York, which will lose contracts at the border crossing for services such as cleaning, lawn maintenance, and snow removal as well as business from the loss of travelers. (The Jamieson Line border crossing is in Burke, New York). The commenter also stated that the neighboring ports will be adversely affected by the closure since the neighboring ports are already burdened by obsolete buildings and minimum staffing and that the closing of the Jamieson Line border crossing would increase the wait times at the neighboring ports of Chateaugay and Trout River.

A commenter supporting the proposed border crossing closure noted that the citizens in the surrounding areas will be minimally impacted by the closure of the Jamieson Line border crossing; according to multiple maps of the area, there are no local businesses in the vicinity of the Jamieson Line border crossing and the travel time would not increase given the re-routing of the traffic to faster, more efficient state highways.

Another commenter asked whether the necessary renovation to the border crossing were it to remain open would stimulate the economy of the town of Burke, New York, which might attract more Canadians into the United States, especially given the favorable exchange rates. This commenter also inquired if

[1] Prior to 2008, traffic at the Jamieson Line border crossing was combined with the traffic of nearby ports so CBP cannot ascertain the actual number of crossings at the Jamieson Line border crossing for earlier years.

renovating the Jamieson Line border crossing would potentially increase trade between the United States and Canada per ''the Perimeter Security agreement''. Finally, this commenter asked whether CBP considered converting the Jamieson Line border crossing into an unmanned crossing. Another commenter questioned whether the greater distance between the border crossings made the border less secure.

CBP response: CBP believes that the impact of the closure of the Jamieson Line border crossing on the town of Burke and the surrounding area will be minimal. Since fewer than an average of six vehicles a day enter the United States at the Jamieson Line crossing, the effect to local businesses is likely to be very small and the effect on wait times at nearby ports, if any, is likely to be minimal.

We do not believe that the vehicle traffic at the border crossing would increase or that other benefits would accrue from renovating the border crossing. CBP notes that such renovation would be performed only to allow the border crossing to meet current DHS building safety and security standards and that the border crossing would operate in the same manner as before, with one primary lane, no secondary lane, and no formal commercial vehicle inspection area. As such, CBP would not expect an increase in jobs or business activity in the local community. CBP does not believe that a renovation would increase the number of tourists arriving from Canada, especially given the fact that the border crossing on the Canadian side is closed. CBP also notes that the Beyond the Border Declaration between the United States and Canada (which the commenter refers to as the Perimeter Security agreement) is not relevant to the closure of the Jamieson Line border crossing as it primarily addresses security concerns, the further development of the trusted traveler programs, and the coordination between Canada and the United States at large border crossings.

CBP believes that the closure of the border crossing would not impair security at the border. First, CBP notes that the Area Port of Trout River and its border crossings (including Jamieson Line) have a low-risk, low-threat security and law-enforcement environment. Second, CBP will be taking several steps to address security concerns, including building a barrier to physically block the road to vehicular traffic, electronically monitoring the border crossing at all times, and conducting periodic sweeps. The suggestion that CBP should consider converting the Jamieson Line border crossing into an unmanned crossing is not a viable option because the technology and equipment that would allow a border to be unstaffed is prohibitively expensive. In addition, the servicing port of any unmanned crossing at the Jamieson Line border crossing would still have to redirect manpower to respond to entry requests at a substantial cost.

3. Costs

Comments: Several of the commenters supporting the proposed closure of the Jamieson Line border crossing asserted that the closure is the fiscally sound option given the low daily volume of travelers, the nearby alternative ports of entry available, and the substantial cost to renovate the facilities to meet the current safety and security requirements. One of the commenters praised CBP for taking steps to save money especially given today's budgetary concerns. Another commenter wrote that the current condition of the building could pose a potential public risk if not updated and that the stated cost of implementing these necessary renovations is extremely high in relation to the low use of the border crossing.

Several commenters questioned the economic analysis included in the NPRM. One of the commenters wrote that renovating the structure was not the only viable option for keeping the Jamieson Line border crossing open and that CBP should have considered the alternative of continuing to operate the border crossing in its current state. Another commenter wrote that the border crossing has functioned for over fifty years and that only a modest replacement of the building for a fraction of the $6,500,000 cost reflected in the NPRM would be necessary. A commenter challenged the estimated costs and economic analysis in the NPRM and asserted that numerous costs were incorrect. Among other assertions, this commenter stated that the border crossing would only require three full-time CBP officers for full coverage and not the five full-time CBP officers currently assigned to the Jamieson Line border crossing. Finally, one commenter wrote that the annual cost to travelers to close the border crossing represents slightly less than 10% of what it would cost CBP to keep the facility operating in its current state.

CBP Response: We disagree with the commenters' assertions that CBP does not have to renovate the border crossing to continue operating the crossing and CBP maintains that all of our cost calculations are accurate. The current facility at the Jamieson Line border crossing does not meet CBP building safety and security standards and CBP must construct a new facility to meet these standards if the border crossing operations are to continue. (The facility was built in 1945 and has not undergone renovation since 1962.). As stated in the NPRM, CBP estimates the cost to renovate the facility at the Jamieson Line border crossing to be $6,500,000. This estimate is based on the actual labor, land, environmental and other relevant costs to construct identical facilities in New York and Vermont. As further stated in the NPRM, the cost of the renovations and the costs to CBP of continuing to operate the Jamieson Line border crossing are $7,087,000 (construction, plus staffing and operating costs) during the first year and $587,000 (staffing and operating expenses) each following year. CBP estimates that it will cost approximately $205,000 to physically close the border crossing which involves building barricades, stabilizing the building and fencing. CBP concurs that the additional travel cost to travelers is far less than the annual expense to the taxpayer for operating the Jamieson Line border crossing.

With regard to the level of staffing required at the Jamieson Line border crossing, CBP requires five full-time CBP officers at the crossing. This takes into account a five-day work week, vacation and sick leave, and time for mandatory and mission-enhancing training. When the NPRM was issued, the CBP Office of Field Operations estimated that a CBP officer spends 1,194 hours performing border crossing duties while at a border crossing (this estimate has since been revised to 1,182 hours). The Jamieson Line border crossing is open eight hours a day, 365 days a year and is staffed by two CBP officers each day. Therefore, this border crossing requires 5,840 hours of CBP officer time specifically dedicated to border crossing duties each year. As a result, five CBP officers are required to staff the Jamieson Line crossing.

III. Conclusion

After carefully considering the comments, CBP has decided to close the Jamieson Line, New York border crossing. We also considered (1) the very limited usage of the border crossing; (2) the locations of the alternative ports of entry; (3) the lack of infrastructure at the border crossing to meet modern operational, safety, and technological demands of ports of entry; and (4) the analysis of the net benefit of the border crossing closure including the cost of necessary renovations were

the crossing to remain open. The lists of CBP Customs stations at 19 CFR 101.4(c) and the CBP ports of entry at 8 CFR 100.4(a) are being amended to reflect the change.

CBP is working with the New York State Department of Transportation and CBSA to identify the permanent barrier and signage necessary to prevent entry and re-route traffic to nearby ports of entry. CBP expects that any impact on the environment and any costs incurred to mitigate impact on the environment will be minimal. If necessary, CBP will conduct minor environmental studies in the course of facility demolition and decommissioning.

IV. Congressional Notification

On May 31, 2011, the Commissioner of CBP notified Congress of CBP's intention to close the border crossing at Jamieson Line, fulfilling the congressional notification requirements of 19 U.S.C. 2075(g)(2) and section 417 of the Homeland Security Act (6 U.S.C. 217).

V. Regulatory Requirements

A. Signing Authority

The signing authority for this document falls under 19 CFR 0.2(a). Accordingly, this final rule is signed by the Secretary of Homeland Security.

B. Executive Orders 13563 and 12866

Executive Orders 13563 and 12866 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule is not a ''significant regulatory action,'' under section 3(f) of Executive Order 12866. Accordingly, the Office of Management and Budget has not reviewed this regulation. Nevertheless, CBP provided its assessment of the benefits and costs of this regulatory action in an NPRM (see 77 FR 58782). CBP adopts the NPRM's economic analysis for this final rule without any changes, as summarized below.

DHS has determined that the Jamieson Line crossing requires significant renovation and expansion, requiring an estimated $6.5 million to build facilities that meet all current CBP safety and security standards. Since this construction is the only alternative to closing the crossing, CBP would need to spend $7,087,000 the first year (construction plus staffing and operating costs) and $587,000 in staffing and operating expenses each subsequent year if the crossing were to remain open.

The costs of closing the Jamieson Line crossing fall into three categories—the cost to CBP to physically close the crossing, the cost to travelers to drive to the next nearest crossing, and the cost to the economy of lost revenue resulting from potential decreased Canadian travel. CBP estimates that it will cost approximately $205,000 to physically close the crossing, which involves building road barricades, stabilizing the building, and fencing. With the closure of Jamieson Line crossing, travelers will incur an estimated $46,670 in time costs and $50,000 in vehicle costs annually to travel to an alternative crossing. We believe that the total impacts on the economy due to decreased travel to the United States are negligible. Thus, total quantifiable costs to close the crossing are $301,670 in the first year and $96,670 each following year.

Accounting for the overall costs and benefits of closing the Jamieson Line crossing, the net benefit of closing the crossing is $6,785,330 the first year and $490,330 each year thereafter, for an annualized net benefit of approximately $1.3 million over the next ten years using a seven percent discount rate.

C. Regulatory Flexibility Act

This section examines the impact of the rule on small entities as required by the Regulatory Flexibility Act (5 U.S.C. 603), as amended by the Small Business Regulatory Enforcement and Fairness Act of 1996. A small entity may be a small business (defined as any independently owned and operated business not dominant in its field that qualifies as a small business per the Small Business Act); a small not-for-profit organization; or a small governmental jurisdiction (locality with fewer than 50,000 people). Individuals are not defined as small entities under the Regulatory Flexibility Act.

Because CBP does not collect data on the number of small businesses that use the border crossing of Jamieson Line, we cannot estimate how many will be affected by this rule. However, an average of fewer than six vehicles cross into the United States at the Jamieson Line border crossing each day and DHS does not believe that this impact rises to the level of a significant economic impact. In addition, such impacts to small businesses are an indirect effect of this rule, but are discussed previously in this preamble. DHS thus certifies that this rule will not have a significant economic impact on a substantial number of small entities.

D. Unfunded Mandates Reform Act of 1995

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

E. Executive Order 13132

The rule will not have substantial direct effects 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. Therefore, in accordance with section 6 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement.

List of Subjects

8 CFR Part 100

Organization and functions (Government agencies).

19 CFR Part 101

Customs duties and inspection, Customs ports of entry, Exports, Imports, Organization and functions (Government agencies).

Amendments to DHS Regulations

For the reasons set forth above, DHS amends part 100 of title 8 of the Code of Federal Regulations and part 101 of title 19 of the Code of Federal Regulations as set forth below.

Title 8—Aliens and Nationality

CHAPTER I—DEPARTMENT OF HOMELAND SECURITY

PART 100—STATEMENT OF ORGANIZATION

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 8 U.S.C. 1103; 8 U.S.C. 1185 note (section 7209 of Pub. L. 108–458; 8 CFR part 2.

§ 100.4 [Amended]

■ 2. The list of ports in § 100.4(a) is amended by removing ''Jamison's Line, NY'' from the list of Class B ports of entry under District No. 7—Buffalo, New York.

Title 19—Customs Duties

CHAPTER I—U.S. CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF HOMELAND SECURITY

PART 101—GENERAL PROVISIONS

■ 3. The general authority citation for part 101 and the specific authority citation for § 101.4 continue to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 2, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1623, 1624, 1646a.

Sections 101.3 and 101.4 also issued under 19 U.S.C. 1 and 58b.

* * * * *

§ 101.4 [Amended]

■ 4. The list of ports in § 101.4(c) is amended by removing, under the state of New York, the entry ''Jamieson's Line'' from the ''Customs station'' column and removing the corresponding entry ''Trout River'' from the ''Supervisory port of entry'' column.

Dated: July 17, 2014.

Jeh Charles Johnson,

Secretary of Homeland Security.

[FR Doc. 2014–17190 Filed 7–21–14; 8:45 am]

BILLING CODE 9111–14–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 170 and 171

[NRC–2013–0276]

RIN 3150–AJ32

Revision of Fee Schedules; Fee Recovery for Fiscal Year 2014; Correction

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule; correction.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is correcting a final rule that appeared in the **Federal Register** of June 30, 2014, that amends the licensing, inspection, and annual fees charged to the NRC's applicants and licensees. The final rule inadvertently included the NRC's Agencywide Documents Access and Management System (ADAMS) accession number for the fiscal year (FY) 2014 proposed fee rule work papers. This document corrects the final rule to provide the ADAMS accession number for the FY 2014 final fee rule work papers.

DATES: This correction is effective on August 29, 2014.

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

SUPPLEMENTARY INFORMATION: In FR Doc. 2014–15193 appearing on page 37123 in the **Federal Register** of Monday, June 30, 2014, the following corrections are made:

1. On page 37128, in the first column, in the second paragraph under the heading ''Revised Annual Fees,'' the number ''ML14064A394'' is corrected to read ''ML14148A062.''

2. On page 37144, in the third column, in the table under the heading ''XV. Availability of Documents,'' the number ''ML14064A394'' is corrected to read ''ML14148A062.''

Dated at Rockville, Maryland, this 16th day of July, 2014.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2014–17140 Filed 7–21–14; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 140429382–4382–01]

RIN 0694–AG16

Addition of Certain Persons to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding eleven persons under twelve entries to the Entity List. The persons who are added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These persons will be listed on the Entity List under the destinations of Crimea (Occupied), Russia, and Ukraine. There are twelve entries for the eleven persons on the Entity List because one person is being listed in multiple locations, resulting in an additional entry. Specifically, the additional entry covers one person that will be listed on the Entity List under the destination of Crimea (Occupied) and Ukraine.

DATES: *Effective date:* This rule is effective July 22, 2014.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Fax: (202) 482–3911, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to Part 744) notifies the public about entities that have engaged in activities that could result in an increased risk of the diversion of exported, reexported or transferred (in-country) items to weapons of mass destruction (WMD) programs. Since its initial publication, grounds for inclusion on the Entity List have expanded to include activities sanctioned by the State Department and activities contrary to U.S. national security or foreign policy interests, including terrorism and export control violations involving abuse of human rights. Certain exports, reexports, and transfers (in-country) to entities identified on the Entity List require licenses from BIS and are usually subject to a policy of denial. The availability of license exceptions in such transactions is very limited. The license review policy for each entity is identified in the license review policy column on the Entity List and the availability of license exceptions is noted in the **Federal Register** notices adding persons to the Entity List. BIS places entities on the Entity List based on certain sections of part 744 (Control Policy: End-User and End-Use Based) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes all decisions to add an entry to the Entity List by majority vote and all decisions to remove or modify an entry by unanimous vote. The Departments represented on the ERC approved these changes to the Entity List.

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add eleven persons under twelve entries to the Entity List on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the

EAR. The twelve entries added to the Entity List consist of one person in Crimea (Occupied), eight persons in Russia, and three persons in Ukraine.

The ERC reviewed § 744.11(b) (Criteria for revising the Entity List) in making the determination to add these eleven persons to the Entity List. Under that paragraph, persons for whom there is reasonable cause to believe, based on specific and articulable facts, have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List. The eleven persons being added to the Entity List have been determined by the ERC to be involved in activities that are contrary to the national security or foreign policy interests of the United State. Those activities are related to Russia's continued policy of destabilization in eastern Ukraine and ongoing occupation of Crimea and Sevastopol.

Over the past few days, Russian support to the separatists has fueled increased fighting and casualties in eastern Ukraine. Russia continues to provide the separatists with heavy weapons, equipment, and other financing, and continues to allow militants to enter Ukraine freely. In addition, Russia has returned many of its troops to border areas, and has been massing additional equipment near the border for potential transfer into Ukraine.

On March 6, 2014, the President of the United States issued Executive Order 13660 (79 FR 13493), *Blocking Property of Certain Persons Contributing to the Situation in Ukraine,* finding that the actions and policies of persons who have asserted governmental authority in Occupied Crimea without the authorization of the Government of Ukraine undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, and thereby constitute an unusual and extraordinary threat to the national security and foreign policy of the United States. The Executive Order also declares a national emergency to deal with that threat.

Specifically, Executive Order 13660 blocks all property and interests in property that are in the United States, that come within the United States, or that are or come within the possession or control of any United States person (including any foreign branch) of any person determined by the Secretary of the Treasury, in consultation with the Secretary of State, to be responsible for or complicit in, or to have engaged in, directly or indirectly, actions or policies that undermine democratic processes or institutions in Ukraine; actions or policies that threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine; or misappropriation of state assets of Ukraine or of an economically significant entity in Ukraine. Under Section 8 of Executive Order 13660, all agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the Order. The Department of the Treasury's Office of Foreign Assets Control, pursuant to Executive Order 13660, has designated the following three persons: Donetsk People's Republic, Feodosiya Enterprise, and Luhansk People's Republic. In conjunction with that designation, the Department of Commerce adds to the Entity List under this rule Donetsk People's Republic, Feodosiya Enterprise, and Luhansk People's Republic and imposes a license requirement for exports, reexports, or transfers (in-country) to these blocked persons. This license requirement implements an appropriate measure within the authority of the EAR to carry out the provisions of Executive Order 13660.

The three persons added to the Entity List in this rule under Executive Order 13660 have engaged in actions or policies that undermine democratic processes or institutions in Ukraine and threaten the peace, security, stability, sovereignty, or territorial integrity of Ukraine. Donetsk People's Republic and Luhansk People's Republic are both separatist organizations that operate in eastern Ukraine. Feodosiya Enterprise, an oil storage terminal located in Crimea (Occupied), which was previously an asset of Ukraine's state-controlled Naftogaz, has engaged in the misappropriation of state assets of Ukraine. Therefore, pursuant to § 744.11 of the EAR, the conduct of these three persons raises sufficient concern that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to these persons, will enhance BIS's ability to protect the foreign policy and national security interests of the United States.

On March 16, 2014, the President of the United States issued Executive Order 13661 (79 FR 15533), *Blocking Property of Additional Persons Contributing to the Situation in Ukraine.* This Order expanded the scope of the national emergency declared in Executive Order 13660, finding that the actions and policies of the Government of the Russian Federation with respect to Ukraine—including the recent deployment of Russian Federation military forces in Occupied Crimea—undermine democratic processes and institutions in Ukraine; threaten its peace, security, stability, sovereignty, and territorial integrity; and contribute to the misappropriation of its assets, and thereby constitute an unusual and extraordinary threat to the national security and foreign policy of the United States.

Specifically, Executive Order 13661 includes a directive that all property and interests in property that are in the United States, that hereafter come within the United States, or that are or thereafter come within the possession or control of any United States person (including any foreign branch) of the following persons are blocked and may not be transferred, paid, exported, withdrawn, or otherwise dealt in: Persons operating in the arms or related materiel sector in the Russian Federation. Under Section 8 of the Order, all agencies of the United States Government are directed to take all appropriate measures within their authority to carry out the provisions of the Order. The Department of the Treasury's Office of Foreign Assets Control, pursuant to Executive Order 13661, has designated the following eight persons: Federal State Unitary Enterprise State Research and Production Enterprise Bazalt, Joint Stock Company Concern Almaz-Antey, Joint Stock Company Concern Radio-Electronic Technologies, Joint Stock Company Concern Sozvezdie, Joint Stock Company Military-Industrial Corporation NPO Mashinostroyenia, Kalashnikov Concern, Konstruktorskoe Byuro Priborostroeniya Otkrytoe Aktsionernoe Obshchestvo, and Uralvagonzavod. In conjunction with that designation, the Department of Commerce adds to the Entity List under this rule Federal State Unitary Enterprise State Research and Production Enterprise Bazalt, Joint Stock Company Concern Almaz-Antey, Joint Stock Company Concern Radio-Electronic Technologies, Joint Stock Company Concern Sozvezdie, Joint Stock Company Military-Industrial Corporation NPO Mashinostroyenia, Kalashnikov Concern, Konstruktorskoe Byuro Priborostroeniya Otkrytoe Aktsionernoe Obshchestvo, and Uralvagonzavod and imposes a license requirement for exports, reexports, or

transfers (in-country) to these blocked persons. This license requirement implements an appropriate measure within the authority of the EAR to carry out the provisions of Executive Order 13661.

The eight persons added to the Entity List in this rule under Executive Order 13661 operate in the Russian Federation's arms or related materiel sector. Federal State Unitary Enterprise State Research and Production Enterprise Bazalt produces aircraft, ground and marine munitions; Joint Stock Company Concern Almaz-Antey produces air defense missile systems; Joint Stock Company Concern Radio-Electronic Technologies and Joint Stock Company Concern Sozvezdie focus on electronic warfare; Joint Stock Company Military-Industrial Corporation NPO Mashinostroyenia produces advanced space and rocketry equipment; Kalashnikov Concern produces firearms, including Kalashnikov assault rifles; Konstruktorskoe Byuro Priborostroeniya Otkrytoe Aktsionernoe Obshchestvo produces high precision weapons, including guided weapon systems such as anti-tank missiles and anti-aircraft systems; Uralvagonzavod produces combat vehicles, including tanks and ordnance. Therefore, pursuant to § 744.11 of the EAR, the conduct of these eight persons raises sufficient concern that prior review of exports, reexports, or transfers (in-country) of items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to these persons, will enhance BIS's ability to protect the foreign policy and national security interests of the United States.

For all eleven persons added to the Entity List, there is a license requirement for all items subject to the EAR and a license review policy of presumption of denial. The license requirements apply to any transaction in which items are to be exported, reexported, or transferred (in-country) to any of the persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule.

This final rule adds the following eleven persons under twelve entries to the Entity List:

Crimea (Occupied)

(1) *Feodosiya Enterprise,* a.k.a., the following four aliases:

—Feodosia Oil Products Supply Co.; and
—Feodosiya Enterprise on Providing Oil Products; and
—Feodosiyske Company for the Oil; and
—Theodosiya Oil Terminal.

Feodosiya, Geologicheskaya str. 2, Crimea 98107, Ukraine; and Feodosia, Str. Geological 2, Crimea 98107, Ukraine (See alternate addresses under Ukraine).

Russia

(1) *Federal State Unitary Enterprise State Research and Production Enterprise Bazalt,* a.k.a., the following three aliases:

—Federal State Unitary Enterprise, State Research and Production Enterprise Bazalt; and
—Fsue Srpe Bazalt; and
—State Research and Production Enterprise Bazalt.

32 Velyaminovskaya, Moscow 105318, Russia;

(2) *Joint-Stock Company Concern Almaz-Antey,* a.k.a., the following four aliases:

—Almaz-Antey Corp; and
—Almaz-Antey Defense Corporation; and
—Almaz-Antey JSC; and
—Otkrytoe Aktsionernoe Obshchestvo Kontsern PVO Almaz Antei.

41 ul. Vereiskaya, Moscow, 121471, Russia;

(3) *Joint-Stock Company Concern Radio-Electronic Technologies,* a.k.a., the following three aliases:

—Concern Radio-Electronic Technologies; and
—JSC Concern Radio-Electronic Technologies; and
—Kret.

20/1 Korp. 1 ul. Goncharnaya, Moscow 109240, Russia;

(4) *Joint Stock Company Concern Sozvezdie,* a.k.a., the following one alias:

—JSC Concern Sozvezdie.

14 Plekhanovskaya Street, Voronezh, Russia; and

14 ul. Plekhanovskaya, Voronezh, Voronezhskaya obl. 394018, Russia;

(5) *Joint Stock Company Military-Industrial Corporation NPO Mashinostroyenia,* a.k.a., the following eight aliases:

—Joint Stock Company Military Industrial Consortium NPO Mashinostroyenia; and
—JSC MIC NPO Mashinostroyenia; and
—MIC NPO Mashinostroyenia JSC; and
—MIC NPO Mashinostroyeniya JSC; and
—Military Industrial Corporation NPO Mashinostroenia OAO; and
—Open Joint Stock Company Military Industrial Corporation Scientific and Production Machine Building Association; and
—Voenno-Promyshlennaya Korporatsiya Nauchno-Proizvodstvennoe Obedinenie Mashinostroeniya OAO; and
—VPK NPO Mashinostroeniya.

33, Gagarina St., Reutov-town, Moscow Region 143966, Russia; and

33 Gagarin Street, Reutov, Moscow Region, 143966, Russia; and

33 Gagarina ul., Reutov, Moskovskaya obl 143966;

(6) *Kalashnikov Concern,* a.k.a., the following eight aliases:

—Concern Kalashnikov; and
—Izhevskiy Mashinostroitel'nyi Zavod OAO; and
—Izhmash R&D Center; and
—JSC NPO Izhmash; and
—NPO Izhmash OAO; and
—OJSC Concern Kalashnikov; and
—OJSC Izhmash; and
—Scientific Production Association Izhmash Joint Stock Company.

3, Derjabin Pr., Izhevsk, Udmurt Republic, 426006, Russia;

(7) *Konstruktorskoe Byuro Priborostroeniya Otkrytoe Aktsionernoe Obshchestvo,* a.k.a., the following five aliases:

—Instrument Design Bureau; and
—JSC KBP Instrument Design Bureau; and
—KBP Instrument Design Bureau; and
—KBP Instrument Design Bureau Joint Stock Company; and
—KBP OAO.

59 Shcheglovskaya Zaseka ul., Tula 300001, Russia;

(8) *Uralvagonzavod,* a.k.a., the following eight aliases:

—Nauchno-Proizvodstvennaya Korporatsiya Uralvagonzavod OAO; and
—NPK Uralvagonzavod; and
—NPK Uralvagonzavod OAO; and
—OJSC Research and Production Corporation Uralvagonzavod; and
—Research and Production Corporation Uralvagonzavod; and
—Research and Production Corporation Uralvagonzavod OAO; and
—Uralvagonzavod Corporation; and
—UVZ.

28, Vostochnoye shosse, Nizhni Tagil, Sverdlovsk region 622007, Russia; and

28 Vostochnoe shosse, Nizhni Tagil, Sverdlovskaya oblast 622007, Russia; and

40, Bolshaya Yakimanka Street, Moscow 119049, Russia.

Ukraine

(1) *Donetsk People's Republic,* Donetsk Region, Ukraine;

(2) *Feodosiya Enterprise,* a.k.a., the following four aliases:

—Feodosia Oil Products Supply Co.; and

—Feodosiya Enterprise on Providing Oil Products; and
—Feodosiyske Company for the Oil; and
—Theodosiya Oil Terminal.

Feodosiya, Geologicheskaya str. 2, Crimea 98107, Ukraine; and

Feodosia, Str. Geological 2, Crimea 98107, Ukraine (See alternate addresses under Crimea (Occupied)).

(3) *Luhansk People's Republic,* a.k.a., the following two aliases:

—Lugansk People's Republic; and
—People's Republic of Luhansk.

Luhansk Region, Ukraine.

Savings Clause

Shipments of items removed from eligibility for a License Exception or export or reexport without a license (NLR) as a result of this regulatory action that were en route aboard a carrier to a port of export or reexport, on July 22, 2014, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR).

Export Administration Act

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 8, 2013, 78, 2013, 78 FR 49107 (August 12, 2013), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222 as amended by Executive Order 13637.

Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications and carries a burden estimate of 43.8 minutes for a manual or electronic submission. Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public comment and a delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 5 U.S.C. 553(a)(1)). BIS implements this rule to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in country) to the persons being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, then entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the Entity List and would create an incentive for these persons to either accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, and/or to take steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule was published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subject in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 8, 2013, 78 FR 49107 (August 12, 2013); Notice of September 18, 2013, 78 FR 58151 (September 20, 2013); Notice of November 7, 2013, 78 FR 67289 (November 12, 2013); Notice of January 21, 2014, 79 FR 3721 (January 22, 2014).

■ 2. Supplement No. 4 to part 744 is amended:

■ a. By adding under Crimea (Occupied), in alphabetical order, one entity;

■ b. By adding under Russia, in alphabetical order, eight Russian entities; and

■ c. By adding under Ukraine, in alphabetical order, three Ukrainian entities.

The additions read as follows:

Supplement No. 4 to Part 744—Entity List

Country	Entity	License requirement	License review policy	Federal Register citation
*	*	*	*	*
CRIMEA (OCCUPIED)	*	*	*	*
	Feodosiya Enterprise, a.k.a., the following four aliases: —Feodosia Oil Products Supply Co.; *and* —Feodosiya Enterprise on Providing Oil Products; *and* —Feodosiyske Company for the Oil; *and* —Theodosiya Oil Terminal. Feodosiya, Geologicheskaya str. 2, Crimea 98107, Ukraine; *and* Feodosia, Str. Geological 2, Crimea 98107, Ukraine (See alternate address under Ukraine)	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
	*	*	*	*
*	*	*	*	*
RUSSIA	*	*	*	*
	Federal State Unitary Enterprise State Research and Production Enterprise Bazalt, a.k.a., the following three aliases: —Federal State Unitary Enterprise, State Research and Production Enterprise Bazalt; *and* —Fsue Srpe Bazalt; *and* —State Research and Production Enterprise Bazalt. 32 Velyaminovskaya, Moscow 105318, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
	*	*	*	*
	Joint-Stock Company Concern Almaz-Antey, a.k.a., the following four aliases: —Almaz-Antey Corp; *and* —Almaz-Antey Defense Corporation; *and* —Almaz-Antey JSC; *and* —Otkrytoe Aktsionernoe Obshchestvo Kontsern PVO Almaz Antei. 41 ul. Vereiskaya, Moscow, 121471, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
	Joint-Stock Company Concern Radio-Electronic Technologies, a.k.a., the following three aliases: —Concern Radio-Electronic Technologies; *and* —JSC Concern Radio-Electronic Technologies; *and* —Kret. 20/1 Korp. 1 ul. Goncharnaya, Moscow 109240, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
	Joint Stock Company Concern Sozvezdie, a.k.a., the following one alias: —JSC Concern Sozvezdie. 14 Plekhanovskaya Street, Voronezh, Russia; *and* 14 ul. Plekhanovskaya, Voronezh, Voronezhskaya obl. 394018, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].

Country	Entity	License requirement	License review policy	Federal Register citation
	Joint Stock Company Military-Industrial Corporation NPO Mashinostroyenia, a.k.a., the following eight aliases: —Joint Stock Company Military Industrial Consortium NPO Mashinostroyenia; *and* —JSC MIC NPO Mashinostroyenia; *and* —MIC NPO Mashinostroyenia JSC; *and* —MIC NPO Mashinostroyeniya JSC; *and* —Military Industrial Corporation NPO Mashinostroenia OAO; *and* —Open Joint Stock Company Military Industrial Corporation Scientific and Production Machine Building Association; *and* —Voenno-Promyshlennaya Korporatsiya Nauchno-Proizvodstvennoe Obedinenie Mashinostroeniya OAO; *and* —VPK NPO Mashinostroeniya. 33, Gagarina St., Reutov-town, Moscow Region 143966, Russia; *and* 33 Gagarin Street, Reutov, Moscow Region, 143966, Russia; *and* 33 Gagarina ul., Reutov, Moskovskaya obl 143966.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
	Kalashnikov Concern, a.k.a., the following eight aliases: —Concern Kalashnikov; *and* —Izhevskiy Mashinostroitel'nyi Zavod OAO; *and* —Izhmash R&D Center; *and* —JSC NPO Izhmash; *and* —NPO Izhmash OAO; *and* —OJSC Concern Kalashnikov; *and* —OJSC Izhmash; *and* —Scientific Production Association Izhmash Joint Stock Company. 3, Derjabin Pr., Izhevsk, Udmurt Republic, 426006, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
*	*	*	*	*
	Konstruktorskoe Byuro Priborostroeniya Otkrytoe Aktsionernoe Obshchestvo, a.k.a., the following five aliases: —Instrument Design Bureau; *and* —JSC KBP Instrument Design Bureau; *and* —KBP Instrument Design Bureau; *and* —KBP Instrument Design Bureau Joint Stock Company; *and* —KBP OAO. 59 Shcheglovskaya Zaseka ul., Tula 300001, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
*	*	*	*	*
	Uralvagonzavod, a.k.a., the following eight aliases: —Nauchno-Proizvodstvennaya Korporatsiya Uralvagonzavod OAO; *and* —NPK Uralvagonzavod; *and* —NPK Uralvagonzavod OAO; *and* —OJSC Research and Production Corporation Uralvagonzavod; *and* —Research and Production Corporation Uralvagonzavod; *and*	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].

Country	Entity	License requirement	License review policy	Federal Register citation
	—Research and Production Corporation Uralvagonzavod OAO; *and* —Uralvagonzavod Corporation; *and* —UVZ. 28, Vostochnoye shosse, Nizhni Tagil, Sverdlovsk region 622007, Russia; *and* 28 Vostochnoe shosse, Nizhni Tagil, Sverdlovskaya oblast 622007, Russia; *and* 40, Bolshaya Yakimanka Street, Moscow 119049, Russia.			
	* *	*	*	* *
UKRAINE	* *	*	*	* *
	Donetsk People's Republic, Donetsk Region, Ukraine. Feodosiya Enterprise, a.k.a., the following four aliases: —Feodosia Oil Products Supply Co.; *and* —Feodosiya Enterprise on Providing Oil Products; *and* —Feodosiyske Company for the Oil; *and* —Theodosiya Oil Terminal. Feodosiya, Geologicheskaya str. 2, Crimea 98107, Ukraine; *and* Feodosia, Str. Geological 2, Crimea 98107, Ukraine (See alternate addresses under Crimea (Occupied)).	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
RUSSIA	* *	*	*	* *
	Luhansk People's Republic, a.k.a., the following two aliases: —Lugansk People's Republic —People's Republic of Luhansk. Luhansk Region, Ukraine.	For all items subject to the EAR. (See § 744.11 of the EAR)	Presumption of denial	79 FR [INSERT FR PAGE NUMBER] 7–22–14].
	* *	*	*	* *
*	* *	*	*	* *

Dated: July 16, 2014.

Eric L. Hirschhorn,

Under Secretary of Commerce for Industry and Security (BIS).

[FR Doc. 2014–17196 Filed 7–17–14; 4:15 pm]

BILLING CODE 3510–33–P

POSTAL SERVICE

39 CFR Part 20

International Product Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service is revising *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM®), to reflect classification changes to Competitive Services, as established by the Governors of the Postal Service.

DATES: *Effective date:* September 7, 2014.

FOR FURTHER INFORMATION CONTACT: Paula Rabkin at 202–268–2537.

SUPPLEMENTARY INFORMATION: New classification changes are available under Docket Number MC2014–30 on the Postal Regulatory Commission's Web site at *http://www.prc.gov.*

This final rule describes the international classification changes and the corresponding mailing standards changes for the following Competitive Services:

Priority Mail Express International

Priority Mail Express International service provides fast international delivery service to more than 180 countries. The price for Priority Mail Express International service is unchanged. The following classification change is made: *Lebanon.*

We are adding Lebanon as the most recent country to establish an Express Mail Service (EMS) operational exchange agreement with the Postal Service. As a result, Priority Mail Express International service will become available to this destination effective September 7, 2014, as described in the mailing standards below.

List of Subjects in 39 CFR Part 20

Foreign relations, International postal services.

The Postal Service hereby adopts the following changes to *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), which is incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 20.1. Accordingly, 39 CFR part 20 is amended as follows:

PART 20—[AMENDED]

■ 1. The authority citation for 39 CFR part 20 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 407, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* International Mail Manual (IMM), as follows:

Mailing Standards of the United States Postal Service, International Mail Manual (IMM)

* * * * *

Country Price Groups and Weight Limits

[Revise the listing for Lebanon, adding PMEI service, to read as follows:]

Country	Global express guaranteed		Priority mail express international		Priority mail international		First-class mail international and first-class package international service	
	Price group	Max. wt. (lbs.)	Price group	Max. wt. (lbs.)	Price group	Max. wt. (lbs.)	Price group	Max. wt. (ozs./lbs.)
*	*	*	*	*	*	*	*	*
Lebanon	6	70	8	66	8	66	8	3.5/4
*	*	*	*	*	*	*	*	*

* * * * *

Individual Country Listings

* * * * *

Lebanon

Country Conditions for Mailing

* * * * *

[Revise the listing for Priority Mail Express International to read as follows:]

Priority Mail Express International (220)
Price Group 8

Refer to *Notice 123, Price List,* for the applicable retail, Commercial Base, or Commercial Plus price.

Weight Limit: 66 pounds

Priority Mail Express International—Flat Rate Envelopes and Flat Rate Boxes

Flat Rate Envelopes: The maximum weight is 4 pounds.

Flat Rate Boxes: The maximum weight is 20 pounds.

Refer to *Notice 123, Price List,* for the applicable retail, Commercial Base, or Commercial Plus price.

Size Limits (221.52)

Maximum length: 60 inches

Maximum length and girth combined: 108 inches

Insurance (222.8)

Available for Priority Mail Express International merchandise shipments only

Insured amount not over	Fee	Insured amount not over	Fee
$200	[1]	For insurance coverage above $2,000, add $1.50 for each $500 or fraction thereof, up to a maximum of $5,000 per shipment.	
500	$2.35		
1,000	3.85		
1,500	5.35		
2,000	6.85	$5,000 max	$15.85

[1] No Fee.

Customs Forms Required (123)

Articles admitted	Required customs form/endorsement
Documents, correspondence, and business papers	PS Form 2976. Endorse item clearly next to mailing label as BUSINESS PAPERS.
Merchandise samples without commercial value	PS Form 2976.
Merchandise and all articles subject to customs duty	PS Form 2976–A inside PS Form 2976–E (envelope).

Note: For mailers completing PS Form 2976–B or an online combined shipping label and customs form that electronically transmits customs-related data, no additional customs form is required (see 222.5).

Notes

1. Commercial invoice required in addition to customs forms listed in 123.

2. Coins; banknotes; currency notes, including paper money; securities of any kind payable to bearer; traveler's checks; platinum, gold, and silver; precious stones; jewelry; watches; and other valuable articles are prohibited in Priority Mail Express International shipments to Lebanon.

Reciprocal Service Name: EMS LibanPost

Country Code: LB

Areas Served: All

* * * * *

We will publish an appropriate amendment to 39 CFR part 20 to reflect these changes.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–17136 Filed 7–21–14; 8:45 am]

BILLING CODE 7710–P

POSTAL SERVICE

39 CFR Part 111

Domestic Competitive Products Pricing and Mailing Standards Changes

AGENCY: Postal Service™.

ACTION: Final rule.

SUMMARY: The Postal Service will revise *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM®), to reflect changes to some of the prices for Priority Mail® and the mailing standards for Premium Forwarding Service Commercial™ competitive products.

DATES: *Effective Date:* September 7, 2014.

FOR FURTHER INFORMATION CONTACT: Margaret Choiniere (202) 268–7231 or Garry Rodriguez (202) 268–7281.

SUPPLEMENTARY INFORMATION: This final rule describes the new prices for Priority Mail established by the Governors of the United States Postal Service® and the enhancement to Premium Forwarding Service Commercial enrollment. New prices are available under Docket Number CP2014–55 on the Web site of the Postal Regulatory Commission (PRC) at *http://www.prc.gov,* and also on the Postal Explorer® Web site at *http://pe.usps.com.*

Priority Mail

Overall, Priority Mail prices will average a zero percent price increase. The price increase varies by price cell and price tier.

Retail prices will average a 1.7 percent price increase. The Flat Rate Envelope will be priced at $5.75, the Legal Flat Rate Envelope will be priced at $5.90 and the Padded Flat Rate Envelope will be priced at $6.10. The Flat Rate Box prices will be: Small, $5.95, and Medium boxes, $12.65. The Large Flat Rate Box will be priced at $17.90 and Large APO/FPO/DPO Box will be priced at $15.90.

Commercial Base prices offer lower prices to customers who use online and other authorized postage payment methods. Commercial Base prices will average a 0.9 percent price decrease. Commercial Base pricing offers an average 13.8 percent discount off retail prices.

Commercial Plus prices offer attractive price incentives to large volume customers. Commercial Plus prices will average a 2.3 percent price decrease. Commercial Plus pricing offers an average 15.7 percent discount off retail prices.

Mailer Services

Premium Forwarding Service

Premium Forwarding Service Commercial

The Postal Service provided advance notice of the redesign of commercial reshipment services and an introduction to Premium Forwarding Service Commercial (PFS Commercial™) in **Federal Register** Docket No: 2013–27728 (available at *www.gpo.gov*). The Postal Service anticipated a systems implementation date of July 2014; however, many of the new features of PFS Commercial could be made available sooner. Therefore, the Postal Service began revising the DMM standards using a phased-in approach. The first phase of PFS Commercial features was implemented January 23, 2014, as announced in *Postal Bulletin* issue 22381.

Effective September 7, 2014, a subsequent phase of system implementation activates the enrollment and postage and fee payments for PFS Commercial (for customers desiring shipments sent by Priority Mail Express™) through the Business Customer Gateway at: *https://gateway.usps.com/bcg/login.htm.* At this time, no changes are being made to enrollment for PFS Commercial customers desiring shipments be sent by Priority Mail.

Resources

The Postal Service provides additional resources to assist customers with this price change for competitive products. These tools include price lists, downloadable price files, and **Federal Register** Notices, which may be found on the Postal Explorer® Web site at *pe.usps.com.*

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

The Postal Service adopts the following changes to *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM), incorporated by reference in the *Code of Federal Regulations.* See 39 CFR 111.1.

Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 13 U.S.C. 301–307; 18 U.S.C. 1692–1737; 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3622, 3626, 3632, 3633, and 5001.

■ 2. Revise the following sections of *Mailing Standards of the United States Postal Service,* Domestic Mail Manual (DMM) as follows:

* * * * *

Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM)

* * * * *

500 Additional Mailing Services

* * * * *

507 Mailer Services

* * * * *

3.0 Premium Forwarding Services

* * * * *

3.3 Premium Forwarding Service Commercial

* * * * *

3.3.1 Description

[Revise 3.3.1 as follows:]

Premium Forwarding Service Commercial (PFS Commercial) provides business commercial customers the option to have USPS gather their mail addressed to PO Boxes (including Caller Service) or business street addresses within the same servicing postal facility, and dispatch the mail as Priority Mail Express or Priority Mail shipments to a new address. Customers must establish a service agreement with the USPS, pay an annual enrollment fee and the applicable postage for the class of mail desired for the shipments. See Notice 123—Price List.

3.3.2 Authorization

[Revise 3.3.2 as follows:]

Commercial customers may establish PFS Commercial service by making a request in writing to the origin Post Office if shipments sent by Priority Mail are desired, or through the Business Customer Gateway at *https://gateway.usps.com/bcg/login.htm* if shipments by Priority Mail Express are desired. Requests must specify the business street delivery or P.O. Boxes (or Caller Service) addresses, destination address, frequency (Monday through Saturday) and the postage payment method (see 3.3.3b). Service is activated upon written approval by the Postmaster for the origin office.

3.3.3 Additional Conditions

Only the authorized recipient (or legal agent) of the business's (or organization's) mail may activate the request for PFS Commercial service. PFS Commercial service agreements are subject to these additional standards:

[Revise items 3.3.3a and 3.3.3b as follows:]

a. Customers must pay an annual enrollment fee to establish service, regardless of the number of individual P.O. Boxes, Caller Service numbers, or street delivery addresses included for each servicing post office. The enrollment fee is refundable only if the request is denied.

b. For requests made in writing to the origin Post Office, the annual enrollment fee may be paid at a retail Post Office location, station or branch; the applicable Priority Mail postage for each shipment container is paid using the customer's *PostalOne!* permit account. For requests made through the Business Customer Gateway, the annual enrollment fee and applicable Priority Mail Express postage for each shipment container is paid using a USPS Corporate Account including CAPS, for customers choosing Priority Mail Express service.

* * * * *

[Revise item 3.3.3g as follows:]

g. Priority Mail Express, or mailpieces with USPS Tracking, Certified Mail, COD, Insured Mail, Signature Confirmation, or Adult Signature are shipped to the destination delivery office Postmaster separately, for proper handling. Registered Mail is not eligible for PFS Commercial service.

* * * * *

[Revise item 3.3.3i as follows:]

i. Business customers may terminate their PFS Commercial service agreement, effective 24 hours after the USPS receives customer's written notice of termination at the serving Post Office or through the Business Customer Gateway. The customer must pay all postage and fees as applicable for any shipments already scheduled before termination of service is made effective.

* * * * *

We will publish an appropriate amendment to 39 CFR part 111 to reflect these changes.

Stanley F. Mires,

Attorney, Federal Requirements.

[FR Doc. 2014–17138 Filed 7–21–14; 8:45 am]

BILLING CODE 7710–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–1983–0002; FRL–9914–01–Region 1]

National Oil and Hazardous Substances Pollution Contingency Plan; National Priorities List: Deletion of the O'Connor Superfund Site

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) Region 1 announces the deletion of the O'Connor Superfund Site (Site) located in Augusta, Maine, from the National Priorities List (NPL). The NPL, promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, as amended, is an appendix of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). The EPA and the State of Maine, through the Maine Department of Environmental Protection, have determined that all appropriate response actions under CERCLA, other than operation, maintenance, and five-year reviews, have been completed. However, this deletion does not preclude future actions under Superfund.

DATES: This action is effective July 22, 2014.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–HQ–SFUND–1983–0002. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and is publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the site information repositories. Locations, contacts, phone numbers and viewing hours are:

EPA Records and Information Center, 5 Post Office Square, First Floor, Boston, MA 02109–3912, Monday–Friday 8:00 a.m.–5:00 p.m., and

Lithgow Public Library, 45 Winthrop St., Augusta, Maine 04330, Mon–Thurs 9:00 a.m.–8 p.m., Friday 9:00 a.m.–5 p.m., Saturday 9:00 a.m.–12:00 p.m.

FOR FURTHER INFORMATION CONTACT: Terrence Connelly, Remedial Project Manager, U.S. Environmental Protection Agency, Region 1, Mailcode OSRR07–1, 5 Post Office Square, Suite 100, Boston, MA 02109–3919, (617) 918–1373, email: *connelly.terry@epa.gov.*

SUPPLEMENTARY INFORMATION:

The site to be deleted from the NPL is the O'Connor Superfund Site, Augusta, Maine. A Notice of Intent to Delete for this Site was published in the **Federal Register** on March 12, 2014 (79 FR 13967).

The closing date for comments on the Notice of Intent to Delete was April 11, 2014. Two public comments were received. One comment was critical of the remedy selected in 1989 as modified in 1994 and 2002 and stated that the Site should not be removed from the NPL until it was completely clean. The other comment raised an issue not related to the proposed action of deleting the Site from the NPL.

In questioning the effectiveness of institutional controls to maintain protectiveness and seeking a remedy that concludes with a ''completely clean'' site, the comment questions the adequacy of the selected remedy. The remedy was selected following public comment periods in 1989, 1994, and 2002 for the Record of Decision, the Explanation of Significant Differences, and the Record of Decision Amendment, respectively. EPA believes that the remedy selected is protective of human health and the environment. The selected remedy has been implemented, and all activities required under the remedy have been completed. Additionally, the activities completed at the O'Connor Superfund Site have satisfied those criteria that EPA has established for deletion of a site from the NPL.

The comment also voiced the desire that the Site be completely clean before being deleted from the NPL. While this is an aspirational goal of the Superfund program, it is not technically feasible to return every site to unlimited use and unrestricted exposure. For example, there are municipal landfills where communities disposed of their waste for decades and many of these landfills are also Superfund sites. The costs for requiring local communities to pay for completely cleaning up these landfills so that they are available for any future use would be in the millions for each landfill. The technology and resources to achieve this goal of returning every site to pristine conditions are simply not available.

The second comment voiced concerns about health issues for herself and others who lived or who continue to live near the O'Connor Site and stating a view that the number of cancers and other health issues suffered by residents nearby the Site concerned her. The comment also expressed dismay that she had not been contacted about the Site when she had lived nearby.

This comment did not address the substance of the proposed deletion nor question whether the remedial goals have been accomplished but speaks of health concerns. EPA completed a Five-Year Review of the Site in 2012 and determined that the remedy as implemented remains protective of human health and the environment. All potential exposure pathways have been controlled through the completed activities and institutional controls. The ongoing monitoring and five-year reviews ensure that EPA is able to confirm the protectiveness of the remedy.

A responsiveness summary was prepared and placed in both the docket, EPA–HQ–SFUND–1983–0002, on *www.regulations.gov*, and in the local repository listed above.

A Notice of Deletion for this Site was published in the **Federal Register** on March 12, 2014 (79 FR 13882). The Notice of Deletion summarized the deletion criteria, the deletion procedure, and the basis for deletion of the Site from the NPL.

EPA maintains the NPL as the list of sites that appear to present a significant risk to public health, welfare, or the environment. Deletion from the NPL does not preclude further remedial action. Whenever there is a significant release from a site deleted from the NPL, the deleted site may be restored to the NPL without application of the hazard ranking system. Deletion of a site from the NPL does not affect responsible party liability in the unlikely event that future conditions warrant further actions.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous waste, Hazardous substances, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: July 2, 2014.

H. Curtis Spalding,

Regional Administrator, Region 1.

For reasons set out in the preamble, 40 CFR part 300 is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923; 3 CFR, 1987 Comp., p. 193.

Appendix B to Part 300—[Amended]

■ 2. Table 1 of Appendix B to part 300 is amended by removing ''ME'', ''O'Connor Co'', ''Augusta''.

[FR Doc. 2014–17133 Filed 7–21–14; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 1206013412–2517–02]

RIN 0648–XD386

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; 2014 Commercial Accountability Measure and Closure for South Atlantic Snowy Grouper

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS implements accountability measures (AMs) for commercial snowy grouper in the exclusive economic zone (EEZ) of the South Atlantic. Commercial landings for snowy grouper, as estimated by the Science and Research Director (SRD), are projected to reach the commercial annual catch limit (ACL) (commercial quota) on July 25, 2014. Therefore, NMFS closes the commercial sector for snowy grouper in the South Atlantic EEZ on July 25, 2014, and it will remain closed until the start of the next fishing season, January 1, 2015. This closure is necessary to protect the snowy grouper resource.

DATES: This rule is effective 12:01 a.m., local time, July 25, 2014, until 12:01 a.m., local time, January 1, 2015.

FOR FURTHER INFORMATION CONTACT: Catherine Hayslip, telephone: 727–824–5305, email: *Catherine.Hayslip@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery of the South Atlantic includes snowy grouper and is managed under the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the South Atlantic Fishery Management Council and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

The commercial ACL (equivalent to the commercial quota) for snowy grouper in the South Atlantic is 82,900 lb (37,603 kg), gutted weight, for the current fishing year, January 1 through December 31, 2014, as specified in 50 CFR 622.190(a)(1).

Under 50 CFR 622.193(b)(1), NMFS is required to close the commercial sector for snowy grouper when the commercial ACL (commercial quota) is reached, or is projected to be reached, by filing a notification to that effect with the Office of the Federal Register. NMFS has determined that the commercial ACL for South Atlantic snowy grouper will have been reached by July 25, 2014. Accordingly, the commercial sector for South Atlantic snowy grouper is closed effective 12:01 a.m., local time, July 25, 2014, until 12:01 a.m., local time, January 1, 2015.

The operator of a vessel with a valid commercial vessel permit for South Atlantic snapper-grouper having snowy grouper onboard must have landed and bartered, traded, or sold such snowy grouper prior to 12:01 a.m., local time, July 25, 2014. NMFS implemented a closure of the recreational sector for snowy grouper in the South Atlantic on June 7, 2014 (79 FR 32497, June 5, 2014). During the recreational closure, and thus, during this commercial closure, the bag and possession limit for snowy grouper in or from the South Atlantic EEZ is zero. Also during the commercial closure, the sale or purchase of snowy grouper taken from the EEZ is prohibited. The prohibition on sale or purchase does not apply to the sale or purchase of snowy grouper that were harvested, landed ashore, and sold prior to 12:01 a.m., local time, July 25, 2014, and were held in cold storage by a dealer or processor.

For a person on board a vessel for which a Federal commercial or charter vessel/headboat permit for the South Atlantic snapper-grouper fishery has been issued, the bag and possession limit and the sale and purchase provisions of the commercial closure for snowy grouper would apply regardless of whether the fish are harvested in state or Federal waters, as specified in 50 CFR 622.190(c)(1)(ii).

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this temporary rule is necessary for the conservation and management of snowy grouper and the South Atlantic snapper-grouper fishery and is consistent with the Magnuson-Stevens Act, the FMP, and other applicable laws.

This action is taken under 50 CFR 622.193(b)(1) and is exempt from review under Executive Order 12866.

These measures are exempt from the procedures of the Regulatory Flexibility Act because the temporary rule is issued without opportunity for prior notice and comment.

This action responds to the best available scientific information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA, (AA), finds that the need to immediately implement this action to close the commercial sector for snowy grouper constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures would be unnecessary and contrary to the public interest. Such procedures would be unnecessary because the rule itself has been subject to notice and comment, and all that remains is to notify the public of the closure.

Allowing prior notice and opportunity for public comment is contrary to the public interest because of the need to immediately implement this action to protect snowy grouper since the capacity of the fishing fleet allows for rapid harvest of the commercial ACL (commercial quota). Prior notice and opportunity for public comment would require time and would potentially result in a harvest well in excess of the established commercial ACL (commercial quota).

For the aforementioned reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

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

Dated: July 17, 2014.

Emily H. Menashes,

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

[FR Doc. 2014–17214 Filed 7–17–14; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
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Tuesday, July 22, 2014

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 320

[Docket No. FSIS–2009–0011]

RIN 0583–AD46

Records To Be Kept by Official Establishments and Retail Stores That Grind Raw Beef Products

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Inspection Service (FSIS) is proposing to amend its recordkeeping regulations to specify that all official establishments and retail stores that grind raw beef products for sale in commerce must keep records that disclose the identity and contact information of the supplier of all source materials that they use in the preparation of each lot of raw ground beef. They must also record the names of those supplied source materials, including any beef components and any carryover from one production lot to the next. The records would also be required to document lot numbers, the amount of the beef component used in each lot (in pounds), the date and time each lot of raw ground beef product was produced, and the date and time when grinding equipment and other related food-contact surfaces were cleaned and sanitized. Official establishments and retail stores would also have to comply with the proposed recordkeeping requirements with respect to raw beef products that are ground at an individual customer's request.

DATES: Comments must be received on or before September 22, 2014.

ADDRESSES: FSIS invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* This Web site provides the ability to type short comments directly into the comment field on this Web page or attach a file for lengthier comments. Go to *http://www.regulations.gov.* Follow the online instructions at that site for submitting comments.
- *Mail, including CD–ROMs:* Send to U.S. Department of Agriculture (USDA), FSIS, 1400 Independence Avenue SW., Mailstop 3782, 8–163B, Washington, DC 20250–3700.
- *Hand- or courier-delivered items:* Send to U.S. Department of Agriculture (USDA), FSIS, OPPD, RIMD, Docket Clearance Unit, Patriots Plaza 3, 355 E Street SW., 8–163B, Washington, DC 20250–3700 20024–3221.

Instructions: All comments submitted by mail or electronic mail must include the Agency name and docket number FSIS–2009–0011. Comments received in response to this docket will be made available for public inspection and posted without change, including any personal information, to *http://www.regulations.gov.*

Docket: For access to background documents or comments received, go to the FSIS Docket Room at the address listed above between 8:30 a.m. and 4:30 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Contact Victoria Levine, Program Analyst, Issuances Staff, Office of Policy and Program Development, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250; (202) 720–5627; Fax (202) 690–0486.

SUPPLEMENTARY INFORMATION: Under the authority of the Federal Meat Inspection Act (FMIA) (21 U.S.C. 601 *et seq.*) and its implementing regulations, FSIS investigates complaints and reports of consumer foodborne illness associated with FSIS-regulated meat products. Many such investigations into consumer foodborne illnesses involve those linked to the consumption of raw beef ground [1] by official establishments or retail stores.[2] [3]

FSIS investigators and other public health officials typically use records kept at all levels of the food distribution chain, including the retail level, to identify and trace back product that may be the source of the illness to the suppliers that produced the source material for the product. The Agency, however, has often been impeded in its efforts to trace back ground beef products to the suppliers' products due to the lack of documentation identifying all source materials used in its preparation.

In some situations, official establishments and retail stores have not kept adequate records that would allow effective traceback [4] and traceforward activities.[5] Without such records, FSIS cannot conduct timely and effective consumer foodborne illness investigations and other public health activities throughout the stream of commerce.

The President's Food Safety Working Group (FSWG), which was formed on March 14, 2009, recommended a new public health-focused approach to food safety based on three core principles: (1) Prioritizing prevention; (2) strengthening surveillance and enforcement; and (3) improving response and recovery.[6]

One of the objectives of the third principle is to quickly identify and stop outbreaks of foodborne illness. When people become ill because of consuming product from the same source material, it is important to identify all remaining source material and remove it as quickly

[1] Raw ground beef products are ground and chopped beef (9 CFR 319.15(a)), hamburger (9 CFR 319.15(b)), beef patties (9 CFR 319.15(c)), ground or chopped veal, veal patties, veal or beef patty mix, ground veal or beef product with added seasonings, and beef manufacturing trimmings produced at an official establishment or at retail. Raw ground beef products are also ground intact steaks/roasts, bench trim ground from intact steaks/roasts, or a mix these components with trim or coarse ground beef derived from official establishments.

[2] See 9 CFR 303.1(d)(2)(iii)(a) through (f) for the definition of a retail store. While retail stores are exempt from the provisions of the FMIA and the meat inspection regulations with regard to inspection of the preparation of products, they are not exempt from their sanitary or recordkeeping requirements.

[3] Of the 130 outbreaks that FSIS investigated from 2007 through 2013, 74 were determined to be caused by the consumption of ground beef. Of those 74, 31 were linked to beef ground at a retail venue.

[4] Traceback actions are those actions taken to identify and document the flow of product back to the official establishment from which the suspect product originated from other official establishments, retail stores, warehouses, distributors, restaurants, or other firms in commerce.

[5] Traceforward actions are those actions taken to identify other potentially contaminated batches of meat that might have originated from the same official establishment and other establishments, retail stores, warehouses, distributors, restaurants, or other firms in commerce that might have been affected by contaminated product.

[6] *http://www.foodsafetyworkinggroup.gov/ContentKeyFindings/HomeKeyFindings.htm* and FSIS News Release No. 0292.09 dated July 8, 2009.

as possible in order to prevent more illnesses. The FSWG has recommended the establishment of a food tracing system that shortens the time between outbreak detection, resolution, and recovery. A system that permits rapid traceback to the source would protect consumers and help industry recover contaminated product more quickly and accurately.

FMIA Recordkeeping Requirements

Official establishments and retail stores that grind raw beef products for sale in commerce must keep records that will fully and correctly disclose all transactions involved in their businesses subject to the Act (*see* 21 U.S.C. 642). This is because they engage in the business of preparing [7] products of an amenable species [8] for use as human food, and they engage in the business of buying or selling (as meat brokers, wholesalers or otherwise) in commerce products of carcasses of an amenable species. These businesses must also provide access to, and permit inspection of, these records by FSIS personnel.[9]

Current Regulatory Requirements

Under 9 CFR 320.1(a), every person, firm, or corporation required by section 642 of the FMIA to keep records must keep records that will fully and correctly disclose all transactions involved in businesses subject to the Act. Records specifically required to be kept under § 320.1(b) include, but are not limited to: bills of sale, invoices, bills of lading, and receiving and shipping papers. With respect to each transaction, the records must provide, but are not limited to: the name or description of the livestock or article, the net weight of the livestock or article, the number of outside containers, the name and address of the buyer or seller of the livestock or animal, and the date and method of shipment.[10]

Under 9 CFR 320.2, every person engaged in any business described in § 320.1 and required by part 320 to keep records must maintain them at the place where the business is conducted. However, a person who conducts business at multiple locations may maintain those records at his or her headquarters' office. 9 CFR 300.6(b)(2) requires any person (including any firm or corporation or other business unit) subject to the recordkeeping requirements in section 642 of the FMIA to allow representatives of the Secretary of Agriculture to enter his or her place of business to examine and copy the records specified in § 320.1. Therefore, if records relevant to an outbreak or recall investigation are being maintained at a headquarters' office rather than at the place where the business is conducted, i.e., the location where raw beef is being ground, those records must be made available to FSIS personnel conducting traceback and traceforward activities. Records required to be maintained under part 320 must be retained for a period of two years after December 31 of the year in which the transaction to which the record relates has occurred (9 CFR 320.3)).

The recordkeeping requirements contained in the FMIA and 9 CFR 320 are intended to permit FSIS to trace product, including raw ground beef product associated with consumer foodborne illness, from the consumer, or the place where the product was purchased, back through its distribution chain to the establishment that was the source of the product. This will make it easier to determine, if possible, where the contamination originally occurred. Investigators should also be able to conduct effective traceforward investigations so as to identify other potentially contaminated product that has been shipped from the point of origin of its contamination to other official establishments, retail stores, warehouses, distributors, restaurants, or other firms. FSIS must be able to carry out these investigations using records that should be kept routinely by official establishments and retail stores.

In 2002, FSIS published a **Federal Register** notice explaining the Agency's views with regard to the records and information it considered important for effective traceback and traceforward activities involving *E. coli* O157:H7 contamination of beef products.[11] Specifically, the notice stated that if the Agency confirmed positive *E. coli* O157:H7 samples of raw ground products produced at an official establishment, the Agency intended to collect the following information from the official establishment:

1. The name, point of contact, and phone number for the official establishments supplying the source materials for the lot of ground beef sampled;

2. The supplier lot numbers and production dates; and any other information that would be useful to suppliers that may have supplied *E. coli* O157:H7-positive product to official establishments.

FSIS also stated that it intended to gather the following information from retail stores at the time it collected a sample of raw ground beef for *E. coli* O157:H7 testing:

1. The names and establishment numbers of the establishments supplying the source materials for the lot of ground beef sampled;

2. The supplier lot numbers and production dates; and

3. Any other information that would be useful to suppliers if they are later notified of an *E. coli* O157:H7 positive finding.

Shortly after issuing the 2002 **Federal Register** notice, FSIS began collecting the information listed in the notice from official establishments that produced ground raw beef products that FSIS confirmed positive for *E. coli* O157:H7 and from retail stores at the time the Agency collected samples of ground raw beef product from the stores for *E. coli* O157:H7 testing.[12] FSIS has also been collecting supplier information from official establishments at the time FSIS collects a sample, just as the Agency does when it collects retail samples.

Retail stores, however, often do not document and maintain supplier information at times other than when FSIS collects samples of ground raw beef product from the stores for *E. coli* O157:H7 [13] testing. As a result, the Agency is unable to respond quickly during foodborne disease investigations. This information, which the Agency expects businesses to obtain from their suppliers pursuant to the requirements contained in 9 CFR 320.1, is essential for effective traceback and traceforward activities.

In 2009, FSIS provided guidance to a retail industry association requesting appropriate records that retail stores should keep to aid in identifying traceback and traceforward on FSIS-regulated products associated with foodborne illnesses and other food safety incidents. The Agency

[7] Prepared means slaughtered, canned, salted, rendered, boned, cut up, or otherwise manufactured or processed.

[8] The term ''amenable species,'' 21 U.S.C. 601(w), was added by section 798(2) of Pub. L. 109–97, Nov. 10, 2005. Section 798(1) of that law amended the FMIA by striking the words ''cattle, swine, goats, horses, mules, and other equines'' in each place it appeared in the Act and inserting ''amenable species'' in its place. *See also* 21 U.S.C. 642(a)(2) and 9 CFR 320.1(a)(2).

[9] 21 U.S.C. 642(a). *See also* 9 CFR 300.6(a)(1).

[10] 9 CFR 320.1(b)(1).

[11] ''E. coli O157:H7 Contamination of Beef Products'' (67 FR 62325, Oct. 7, 2002).

[12] FSIS Notice 47–02, dated 11/20/02, ''FSIS Actions Concerning Suppliers that may be Associated with Escherichia coli (E. coli) 0157:H7 Positive Raw Ground Beef Product''

[13] On June 4, 2012, FSIS implemented routine verification testing for six Shiga toxin-producing *Escherichia coli* (STEC), in addition to *E. coli* O157:H7, in raw beef manufacturing trimmings. *See Shiga Toxin-Producing Escherichia coli in Certain Raw Beef Products* (77 FR 31975, May 31, 2012).

recommended that retail stores keep records of the lot/batch number of the source materials used to prepare the raw ground beef, as well as the exact name/type of product produced, the manufacturer name of the source material used for the product produced, the product code or pack date of the source material used, and the establishment number of the source product used. FSIS then made the guidance available on the Agency's Web site.

To further address the issue, on December 9 and 10, 2009, FDA and FSIS held a joint public meeting to discuss the essential elements of product tracing systems, gaps in then-current product tracing systems, and mechanisms to enhance product tracing systems for food.[14] This meeting was followed on March 10, 2010, by an FSIS public meeting that discussed the Agency's procedures for identifying suppliers of source material used to produce raw beef product that FSIS has found positive for *E. coli* O157:H7. FSIS also discussed additional verification activities that the Agency planned to conduct at suppliers' establishments in response to positive *E. coli* O157:H7 results. Moreover, FSIS sought input from meeting participants on ways to improve the Agency's procedures for identifying product that may be positive for *E. coli* O157:H7.

Despite these FSIS actions, the Agency has continued to experience significant impediments in connection with tracebacks of FSIS-regulated products, associated with consumer foodborne illness, to the suppliers that produced the source materials. Some official establishments and retail stores still do not keep and maintain the records necessary to allow effective traceback activities. FSIS has found that the records kept by these businesses vary in type and quality, and are often incomplete or inaccurate.

Overall, FSIS has concluded that voluntary recordkeeping by retail facilities that grind raw beef has not been sufficiently effective, as evidenced by continuing outbreaks linked to pathogens in raw ground beef that FSIS cannot trace back to the source.[15] The lack of specific information about supplier lot numbers, product codes, pack dates of source materials used to produce lots of raw ground beef, and when and whether grinding equipment has been cleaned and sanitized has prevented or delayed FSIS from identifying businesses that produced the source materials for product that was positive, the specific product responsible for an outbreak and, therefore, to accurately identify other product that might also be adulterated. The cleaning and sanitization of equipment used to grind raw beef between lots or batches is important because it prevents the transfer of *E. coli* O157:H7 and other bacteria from one lot of product that may be contaminated to another lot of product ground on the same equipment that is not.

FSIS conducted a retrospective review of 28 foodborne disease investigations from October 2007 through 2012 in which beef products were ground or re-ground at retail stores to describe their beef grinding and recordkeeping practices.[16] Twenty-two of these investigations were for outbreaks that occurred in 2009 or earlier, and the remainder occurred after 2009.

Among the 22 investigations that took place in 2009 or earlier, seven had complete records, four had incomplete records, and 11 had no records. Among the six investigations that took place after 2009, four had complete records and two had incomplete records. Additionally, in 2013, FSIS participated in three outbreaks. In two investigations, no records had been kept, while in the third complete records were available. Therefore, while the evidence suggests improvement, there remain retail stores or establishments that do not maintain complete records.

Complete records are important for successfully identifying adulterated product and initiating a recall. FSIS was assisted in its traceback and traceforward activities by records in each of the 11 investigations identified in the study where complete records were available. In situations where complete records were not available, the inability to identify product suppliers in a timely fashion, or at all, hindered FSIS in identifying the source of adulteration.

When records were available and complete, such that FSIS could identify specific production in an establishment, the Agency was able to institute a recall of product from the supplying establishment in six of 11 investigations. In contrast, when records were not available or incomplete, FSIS was able to do so only two of 17 times.

Status of retail grinding record	Number of investigations	Number resulting in recalled product
Available and complete	11	6
Not available	11	1
Available, but incomplete	6	1

For example, in July 2007, an epidemiologic investigation conducted by the Suffolk County Health Department, Suffolk County, New York, identified two ill persons who reported consuming pre-formed, 80/85-percent lean ground beef patties purchased from a retail store in New York. Leftover products collected from the homes of the case-patients and tested by the Outbreaks Section of FSIS's Eastern Laboratory were found to have *E. coli* O157:H7 with pulsed-field gel electrophoresis (PFGE)[17] pattern combinations indistinguishable from those of the case-patients. Even with purchase dates and store invoices, FSIS and local health officials were unable to definitively identify the supplier of the beef that was processed into the pre-formed patties because the source

[14] Comments and a transcript of this meeting are available at *www.regulations.gov* at *http://www.regulations.gov/#!searchResults;rpp=10;po=0;s=FDA-2009-N-0523.*

[15] *Recall.*

[16] Ihry, T., White, P., Green A., Duryea, P. Review of the Adequacy of Ground Beef Production Records at Retail Markets for Traceback Activities During Foodborne Disease Investigations. Poster presented at: Annual Conference of the Council of State and Territorial Epidemiologists; 2012, Jun 4–6; Omaha, NE. A copy of this document is available for viewing in the FSIS Docket Room. FSIS selected 28 investigations because the illnesses were presumptively or definitely caused by the consumption of ground beef. Beef was ground or re-ground at one or more retail meat markets, and the name of the retail market that sold the ground beef, the name of the product, and the date that it was purchased were available. Since the time of the original survey, FSIS has added two more investigations.

[17] Pulsed-field gel electrophoresis (PFGE) is a standardized method used to subtype (or fingerprint) foodborne disease-causing bacteria. PFGE can be used to distinguish strains of organisms such as *E. coli* O157:H7, STECs, *Salmonella, Listeria,* or *Campylobacter* at the DNA level.

materials for the product associated with the outbreak were re-ground and packaged by the retail store, which did not identify the supplier of the raw beef used to produce the patties. The inability of public health officials to identify the supplier of the ground beef prevented them from identifying other possibly adulterated product produced by the supplier, or other establishments, retail stores, warehouses, distributors, restaurants, or other firms in commerce that might have received contaminated product from the supplier.

In November 2007, a similar situation occurred when FSIS was unable to identify a source of *Salmonella* contamination that accounted for nearly 40 human illnesses associated with fresh ground beef products produced at a single retail grocery chain with stores nationwide. In this case, records kept by the grocery chain's raw ground beef grinding facility were missing, had no entries on the dates of interest, or had incomplete or inaccurate entries. The records also did not document all of the suppliers of the raw beef ground at the facility.

More recently, in December 2011, a Maine-based grocery chain recalled an undetermined amount of fresh ground beef products that may have been contaminated with a multiple drug-resistant strain of *Salmonella* Typhimurium. This recall was initiated by the grocery chain in response to illnesses caused by an outbreak of salmonellosis that was associated with the use of fresh in-store ground beef prepared in and purchased at the grocery chain's stores. In its examination of the chain's records, FSIS was unable to determine suppliers of the beef, which accounted for 15 human illnesses. In this case, records kept by the grocery chain's raw ground beef grinding facility did not list all of the suppliers of the raw beef ground at the facility. As a result, FSIS could not definitively identify products subject to a recall.

Correspondingly, complete records are more likely to result in efficient recalls. In May 2007, officials from the Minnesota and Virginia state departments of health and FSIS investigated an outbreak involving nine ill persons. These nine individuals had an indistinguishable strain of *E. coli* O157:H7. A case-control study showed consumption of ground beef purchased at a local grocery chain was significantly associated with illness. Left-over ground beef from a case-patient's home was tested and found positive. Investigators used purchase date and store location information from case-patients along with complete, accurate grinding logs from the stores to definitively identify a single supplying establishment and the production date of implicated product. Successful traceback resulted in a recall of 117,500 lbs. of potentially adulterated ground beef from an official establishment.

In May and June 2009, officials from FSIS, the Centers for Disease Control and Prevention (CDC), and health departments in several states investigated an outbreak that involved 20 persons with an indistinguishable strain of *E. coli* O157:H7. Eleven people were hospitalized; one developed hemolytic uremic syndrome. The case-patients resided in nine states throughout the U.S. All 18 who provided food histories reported consuming some type of beef; 16 reported consumption of ground beef. Ground beef samples from a retail store and a small, regulated processing establishment were also positive with the outbreak strain. Twelve case-patients provided consumption histories that included purchases at nine supermarkets. Using purchase information from the case-patients, investigators were able to determine a common supplier for the stores and the small processing establishment. The source establishment had supplied trim and primal or sub-primal cuts to several companies which processed them into ground beef or intact retail cuts. Using information from the retail grinding logs, investigators were able to determine a specific production day at the source establishment. The establishment recalled approximately 421,000 lbs. of various potentially adulterated beef cuts.

In June 2012, FSIS learned of an outbreak that ultimately involved 46 persons, 12 of whom were hospitalized. The patients resided in nine states, primarily in the northeastern U.S. The CDC determined that all were ill with an indistinguishable strain of *Salmonella* Enteritidis. Seven of eight case-patients from two states reported consuming ground beef prior to illness. A case-control study showed that shopping in the Maine-based grocery chain described earlier was statistically significant. State investigators collected leftover ground beef from several case-patients and from retail supermarkets or their distribution center. Ground beef from case-patients' homes tested positive for the outbreak strain. Eight case-patients who shopped at the grocery chain provided purchase information. The grocery chain had implemented improvements in their record system and grinding logs for products purchased by five case-patients conclusively showed they purchased 85 percent lean ground beef from a regulated federal establishment with a known production date. This time, the establishment recalled approximately 29,000 lbs. of adulterated product. In all of the examples above, grinder records were necessary in identifying the official establishments that supplied source materials and retailers that distributed the product.

To better ensure that FSIS will be able to conduct effective traceback and traceforward investigations, or foodborne illness investigations, or to monitor product recalls, the records kept and maintained by official establishments and retail stores that grind raw beef products must disclose the identity of the supplier, the source of all materials that they use in the preparation of each lot of raw ground beef product, including any carryover from one production lot to the next, the amount of the beef component used in each lot (in pounds), and the date and time each lot of raw ground beef product is produced. The records also must document the date and time when cleaning and sanitizing occurs because cleaning and sanitizing of food-contact equipment after grinding beef may help define the lot and limit the scope of a recall.

FSIS is proposing to amend the Federal meat inspection regulations to require that official establishments and retail stores that grind raw beef products keep records that fully disclose the names, points of contact, phone numbers, and establishment numbers of the establishments supplying the materials used to prepare each lot of raw ground beef product; all supplier lot numbers and production dates; the names of the supplied materials, including beef components and any materials carried over from one production lot to the next; the amount of the beef component used in each lot (in pounds); the date and time each lot of raw ground beef product is produced; and the date and time when grinding equipment and related food-contact surfaces are cleaned and sanitized.[18] Note that for materials purchased from a broker or distributor, the establishment number would be on the shipping container of the product.

Official establishments and retail stores that prepare raw beef products that are ground at an individual customer's request would also be required to comply with the proposed recordkeeping requirements with respect to such product. Keeping complete records for all grinding activity will enable FSIS to conduct

[18] Proposed 9 CFR 320.1(b)(4)(i).

effective recalls in a timely manner thereby reducing illnesses or deaths.

Grinding logs at retail stores are a good example of a type of record that can easily be used to identify the source, supplier, and names of all materials used in the preparation of raw ground beef products. Below is the grinding log record that FSIS posted with this 2009 guidance. As shown in the sample grinding log (Table 1) below, the date and time of grind, the amount of carryover, the name of the source material, supplier establishment information from the label of the source material, and the date and time of cleaning and sanitizing would be the information required to be kept, if this rule is finalized. Information under the other column headings would not be required, but some official establishments and retail stores may choose to keep and maintain such information.

NEW WAVE STORE

123 Main Street

Anytown, USA, Zip Code

FRESH GROUND BEEF PRODUCTION LOG/TRACKING LIST

Employee Name_____ Today's Date_____

Date and Time of Grind*	Lot/Batch # (lot = same source material)	Exact Name/ Type of Product Produced	Package Size of Product Produced	Amount (in lbs.) of Source Material Used in Each Lot, including Carryover*	Production Code of Product Produced	Manufacturer Name of Source Material Used for Product Produced*	Supplier Lot #s, Product Code and/or Pack Date of Source Material Used*	Estab. Info. from Label of Source Material Used (Est. #, ph #, contact info)*	Date and Time Grinder and Related FCSs Cleaned and Sanitized*	Com-ments

_____ _____

Signature of Store Management Reviewer Date

Table 1: Grinding log record that FSIS posted (2011)

* This information will be required if this proposed rule is finalized.

Executive Orders 12866 and 13563 and Regulatory Flexibility Act

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public and safety effects, distributive impacts, and equity). 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 been designated a ''significant regulatory action'' under section 3(f) of Executive Order 12866. Accordingly, this rule has been reviewed by the Office of Management and Budget.

I. Background

FSIS is proposing a rule that would require official establishments and retail stores that grind raw beef products for sale in commerce to keep records that will fully and correctly disclose details of all transactions involved in their businesses subject to the FMIA, including the identity and supplier of all materials used in the preparation of each lot of raw ground product. The required records are essential to conduct efficient foodborne illness investigations. The proposal would affect retail stores and official establishments.

If adopted, the proposed rule will require records to include lot-specific information (i.e., a lot number, a code number, or other identifier). Lot-specific

information distinguishes one production batch from another and can be a number printed on the packaging or some other identifier.[19]

Recordkeeping systems are designed to track the flow of product or product attributes through production processes or the supply chain. Traceability is the ability to follow the movement of a food product through the stages of production, processing, and distribution.[20] Records are necessary for a good product traceback (traceforward) system.

Public and private sector officials often lack information about the sources of foods or ingredients, making traceback processes inefficient, which results in missed opportunities to identify contaminated product. This proposed rule, if adopted, will strengthen traceback systems, leading to quicker identification of adulterated product and quicker, more targeted recalls, an outcome in keeping with the objectives of the FSWG.

II. Need for Rule

Voluntary recordkeeping at retail stores and official establishments has not been sufficiently effective. Incomplete and nonexistent grinding records have impeded traceback and traceforward activities by FSIS investigators during food safety events, limiting their ability to identify implicated product and sources of contamination. This rule is needed to enhance FSIS' ability to protect public health by conducting recalls quickly and efficiently, thereby reducing illnesses associated with contaminated ground beef product.

III. Alternatives Considered

(1) Existing Voluntary Recordkeeping Program

FSIS provided industry voluntary guidelines (see Table 1) in 2009. As stated above, the Agency has concluded that a policy of voluntary guidelines for recordkeeping has not ensured that all establishments and retail outlets maintain complete records that will ensure quick identification of contaminated product.

(2) Regulated Weekly Recordkeeping Program

FSIS considered requiring that retail stores and official establishments maintain grinding records such that each producer recorded grinding activities once per week. This would be an improvement over the current voluntary recordkeeping program in that those establishments and retail stores which are not recording grinding activities would now be required to do so, and a weekly recordkeeping task would be less burdensome than the recordkeeping being proposed, which requires firms to record activities approximately two to five times per week. However, a weekly record would make it difficult to differentiate between lots of product ground from different suppliers throughout the week, and would therefore result in many of the same traceback obstacles currently experienced under voluntary recordkeeping. Therefore, FSIS rejected this alternative.

(3) More Detailed Recordkeeping Program

FSIS also considered expanding the recordkeeping requirements to include all fields suggested in the 2011 FSIS guidance (all fields in the Table 1 proposed log). This would provide FSIS with more detailed records to use during an investigation, which may be particularly useful in instances where product is ground multiple times per day from multiple sources. However, this level of detail would place an unnecessary burden on those establishments that do not grind product multiple times per day. For this reason, FSIS decided to require that only the most critical information be recorded while leaving the remaining possible fields as a voluntary component.

IV. Baseline

FSIS expects that this proposed rule could affect a total of 76,093 retail stores and official establishments. These include 64,380 supermarkets, 5,924 meat markets, 4,544 warehouse clubs and supercenters, and 1,245 official establishments that engage in grinding raw beef products. The number of retail stores is based on 2010 Census data[21] for establishments that grind beef, while the number of official establishments was obtained from the Public Health Information System (PHIS). Some of these establishments and retail stores already maintain the records required in the proposed rule, and would therefore not incur any additional costs.

Table 2 distinguishes between large establishments, defined as those with 500 or more employees, and small establishments, defined as those with fewer than 500 employees. FSIS assumes that retail establishments with 500 or more employees will grind beef and create a record approximately five times per week, thus assuming 260 records per year for these large entities. For small retail entities, with fewer than 500 employees, FSIS assumes that these establishments on average would grind beef and create a record approximately twice a week for 50 weeks for the year, for 100 records per year. For official FSIS processing establishments, FSIS examined data from a 2008 FSIS survey,[22] and found that, on average, large official establishments processed ground beef product 258 days a year and the small establishments processed ground beef about 164 times a year. Small official establishments grind more often than small retail establishments because official establishments rely more heavily on ground beef production than retail establishments, which have a wider variety of products for sale. FSIS used these values to estimate the number of grinding log records per year for retail establishments.

[19] FSIS acknowledges that most firms use lot or code numbers to identify specific batches of their products. However, some may use other technologies such as barcodes. The term 'other identifier' is intended to capture any other methods that the food industry may be using to identify specific lots of product.

[20] Codex Alimentarius Commission, ''Procedural Manual, Seventeenth Edition,'' 2007. The Codex Alimentarius Commission was created in 1963 by the Food and Agriculture Organization (FAO) and the World Health Organization (WHO) to develop food standards and guidelines. Available online at: *ftp://ftp.fao.org/docrep/fao/010/a1472e/a1472e.pdf.*

[21] Source: U.S. Department of Commerce, U.S. Bureau of the Census—Number of Firms, Number of Establishments, Employment, and Annual Payroll by Enterprise Employment Size for the United States, All Industries: 2010.

[22] Results of Checklist and Reassessment of Control for *Escherichia coli* O157:H7 in Beef Operations. 2008, available at *http://www.fsis.usda.gov/wps/wcm/connect/9ce5ce22-f609-4990-bd9a-ce2c323d229b/Ecoli_Reassement__Checklist.pdf?MOD=AJPERES,* accessed July 24, 2013.

TABLE 2—NUMBER OF RETAIL FIRMS AND OFFICIAL ESTABLISHMENTS AFFECTED BY RECORDKEEPING REQUIREMENTS ASSOCIATED WITH GROUND RAW BEEF PRODUCTS

NAICS codes	NAICS description	Number of firms by size [1]			Number of establishments by firm size [2]		
		Large	Small	Total	Large	Small	Total
445110	Supermarket and other grocery (except convenience) stores.	314	40,713	41,027	21,028	43,352	64,380
445210	Meat Markets	9	5,415	5,424	274	5,650	5,924
452910	Warehouse clubs and Supercenters	11	13	24	4,531	13	4,544
PHIS	Official establishments	.....	.....	.....	35	1,210	1,245
Total ..	.....	334	46,141	46,475	25,868	50,225	76,093

[1] Large: 500 or more employees; Small: 499 or fewer employees.
[2] For official establishments, size category based on establishment HACCP size class distinguishing Large (500 or more employees) from Small and Very Small.
Note: NAICS is the North American Industry Classification System. A ''firm'' refers to the parent company and an ''establishment'' refers to each distinct facility.
Source: U.S. Department of Commerce, U.S. Bureau of the Census—Number of Firms, Number of Establishments, Employment, and Annual Payroll by Enterprise Employment Size for the United States, All Industries: 2010.

The kinds of businesses identified as potentially subject to the final regulation are:

• Supermarkets and other grocery (except convenience) stores. This industry comprises establishments generally known as supermarkets and grocery stores primarily engaged in retailing a general line of food, such as canned and frozen foods; fresh fruits and vegetables; and fresh and prepared meats, fish and poultry. Included in this industry are delicatessen-type establishments primarily engaged in retailing a general line of food.

• Meat Markets. This industry comprises establishments primarily engaged in retailing fresh, frozen, or cured meats. Meat markets may butcher animals for their own account, or they may buy bulk from others. Delicatessen-type establishments primarily engaged in retailing fresh meat are included in this industry.

• Warehouse clubs and supercenters. This industry comprises establishments known as warehouse clubs, superstores or supercenters primarily engaged in retailing a general line of groceries in combination with general lines of new merchandise, such as apparel, furniture, and appliances. Official federal—inspected establishments that grind raw beef products are included in this group.

There are three major kinds of businesses FSIS does not consider to be retail establishments, and thus are not affected by the proposed rule: convenience stores, meat and meat product merchant wholesalers, and full-service and limited-service restaurants. The convenience store or food mart (except those with fuel pumps) industry comprises establishments that primarily engage in retailing a limited line of goods that generally includes milk, bread, soda, and snacks, but do not engage in the business of grinding raw beef. The meat and meat product merchant wholesalers industry comprises establishments primarily engaged in the merchant wholesale distribution of meats and meat products (except canned and packaged frozen) or lard, but do not engage in the business of grinding raw beef. Most, if not all supermarkets, meat markets, and warehouse clubs sell product from federally inspected establishments and derive a significant share of revenue from those products. The full-service restaurant industry comprises establishments primarily engaged in providing food services to patrons who order and are served while seated (i.e., waiter/waitress service) and pay after eating. Limited service refers to fast food restaurants, delis, pizza shops, carry out restaurants, and other similar establishments.

V. Costs

FSIS estimated the costs to industry and the Agency for ensuring compliance with the regulation.

Industry Costs

Under the current regulations (9 CFR 320.1(a)(2) and (b)), official establishments are required to keep records that fully and correctly disclose all transactions involved in their business. These records must show the name or description of the articles handled (section 320.1(b)(1)(i)) and the name and address of the sellers and buyers of the articles (section 320.1(b)(1)(iv)). Official establishments must provide FSIS access to these records (section 320.4, 21 U.S.C. 642). FSIS believes that supplier lot numbers and production dates are normally made available to official establishments. FSIS also expects that these businesses normally obtain buyer and seller contact information during the course of business. In determining cost to industry for this rule, though, FSIS did not assume that all these establishments had complete records that would satisfy the provisions of this rule. FSIS requests comments on the extent to which this is already being done.

Costs would occur because many of the estimated 76,093 retail stores and official establishments would need to implement new recordkeeping activity and make those records available for the Agency's review. To estimate costs to industry, the Agency used information based on existing literature and discussions with FSIS experts. The annual recurring cost is due to the time requirement for recording information for each daily set of entries. FSIS assumed that, for establishments that currently maintain a complete grinding log, there would be no additional time requirement. For establishments that presently keep a log, but do not include all of the information required under the proposed regulation, FSIS assumed that it would take an additional 30 to 60 seconds per daily recordkeeping to comply with the rule, and, for establishments that presently do not maintain a grinding log, it would take 60 to 90 seconds to record each daily record. FSIS seeks comments on these recordkeeping time assumptions.

To estimate the numbers of logs that are presently incomplete and the number of logs that presently do not exist but would under the provisions of this proposed rule, FSIS used a published 2008 study [23] that reported on

[23] ''Recordkeeping Practices of Beef Grinding Activities at Retail Establishments.'' (2011) Hannah Gould, Scott Seys, Karen Everstine, Dawn Norton,

the recordkeeping practices of retail stores that grind raw beef. The study found that 74 percent of chain retail stores and 12 percent of independent retail stores kept grinding logs. Of the stores that kept grinding logs, the study reported 78 percent of those logs as incomplete.[24] For the purposes of the cost estimate, FSIS used the chain stores surveyed in the study as a proxy for large retail and official establishments, and the independent stores as a proxy for small retail and official establishments. Therefore, the recordkeeping distribution of large establishments based on the survey results is approximately 16 percent complete (74 percent*(1–78 percent)), 58 percent incomplete (74 percent*78 percent), and 26 percent no records. For small establishments, the distribution is approximately 3 percent complete (12 percent*(1–78 percent)), 9 percent incomplete (12 percent*78 percent), and 88 percent no records. FSIS is seeking comment on these distributions and the current recordkeeping practices of retail stores.

FSIS multiplied the percentages by the number of grinding logs that will exist under this rule to determine the present numbers of incomplete and non-existing grinding logs. FSIS multiplied these numbers 30 to 60 seconds and 60 to 90 seconds respectively, to estimate the total number of additional hours, and then multiplied this estimated range by the average hourly compensation rate, derived below, of $19.18.

To estimate the hourly cost of recordkeeping, FSIS assumed that, primarily, employees that are in the Bureau of Labor Statistics labor category of ''Butchers and Meat Cutters'' would perform the recordkeeping. FSIS assumed a wage per hour from the most recent mean wage rate for this labor category, $14.42.[25] In addition to the base wage, FSIS assumed an additional benefit cost factor of 33 percent[26] to account for benefits that the employee may receive in addition to the mean hourly wage. These include, but are not limited to, vacation time, sick time, and health care. Consequently, FSIS assumed a total hourly compensation rate of $14.42 (1+0.33)=$19.18. Table 3 presents the total costs by establishment/retail store (entity) size class and estimated current recordkeeping practices. This results in an estimated total cost to industry of about $2.69 million to $4.39 million.

TABLE 3—ANNUAL ESTIMATED COSTS BY ENTITY SIZE AND CURRENT RECORDKEEPING PRACTICES [1]

Size	Current logs	Annual records	Added time/ record (s)	Added time (h)		Annual cost ($1,000)	
				Low	High	Low	High
Large	None	1,726,846	60–90	28,781	43,171	552	828
	Incomplete	3,909,648	30–60	32,580	65,161	625	1,250
	Complete	1,089,116	0	0	0	.....	.....
Small	None	4,499,947	60–90	74,999	112,499	1,438	2,158
	Incomplete	469,268	30–60	3,911	7,821	75	150
	Complete	130,725	0	0	0	.....	.....
Total	.....	11,825,550	.....	140,271	228,652	2,690	4,385

[1] Numbers in table may not sum to totals due to rounding.

Agency Enforcement Costs: This proposed rule will result in no impact on the Agency's operational costs because the Agency will not need to add any staff or incur any non-labor expenditures.

Total Costs

FSIS estimates the total cost for the rule to be about $2.69 million to $4.39 million.

VI. Benefits

Expected benefits would likely result from this proposed rule, for consumer health, the ground beef processing industry, and for the Agency.

Under this rule, FSIS expects the industry to benefit from lower direct costs for recalls because compliance with this proposed rule will lead to more efficient, accurate, and quicker identification of potentially adulterated product. Given everything else being equal, FSIS, therefore, expects a decrease in the average volume of product recalled,[27] resulting in decreased costs for recalls and for the proper disposal of the product, i.e., relabeling, re-cooking, reworking, or destroying product. The Agency notes, however, that the expected benefit for any individual establishment would be less than (perhaps substantially less than) the rule-induced cost borne by that establishment; otherwise, the establishment would voluntarily keep complete records even in the absence of a regulatory requirement to do so. FSIS is requesting data on the impact of recordkeeping on reducing the volume of product recalled for official establishments and retail outlets.

The ground beef industry will also benefit from reduced damage to reputation during food safety events. The ability of FSIS to trace adulterated product back to its source ensures that in events such as recalls, the number of firms implicated is kept to a minimum. By limiting the scope of recalls, traceability through better recordkeeping will reduce negative spillover effects which could unnecessarily burden a large group of otherwise uninvolved ground beef producers.[28] This level of accountability insulates the industry as a whole from

Danny Ripley, David Reimann, Moshe Dreyfuss, Wu San Chen, and Carol A. Selman. *Journal of Food Protection, Vol. 74 (6),* 1022–24.

[24] The study defined a complete log as one that included, at minimum, the date and time the grind was performed, the type of product produced, the lot and establishment code of the source beef, whether cleanup was performed between grinds, and the whether beef trimmings were included in the grind. An incomplete log was defined as one that was only partially completed (missing records), or did not record all of the listed data elements. While some fields identified in the survey are not those required in the rule, and some fields required in the rule are not identified in the survey, FSIS determined that there was enough of an overlap to make use of the survey results.

[25] BLS Occupational Employment and Wages, May 2013.

[26] BLS Employer Costs for Employee Compensation, June 2013.

[27] Resende-Filho, Moises A. and Brian L. Buhr. ''Economics of Traceability for Mitigation of Food Recall Costs,'' prepared for presentation at the *International Association of Agricultural Economists (IAAE) Triennial Conference,* Foz do Iguaçu, Brazil, 18–24 August, 2012. This paper presents simulation results of a model that indicated that that presence of a traceability system decreased volumes of recalls by over 90 percent.

[28] Pouliot, Sebastien and Sumner, Daniel A. ''Traceability, recalls, industry reputation, and product safety.'' *European Review of Agricultural Economics.* (2013) Volume 40 (1): 121–142.

losses to reputation and consumer confidence.

In addition, FSIS expects to benefit from lower Agency costs for recalls and recovery of adulterated product because the expected increased efficiency of identifying potentially adulterated product will lead to: (1) reduced inspection program personnel activities at Federal meat establishments and (2) reduced overtime hours for FSIS personnel not employed in official establishments, including enforcement, district office, and recall staff. As recalls become more effective because of better recordkeeping, FSIS could reduce staff travel for conducting recall effectiveness checks.

FSIS will conduct an ongoing retrospective analysis to confirm that the rule positively affects Agency resources and to quantify those benefits. To do so, FSIS will examine the following:

- Overtime hours for enforcement, district office, and recall staff, on a per-outbreak basis.
- Number, length, and outcome of recall effectiveness checks.
- Regulatory noncompliance citations at official establishments for the proposed revisions to 9 CFR 320.1(b)(4).

This review will enable FSIS to better quantify the benefits of the proposed recordkeeping requirements and identify areas where the regulation could be further improved.

VII. Public Health Benefits and Related Costs

FSIS expects public health benefits in the form of averted illnesses due to better recordkeeping practices at official and retail establishments. Epidemiologic, environmental, and microbiologic findings and assessments link illnesses to contaminated food. Typically, distributions of outbreak illnesses caused by contaminated raw beef produced in FSIS-regulated establishments are geographically and temporally dispersed. Working together, epidemiologists and microbiologists may determine that ill persons share a common bacterial strain (outbreak strain) and common food exposure. When these researchers find a common exposure, environmental specialists identify food and practices associated with production, transportation, and preparation of the food to determine the possibility of contamination of the common-source food. In some investigations, microbiologists test samples of implicated foods and find the outbreak strain. Investigators use such findings to support the causal association of ill people with the food they consumed. If epidemiologic and environmental information is sufficiently convincing to link consumption of a specific food to a cluster of illnesses, investigators can identify the contaminated product without finding the bacterial strain in the consumed food. In any circumstance, without adequate records, rapid identification of the contaminated product is not likely to occur. When FSIS identifies a food product causing illness in commerce, FSIS takes action to remove it through a voluntary product recall.

It is FSIS' experience that, before a recall takes place, many ill people have already been confirmed ill from the specific pathogen (STECs or *Salmonella* bacteria) through a laboratory test. One ill person could lead to a recall if investigators identify the consumed product that led to illness and where the consumer purchased the product, the point of purchase (POP), and confirm through microbiological tests that the identified unconsumed product contained the same bacterial strain as that that caused the illness. If complete records existed at the POP, investigators would be able quickly to identify the supplier and the lots involved. With the lot numbers, a supplier would be able to identify implicated product, enabling earlier recalls and a higher proportion of product recovered. This would result in averted illnesses and limited outbreaks.

In addition to identifying implicated product, complete records will also allow investigators to identify product source establishments, resulting in a better chance of determining the cause of adulteration. The ability of FSIS to determine process failures will help establishments take corrective actions to prevent future contamination, resulting in a reduction in future illnesses. Both the costs and benefits of corrective actions would be attributable to this rule if the actions would not have occurred without being facilitated by the proposed new recordkeeping requirements.

Beyond establishment-level improvements, a better understanding of product adulteration through investigations can serve as education for the entire industry as well as regulatory organizations. The identification of potentially hazardous practices can lead to improved guidance, and the linking of such practices to outbreaks and recalls motivates establishments to refrain from risky behavior. Lessons learned from successful investigations can also lead to improvements in the decision making process for recalls and regulatory actions.

For example, in August 1997, a Federal establishment recalled 25 million pounds of frozen ground beef patties due to *E. coli* O157:H7 contamination. The recalled product, consisting of only six lots but distributed to all 48 contiguous states, led to thirteen PFGE confirmed illnesses by the time the product was recalled. As a result of the recall investigation, FSIS identified the establishment's practice of carry-over—the process of reworking the previous day's product into the next day's product—as one of the major reasons for the large amount of contamination. Following the investigation, FSIS promulgated guidance to establishments producing ground beef instructing them to implement lot designation procedures and refrain from practicing carry-over.[29] As a result of the improved guidance and the incentive to not sustain losses like those seen at this Federal establishment (sold to a competitor three weeks after the recall), there was a major response from producers of ground beef.[30]

Better recordkeeping will facilitate outbreak investigations and enable FSIS to identify deficiencies in industry practices and government policy. This type of evidence results in improvements at the establishment level by helping to identify source establishments and affording these establishments the opportunity to diagnose and correct process failures. FSIS expects improvements due to lessons learned from outbreak investigations to prevent future outbreaks. Consumers would also benefit from the prevention of future foodborne illnesses which are not a part of outbreaks, since lessons learned from outbreak investigations will likely lead to improvements which may reduce isolated foodborne illnesses as well.

FSIS requests information that could help quantify the above or any other benefits or costs from this rule.

VIII. Net Benefits

FSIS estimates annual costs of approximately $2.69 million to $4.39. Costs associated with newly-occurring public health interventions that would be facilitated by the proposed recordkeeping requirements have not been quantified. Benefits would accrue to industry due to an expected smaller volume of recall, given everything else being equal, and due to reduced industry vulnerability to reputation

[29] Ground Beef Processing Guidance Material (January 19, 1999, 64 FR 2872).

[30] 82 percent of establishments with grinding operations reported using a robust testing program in their rework process. Results of Checklist and Reassessment of Control for Escherichia coli O157:H7 in Beef Operations (2008) See footnote 25.

damaging food safety events. The Government would benefit in that the rule would enable the Government to operate in a more efficient manner in identifying and tracking recalls of adulterated raw ground beef products. Consumers would benefit from a reduction in foodborne illnesses due to quicker recalls, correction of process failures at ground beef producing establishments, and improved guidance and industry practices.

FSIS estimates that the average cost per *E. coli* O157:H7 illness is $3281,[31] and the average cost per *Salmonella* illness is $2423.[32] Given the cost savings incurred for each ground beef-linked foodborne illness that is averted, and the potential for this rule to prevent outbreaks and illnesses, FSIS asserts that the benefits accrued to industry, Government, and consumers from this proposed rule may result in net economic benefits.

IX. Regulatory Flexibility Analysis

The FSIS Administrator made a preliminary determination that this proposed rule will not have a significant impact on a substantial number of small entities, as defined by the Regulatory Flexibility Act (5 U.S.C. 601).

The Agency analyzed the potential impact of this proposed rule on affected small entity retail stores and official establishments that grind raw beef products. The number and type of small entity retail stores and official establishments potentially affected by the final rule is shown in Table 2 to be 50,225, based on number of employees. Costs would accrue for maintaining the required records based on the volume of ground raw beef products produced by the business. The average annual cost to small establishments for this rule depends on whether the establishment is already maintaining complete records and the number of days of production. For official establishments presently with no records, FSIS estimates an annual cost of $52.42 to $78.63; with incomplete records, FSIS estimates an annual cost of $26.21 to $52.42. For retail establishments, FSIS estimated annual costs are $31.96 to $47.95 for establishments presently with no records and $15.98 to $31.96 for those with incomplete records. Establishments that are already keeping records as required by the proposal would incur no costs because of this rule.

Based on the above analysis, the Agency has concluded that the rule will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. When this proposed rule is adopted: (1) All state and local laws and regulations that are inconsistent with this rule will be preempted; (2) no retroactive effect will be given to this rule; and (3) administrative proceedings will not be required before parties may file suit in court challenging this rule.

Executive Order 13175

This final rule has been reviewed in accordance with the requirements of Executive Order 13175, Consultation and Coordination with Indian Tribal Governments. The review reveals that this proposed regulation will not have substantial and direct effects on Tribal governments and will not have significant Tribal implications.

Paperwork Requirements

In accordance with section 3507(j) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection and recordkeeping requirements included in this proposed rule have been submitted for approval to OMB.

Title: Records to be kept by Official Establishments and Retail Stores Grinding Raw Beef Products.

Type of Collection: New.

Abstract: Under this proposed rule, FSIS is requiring several information activities. FSIS is proposing to amend its recordkeeping regulations to specify that all official establishments and retail stores that grind raw beef products for sale in commerce must keep records, for a period of two years, that disclose the identity of the supplier of all source materials that they use in the preparation of each lot of raw ground product and identify the names of those source materials.

The required records would have to include the following information:

(A) The names, points of contact, phone numbers, and establishment numbers of the establishments supplying the materials used to prepare each lot of raw ground beef product.

(B) All supplier lot numbers and production dates,

(C) The names of the supplied materials, including beef components and any materials carried over from one production lot to the next,

(D) The amount of the beef component used in each lot (in pounds),

(E) The date and time each lot of raw ground beef product is produced, and

(F) The date and time when grinding equipment and related food-contact surfaces cleaned and sanitized.

Estimate of Burden: FSIS estimates that it would take 3.00 hours per respondent annually.

Respondents: Official establishments and retail stores that grind raw beef products.

Estimated Number of Respondents: 76,093.

Estimated Number of Responses per Respondent: 155.

Estimated Total Annual Burden on Respondents: 228,652 hours.

Copies of this information collection assessment can be obtained from Gina Kouba, Paperwork Reduction Act Coordinator, Food Safety and Inspection Service, USDA, 1400 Independence Avenue SW., Room 6077, South Building, Washington, DC 20250.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of FSIS's functions, including whether the information will have practical utility; (b) the accuracy of FSIS's estimate of the burden of the proposed collection of information, 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 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 may be sent to both Gina Kouba, Paperwork Reduction Act Coordinator, at the address provided above, and the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20253. To be most effective, comments should be sent to OMB

[31] The FSIS estimate for the cost of *E. coli* O157:H7 ($3,281 per case—2010 dollars) was developed using the USDA, ERS Foodborne Illness Cost Calculator: STEC O157 (June 2011) *http://webarchives.cdlib.org/sw1rf5mh0k/http:/www.ers.usda.gov/Data/FoodborneIllness/* (archived link—calculator currently being updated). FSIS updated the ERS calculator to incorporate the Scallan (2011) case distribution for STEC O157. Scallan E. Hoekstra, Angulo FJ, Tauxe RV, Widdowson MA, Roy SL, et. al. 2011 January. ''Foodborne Illness Acquired in the United States—Major Pathogens''. *Emerg. Infect. Dis. 17:* 7–15.

[32] The FSIS estimate for the cost of *Salmonella* ($2,423 per case,—2010 dollars) was developed using the USDA, ERS Foodborne Illness Cost Calculator: Salmonella (June 2011) *http://webarchives.cdlib.org/sw1rf5mh0k/http:/www.ers.usda.gov/Data/FoodborneIllness/* (archived link—calculator currently being updated). FSIS updated the ERS calculator to incorporate the Scallan (2011) case distribution for Salmonella. Scallan E. Hoekstra, Angulo FJ, Tauxe RV, Widdowson MA, Roy SL, et. al. 2011 January. ''Foodborne Illness Acquired in the United States—Major Pathogens''. *Emerg. Infect. Dis. 17:* 7–15.

within 60 days of the publication date of this proposed rule.

E-Government Act Compliance

The Food Safety and Inspection Service is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

USDA Non-Discrimination Statement

No agency, officer, or employee of the USDA shall, on the grounds of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, age, marital status, family/parental status, income derived from a public assistance program, or political beliefs, exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States under any program or activity conducted by the USDA.

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To file a complaint of discrimination, complete the USDA Program Discrimination Complaint Form, which may be accessed online at *http://www.ocio.usda.gov/sites/default/files/docs/2012/Complain_combined_6_8_12.pdf,* or write a letter signed by you or your authorized representative.

Send your completed complaint form or letter to USDA by mail, fax, or email:

Mail

U.S. Department of Agriculture, Director, Office of Adjudication, 1400 Independence Avenue SW., Washington, DC 20250–9410.

Fax

(202) 690–7442

Email

program.intake@usda.gov

Persons with disabilities who require alternative means for communication (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720–2600 (voice and TDD).

Additional Public Notification

FSIS will announce this proposed rule online through the FSIS Web page located at *http://www.fsis.usda.gov/wps/portal/fsis/topics/regulations/federal-register/proposed-rules.*

FSIS will also make copies of this **Federal Register** publication available through the FSIS Constituent Update, which is used to provide information regarding FSIS policies, procedures, regulations, **Federal Register** notices, FSIS public meetings, and other types of information that could affect or would be of interest to constituents and stakeholders. The Update is communicated via Listserv, a free electronic mail subscription service for industry, trade groups, consumer interest groups, health professionals, and other individuals who have asked to be included. The Update is also available on the FSIS Web page. In addition, FSIS offers an electronic mail subscription service which provides automatic and customized access to selected food safety news and information. This service is available at *http://www.fsis.usda.gov/wps/portal/fsis/programs-and-services/email-subscription-service/email-subscription-service.* Options range from recalls to export information to regulations, directives and notices. Customers can add or delete subscriptions themselves, and have the option to password protect their accounts.

List of Subjects

Meat inspection, Reporting and recordkeeping requirements.

For the reasons discussed in the preamble, FSIS is proposing to amend 9 CFR part 320, as follows:

■ 1. The authority citation for part 320 continues to read as follows:

Authority: 21 U.S.C. 601–695; 7 CFR 2.7, 2.18, 2.53.

■ 2. In § 320.1, add paragraph (b)(4) to read as follows:

§ 320.1 Records to be kept.

* * * * *

(b) * * *

(4)(i) In the case of raw ground beef products, official establishments and retail stores are required to keep records that fully disclose:

(A) The names, points of contact, phone numbers, and establishment numbers of the establishments supplying the materials used to prepare each lot of raw ground beef product;

(B) All supplier lot numbers and production dates;

(C) The names of the supplied materials, including beef components and any materials carried over from one production lot to the next;

(D) The amount of the beef component used in each lot (in pounds);

(E) The date and time each lot of raw ground beef product is produced; and

(F) The date and time when grinding equipment and other related food-contact surfaces are cleaned and sanitized.

(ii) Official establishments and retail stores covered by this regulation that prepare raw beef products that are ground at an individual customer's request must keep records that comply with paragraph (4)(i) of this section.

* * * * *

Done in Washington, DC on July 16, 2014.

Alfred V. Almanza,

Administrator.

[FR Doc. 2014–17128 Filed 7–21–14; 8:45 am]

BILLING CODE 3410–DM–P

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 26 and 73

[NRC–2014–0118]

RIN 3150–AJ41

Enhanced Security at Fuel Cycle Facilities; Special Nuclear Material Transportation

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft regulatory basis; extension of comment period.

SUMMARY: On June 18, 2014, the U.S. Nuclear Regulatory Commission (NRC) published a request for public comment on a draft regulatory basis to support the potential amendments to revise a number of existing security related regulations relating to physical protection of special nuclear material (SNM) at NRC-licensed facilities and in transit, as well as the fitness-for-duty programs for security officers at certain fuel cycle facilities. The public comment period originally was scheduled to close on August 4, 2014. The NRC has decided to extend the public comment period on this document to allow more time for members of the public to develop and submit their comments.

DATES: The due date for comments requested in the document published on June 18, 2014 (79 FR 34641) is extended. Comments must be filed no later than October 17, 2014. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received before this date.

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

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0118. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For

technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• Email comments to: *Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.

• Fax comments to: Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.

• Mail comments to: Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.

• Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

• Comments that contain proprietary or sensitive information: Please contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document to determine the most appropriate method for submitting these comments.

FOR FURTHER INFORMATION CONTACT: Alex Sapountzis, Office of Nuclear Security and Incident Response, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–3660, email: *Alexander.Sapountzis@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0118 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document by any of the following methods:

• Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0118.

• 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 draft regulatory basis document is available in ADAMS under Accession No. ML14113A468.

• 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–2014–0118 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

II. Further Information

On June 18, 2014 (79 FR 34641), the NRC published a request for public comment on a draft regulatory basis to support the potential amendments to revise a number of existing security related regulations relating to physical protection of SNM at NRC-licensed facilities and in transit, as well as the fitness for duty programs for security officers at certain fuel cycle facilities. The request for public comment asked commenters to consider and address certain questions as they develop and provide their remarks. The public comment period was originally scheduled to close on August 4, 2014. The NRC has decided to extend the public comment period on this document to allow more time for members of the public to develop and submit their comments. The deadline for submitting comments will be extended to October 17, 2014.

Dated at Rockville, Maryland, this 16th day of July 2014.

For the Nuclear Regulatory Commission.

George Wilson,

Acting Director, Division of Intergovernmental Liaison and Rulemaking, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. 2014–17217 Filed 7–21–14; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 400 and 401

[Docket No.: FAA–2012–0045; Notice No. 12–05A]

RIN 2120–AJ90

Exclusion of Tethered Launches From Licensing Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: On August 23, 2012, the FAA published a notice of proposed rulemaking (NPRM) to exclude certain tethered launches from the FAA's licensing and permitting requirements. The FAA is issuing this SNPRM because a commenter raised an issue regarding toxic propellants that was not discussed in the NPRM, but should be addressed. Therefore, the FAA is issuing this action, which proposes to amend the NPRM so that tethered launches using propellants that cause serious injury to the public would not be eligible for exclusion. This SNPRM also includes clarifications based on recommendations commenters made to the NPRM. These proposed changes are intended to enhance the safety of tethered launches and improve regulatory effectiveness.

DATES: Send comments on or before September 22, 2014.

ADDRESSES: Send comments identified by docket number FAA–2012–0045 using any of the following methods:

• *Federal eRulemaking 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), as well as at *http://DocketsInfo.dot.gov*.

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

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this proposed rule, contact Stewart Jackson, AST–300, Office of Commercial Space Transportation, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–7903; email *Stewart.Jackson@faa.gov*. For legal questions concerning this proposed rule, contact Sabrina Jawed, AGC–250, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8839; email *Sabrina.Jawed@faa.gov*.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The Commercial Space Launch Act of 1984, as amended and re-codified at 51 U.S.C. 50901–50923 (the Act), authorizes the Department of Transportation and thus the FAA, through delegations, to oversee, license, and regulate commercial launch and reentry activities, and the operation of launch and reentry sites as carried out by U.S. citizens or within the United States. 51 U.S.C. 50904, 50905. The Act directs the FAA to exercise this responsibility consistent with public health and safety, safety of property, and the national security and foreign policy interests of the United States. 51 U.S.C. 50905. Section 50901(a)(7) directs the FAA to regulate only to the extent necessary, in relevant part, to protect the public health and safety and safety of property. The FAA is also responsible for encouraging, facilitating, and promoting commercial space launches by the private sector. 51 U.S.C. 50903.

I. Overview of SNPRM

In its August 23, 2012 NPRM (77 FR 50956), the FAA proposed to exclude certain tethered launches from chapter III requirements if the tethered launches met specified safety criteria. The proposed criteria did not address the use of toxic propellants onboard a launch vehicle. During the NPRM comment period, the FAA received a comment stating the agency should revise the proposed rule to protect the public from the potential harm exposure to a toxic propellant could cause. The FAA agrees that it should address toxic propellants. Therefore, this SNPRM proposes that if an operator chooses to use any of the toxic propellants identified in Tables I417–2 and I417–3 in Appendix I of part 417, that launch must meet chapter III requirements.

Also, this SNPRM includes two clarifications to the NPRM. First, the agency would remove the term ''established strength properties'' from proposed § 400.2(c)(2)(i) to better clarify the proposed requirement and preserve the original intent, which is to ensure that the tether system can withstand the maximum dynamic load placed on it. Second, the FAA would revise proposed § 400.2(c)(2)(iii) to clarify that the maximum flight limit of 75 feet for a tethered launch vehicle would be measured from the ground to a fully-extended tether's attachment point to a vertically-oriented vehicle.

II. Background

A. Summary of NPRM

In August 2012, the FAA issued an NPRM proposing to exclude tethered launches that met specified requirements for a safe launch from chapter III licensing, permitting, and waiver requirements. The NPRM proposed defining a tether system as a device that contains launch vehicle hazards by physically constraining a launch vehicle in flight to a specified range from its launch point. It would include all components, from the point where the tether attaches to the vehicle to a solid base, that experience load during a tethered launch. The NPRM proposed that the tether system had to:

• Have established strength properties that would not yield or fail under the maximum dynamic load on the system or two times the maximum potential engine thrust;

• have a minimum safety factor of 3.0 for yield stress and 5.0 for ultimate stress;

• constrain the launch vehicle within 75 feet above ground level;

• display no damage prior to the launch; and

• be insulated or located such that it would not experience thermal damage from the launch vehicle exhaust.

The NPRM additionally proposed separation distances for the tethered operation based on the amount of propellant onboard a launch vehicle. Those distances are listed in proposed Table A of the NPRM. Lastly, the NPRM proposed requiring that the launch vehicle be unmanned, have a liquid or hybrid motor, and carry no more than 5,000 pounds of propellant.

B. Summary of Comments

The comment period for the NPRM closed on October 22, 2012. The FAA received comments from three commercial space companies: Masten Space Systems, Inc. (Masten); Unreasonable Rocket; and, SpeedUp, LLC. In addition, the agency received comments from four individuals, making a total of seven commenters. Two of the seven commenters, SpeedUp, LLC and Mr. W. Andrew Shrader, supported the proposal. The other commenters raised issues that are summarized and discussed below.

Toxic Propellants

The FAA did not address toxic propellants in the NPRM. One commenter, Mr. Chad W. Thrasher, suggested that the FAA consider the harmful characteristics of some liquid propellants. He pointed out that many liquid rocket propulsion systems use liquids that are animal carcinogens, corrosive, and potentially explosive when mixed in specific ratios. He also pointed out that exposure to certain propellants may result in damage to the lungs, liver, kidneys, the central nervous system, and may also result in coma or death by asphyxiation. Mr. Thrasher suggested that the FAA revise proposed § 400.2(c)(3) to ensure that operators and the public are upwind of the test location or at least twice the distance defined in proposed Table A if downwind.

Mr. Thrasher proposed protecting the operators themselves. The Commercial Space Launch Act of 1984, as amended and re-codified at 51 U.S.C. 50901–50923, authorizes the agency through delegation to regulate launch and reentry activities to ensure the public

health and safety, safety of property, and the national security and foreign policy interests of the United States. Public safety as defined in § 401.5 refers to the safety of people and property that are not involved in supporting the launch. Therefore, the proposal is not intended to protect the launch operator or the launch operator's personnel who are involved in carrying out the launch.

As this proposal pertains to the public, the FAA agrees with Mr. Thrasher that the NPRM should have addressed the harmful characteristics of certain propellants. However, the agency believes the best solution to keeping the public safe and retaining the burden-relieving components of the proposal would be to exclude from chapter III requirements only those eligible tethered launches that do not use propellants that cause serious injury. Mr. Thrasher suggested changing the proposed rule by stating that Table A would apply only if one is upwind of the test location. He suggested that if one is downwind of the test location, one should be at least one and a half times the separation distances stated in Table A. Basing the separation distances on wind direction, and increasing the separation distances for anyone standing downwind of the test location would add a level of complexity to the proposal that the FAA does not intend. Thus, the agency would amend proposed § 400.2(c)(1)(iii) [1] to clarify that chapter III continues to apply to a tethered launch using toxic propellants listed in Table I417–2 and Table I417–3 in Appendix I of part 417. If launch operators wish to use a toxic propellant, they would still be required to conduct their launch under chapter III.

Established Strength Properties

The FAA would withdraw the proposed requirement that a tether system eligible for exclusion from chapter III requirements possess ''established strength properties.'' Section 400.2(c)(2)(i) of the NPRM proposed that an eligible tether system have established strength properties that would not yield or fail under the conditions listed in §§ 400.2(c)(2)(i)(A) and 400.2 (c)(2)(i)(B). One commenter, Mr. Alexander Salvato, suggested that the phrase ''established strength properties'' was too vague, and it was not clear how the strength properties of the tether system would be established, or by whom. He suggested clarifying the phrase with substitute language or integrating the alternate test for tether strength provided in the NPRM.

The FAA agrees that the phrase ''established strength properties'' is too vague for the reasons Mr. Salvato provided, and no longer proposes it because the remainder of the provision would address the FAA's concerns with sufficient specificity. New proposed § 400.2 (c)(2)(i) would require that an eligible tether system not yield or fail under (1) the maximum dynamic load exerted on the system, or (2) a load equivalent to two times the maximum potential engine thrust.

Factors of Safety

For the tether system, the FAA proposes a minimum factor of safety of 3.0 for yield stress and 5.0 for ultimate stress. Three commenters, Masten, Mr. Thrasher, and Mr. Salvato, expressed concern about the FAA's proposed factors of safety.

Masten commented that while the proposed factors of safety may be appropriate for military development applications, they place unnecessary financial and schedule burdens on commercial reusable launch vehicle (RLV) developers without materially increasing public safety. Masten also stated the performance characteristics of commercial RLVs are driven by market rather than military requirements. As a result, the robust attachment hardware that may be required for a tether system with a yield stress safety factor of 3.0 and an ultimate stress safety factor of 5.0 may prove heavier than can reasonably be flown by a commercial RLV under tether test conditions. Masten suggested the proposed factors of safety may be appropriate for military development purposes, where ordnance or weapons systems requirements may drive a need for reliance on high yield and ultimate stress safety factors; however, commercially competitive RLV developers do not face the same military-based performance, maintainability, and interoperability requirements that U.S. Air Force developers address. Commercial RLV developers do face financing and price competition challenges that are not present in military system development. Masten suggested that based on its extensive experience designing and operating RLVs and tether systems, a safety factor of 2.0 for yield stress and 4.0 for ultimate stress would be consistent with commercial RLV operator practices and would ensure the tether system design was sufficiently safe but not so robust as to inhibit meaningful tether test activity.

The FAA acknowledges that its proposed factors of safety are also used for military applications. However, the FAA does not agree that the proposed factors of safety should be revised because they are too stringent for commercial operations. In addition to the U.S. Air Force, academia, and NASA have also recommended or used the proposed factors of safety. In 1948, Joseph P. Vidosic established guidelines that recommended when to apply a factor of safety ranging from 1.25 to 4.0 based on yield strength.[2] Since then, various industries have accepted these guidelines as basic guidance that can be used when experience and empirical data are otherwise not available. For brittle material, these guidelines recommend doubling the factor of safety for yield strength. With better known materials that are to be used in uncertain environments or subjected to uncertain stresses, the guidelines recommend using a factor of safety of 3 to 4. NASA used a factor of safety of 3 for yield and 5 for ultimate stress for its lifting slings.[3] Similarly, the U.S. Air Force uses a minimum factor of safety of 3 for yield stress and 5 for ultimate stress for design of ground-based systems, including tether systems.[4] Furthermore, several engineering textbooks contain the same factor of safety guidelines.[5]

As noted previously, the goal of this rulemaking is to maintain public safety while relieving the industry and the FAA from chapter III licensing, permitting, and waiver requirements for tethered launches. Because the FAA would not be overseeing the tethered launches covered under the proposed rule, and because of the inherent uncertainties of the test environment, the agency believes it is reasonable to impose conservative design requirements to ensure the public is protected from a potential accident or incident. The factors of safety the FAA proposed (3.0 for yield stress, which is the elastic limit; and, 5.0 for ultimate stress, which is where breakage occurs) are based on guidance from academia, from successful usage by NASA, and proven results as documented by the U.S. Air Force's application to its operations at the Eastern and Western Ranges involving tethered and ground-

[1] In the NPRM, § 400.2(c)(1)(iii) proposed to limit the amount of fuel the launch vehicle could carry to 5,000 pounds. For the SNPRM, this proposed requirement would be moved to new paragraph (c)(1)(iv) of § 400.2.

[2] Joseph P. Vidosic, ''Design Stress Factors,'' Proceedings of the American Society for Engineering Education, Vol. 55, 1947–48, pp 653–658.

[3] NASA STD 8719.9, ''Standard for Lifting Devices and Equipment,'' May 2, 2002.

[4] Air Force Space Command Manual 91–710, Air Force Space Command, Range Safety User Requirement Manual, Vol. 3 (July 1, 2004).

[5] C.S. Sharma and Kamlesh Purohit, *Design of Machine Elements* (2005); Rajendra Karwa, *A Testbook of Machine Design* (2005); Richard M. Phelan, *Fundamentals of Mechanical Design* (1957).

based systems. Thus, the proposed factors of safety would render FAA oversight unnecessary.

The FAA does not agree with Masten that it will be too costly for commercial companies to comply with these factors of safety. To the contrary, selecting conservative factors allows an operator to avoid the cost of analysis associated with FAA oversight. The selection of an appropriate factor of safety is based on the level of uncertainties regarding loading conditions, material properties, and environmental factors. The criteria used to select the factor of safety is based on accumulated knowledge associated with the design of the system, historical empirical knowledge, engineering judgment, judgment based on experience, and best practices that ensure safety. The factors of safety applied in industries such as aviation and aerospace reflect years of experience and the accumulation of empirical test data that provide an in-depth understanding of how loading conditions affect the system. Since 1948, engineers in various industries, including the aircraft and spacecraft industries, have achieved a better understanding of how to obtain factors of safety values for various loading conditions by implementing expensive, high fidelity validation and verification testing.

Typically, aircraft and spacecraft industries perform high fidelity verification and validation testing of vehicle structures to ascertain how these structures will perform under actual load conditions and to address how to reduce uncertainties. These test results provide an understanding of the actual loading characteristics associated with the system. With a significant reduction in uncertainties, an operator could reduce the factors of safety values. To achieve these lower factors of safety values, an operator would have to conduct a thorough structure analysis and high cost test programs. For example, if a vehicle attached to a tether started flying erratically and became uncontrollable, an operator would need to conduct costly testing to determine the worst loading condition. However, an operator could use closed-loop analyses and the proposed factors of safety to address uncertainties at lower cost without compromising public safety. With higher factors of safety, it is possible to reduce the need for high fidelity testing and analysis with a resulting reduction in costs. The FAA is not proposing a high fidelity analysis, and is instead focused on factors that protect public safety while making FAA oversight unnecessary.

Mr. Thrasher commented that the NPRM incorrectly interprets the intended minimum safety factor of the tether system by selecting the case requiring the highest, most conservative safety factors. He pointed out that the Martino report [6] the FAA cited in the NPRM references three case studies. The first case addresses the expected or nominal loads based on the expected thrust levels in the desired direction with the proper dispersions. For this case, Mr. Thrasher suggested that the safety factors of 3.0 for yield stress and 5.0 for ultimate stress should be used for the expected nominal loads. He stated that in most cases this would be 100 percent of the thrust level of the system. The second case addresses structures designed to restrain a system during testing. He stated the second case provides safety factors if the structure is actually tested to designated loads, and another set of safety factors if it is just analyzed but not tested. He stated the second set of safety factors is more conservative to allow for minor errors in the structural analysis. He suggested that the third case, using safety factors of 2.0 for yield stress and 3.0 for ultimate stress, should be used in off-nominal cases. The proposed method to calculate the maximum dynamic load by multiplying the maximum potential engine thrust by a factor of two is consistent with an off-nominal event such as an explosion. Mr. Thrasher stated the tether system must satisfy all three load cases—nominal, ground structures, and off-nominal—and, systems must be designed to meet the case with the highest design loads. Mr. Thrasher further commented that to determine the highest design loads of a system, one must calculate each case, and then use the highest loads for both yield and ultimate stress. Based on his calculations, he stated that the proposed rule would require the tether system to withstand a 33 percent greater yield load and a 40 percent greater ultimate stress load to those recommended in the Martino report. He recommended that the FAA revise proposed § 400.2(c)(2) as follows:

(2) Tether system. The tether system must—

(i) Have established strength properties that will not yield or fail under—

(A) The maximum dynamic load of the system; and

(B) The nominal maximum dynamic load on the system with a safety factor of 3.0 for yield stress and 5.0 for ultimate stress; and

(C) The off-nominal dynamic load cases, calculated as the equivalent to two times the maximum potential engine thrust, shall have a minimum safety factor of 2.0 for yield stress and 3.0 for ultimate stress.

In the NPRM, the FAA used the Martino Report to show that a factor of safety of 3 for yield stress and 5 for ultimate stress are accepted industry standards for the design of ground-based systems, including a tether and its attachments to launch facilities or ground equipment. The FAA did not intend to adopt all the load cases discussed in the Martino Report. Instead, the FAA strives to achieve simplicity and clarity in its proposed rule without compromising safety. Because the FAA would not provide oversight for eligible tethered launches, the FAA selected robust and industry-acceptable factors of safety that would not necessitate FAA scrutiny.

Mr. Salvato stated the term ''safety factor'' is too vague. He said although the FAA discusses in the NPRM what the terms ''yield stress'' and ''ultimate stress'' mean, the agency only references factor of safety in its supplementary materials. He recommended including an abbreviated definition in the regulation of safety factor based on the more lengthy definition contained in the supplemental material, or referencing the attached supplemental material in the preamble to the rule.

The FAA does not believe it is necessary to define the term ''safety factor'' in the rule because it is a widely recognized industry term. However, the agency offers the following brief explanation to clarify the term as it is used in the preamble discussion: The factor of safety (FoS), also called safety factor (SF), is the ratio of the maximum load that a system is expected to withstand against the allowable design load applied or the ratio of absolute strength (structural capacity) to actual applied design load.

Yield Stress

In the preamble to the NPRM, the FAA stated that yield stress is the point of the elastic limit. Unreasonable Rocket generally supported the rule, but was unclear as to why the FAA described the tether yield point as the point of elastic limit instead of the point of plastic limit for a system that is meant to be stretchy. It stated that all of Unreasonable Rocket's testing used climbing rope designed to yield (i.e., to arrest a climber's fall without snapping

[6] Nicholas E. Martino, Design and Analysis Guidelines for Launch Vehicle Tether Systems, Aerospace Report No. ATR–2008 (5377)–1, The Aerospace Corporation (Sept. 30, 2007). This report is available in the docket for this rulemaking (Docket No. FAA–2012–0045).

him in half). It then recommended the FAA define yield stress in the rule as the point of plastic yield.

The FAA does not agree. Elastic limit is the maximum stress that may be developed such that there is no permanent or residual deformation (the elements subjected to the loading; for example, the tether dynamic rope) when the load is entirely removed. The FAA proposed yield stress for the tether system as the elastic limit rather than the plastic limit because once the plastic limit is reached, the elastic capability of the material ends and permanent deformation occurs. If the applied load continues to increase, the element will weaken and ultimately breakage will occur.[7]

Flight Altitude Limit

In the NPRM, the FAA proposed to confine an eligible launch to one constrained within 75 feet above ground level (AGL). Two commenters asked the FAA to increase the proposed flight limit, but the FAA does not agree. As the agency discussed in the NPRM, to determine a safe flight limit, the FAA calculated the average length of a tether (32 feet) and the average height of a crane/forklift (43 feet) and added the two figures together. These averages are based on historical data from past tethered launches. The FAA also used a random sampling of the height of cranes/forklifts from various manufacturers to help determine the average crane/forklift height.

Two commenters, Masten and Mr. Thrasher, stated that the proposed flight limit is too restrictive and should be increased. Masten recommended increasing the flight limit by 275 feet to 350 feet AGL to accommodate existing and contemplated commercial tether launch activities, which would include larger, higher-performance RLVs. Mr. Thrasher suggested increasing the maximum allowable tether length to 40 feet to avoid ground effects from the propulsion system, and increasing the flight limit by 15 feet to 90 feet AGL to account for longer tether lengths and slightly larger than average cranes.

Masten pointed out that to comply with the proposed flight limit, the combined length of the launch vehicle, the vehicle connection, the tether and the fixed connection could not exceed a 37.5-foot radius from the fixed connection to the end of the launch vehicle, and that this threshold would severely limit the availability of the proposed exclusion to larger and higher-performance RLVs.

The FAA does not agree with this reasoning. First, the length of the launch vehicle would not be included in the flight limit calculation, as described in greater detail below. Second, regarding Masten's concern that the proposed flight limit would not account for larger, higher-performance RLVs, the FAA's intent is to provide design and operational criteria for the safe tethered launch of small, liquid or hybrid propulsion launch vehicles similar to those for which the agency has issued past waivers. It is not the agency's intent to exclude from FAA oversight the larger, higher-performance launch vehicles Masten describes in its comment, specifically Morpheus, Minuteman, and XEUS.

In response to Mr. Thrasher's comment suggesting the FAA increase the maximum allowable tether length, the FAA notes that the NPRM explicitly states that launch operators are not required to use the same measurements for tether length and crane/forklift height in their tether system design that the agency used to calculate the proposed flight limit. Even so, they would still be required to comply with the maximum flight limit threshold in order to be excluded from chapter III requirements. For example, an operator could use a 10-foot crane and a 30-foot tether, or a 50-foot crane and a 25-foot tether. In both scenarios, the maximum flight limit would not exceed 75 feet AGL. If an operator needed to adjust its tether length to avoid ground effects from the propulsion system, as Mr. Thrasher suggested, it would be free to do so as long as the vehicle did not exceed the flight limit for exclusion from chapter III.

Mr. Thrasher also suggested increasing the maximum flight limit 15 feet to account for longer tether lengths and slightly larger than average cranes. The FAA does not agree that increasing the flight limit 15 feet is a necessary or beneficial change from the proposed rule. The proposed 75-foot flight limit is adequate for vehicles that are equivalent in height to the average size of those vehicles for which the FAA granted a launch waiver to conduct tethered launches in the past. Also, Mr. Thrasher did not provide any rationale that addresses the FAA's safety concerns in support of his proposal. The FAA also reiterates that its intention is not to exclude larger than the average size of those vehicles that the FAA granted a launch waiver from chapter III requirements.

Additionally, the agency wishes to clarify the proposed threshold for flight limit. In the NPRM, proposed § 400.2(c)(2)(iii) stated the tether system would ''constrain the launch vehicle within 75 feet above ground level.'' The FAA now proposes to clarify that the restriction would measure from the ground to the point where the tether attaches to the vehicle. To calculate whether a launch vehicle exceeded the proposed threshold, the operator would measure from the ground to the tether's attachment point to a vertically oriented vehicle. In other words, if the attachment point was to the launch vehicle's base, the nose of the launch vehicle could be at an altitude greater than 75 feet. The maximum flight limit would not include the height of the vehicle itself.

Slack Tether

The FAA proposed that a tether system be able to withstand the maximum dynamic load on the system or a load equivalent to two times the maximum potential engine thrust. One commenter, Mr. Andrew Swallow, suggested that ''rules are needed to permit slack tethers, such as defining their breaking strength, as well as tethers under static load.'' He also stated that a tethered vehicle starts and stops on the ground so will need a few inches of slack. The FAA would permit a tethered launch vehicle to be eligible to be excluded from chapter III. A slack tether may, in some circumstances, allow loading in excess of the proposed criteria. A slack tether, particularly a static rope, could increase the magnitude of the applied load placed on the tether system because the velocity of the vehicle would quickly eliminate the slack, and the tether could rapidly decelerate the vehicle. This rapid deceleration would cause the vehicle and the tether system to be subjected to high dynamic loading called shock loading. Shock is produced when an object (e.g., a launch vehicle) in motion suddenly halts.[8] Shock loading can produce as much as twice the load impact compared to static loading.[9] The force produced by the sudden stoppage of motion could in some cases cause not just damage to the tether or vehicle, but tether separation, because it would exceed the maximum produced loads.

If the tether system could not withstand the dynamic load exerted on it and was damaged, and if tether separation occurred and the launch

[7] Stephen W. Attaway, Rope System Analysis (1996); William Storage and John Ganter, Physics for Cavers: Loads, and Energy (1990 & 1998); Tendon, Dynamic and Static Ropes Manual.

[8] Stephen W. Attaway, Rope System Analysis (1996); William Storage and John Ganter, Physics for Cavers: Loads, and Energy (1990 & 1998); Tendon, Dynamic and Static Ropes Manual.

[9] A. E. H. Love, Mathematical Theory of Elasticity, 2nd ed., Cambridge University Press (1906), pgs. 179–180.

vehicle exceeded the flight limit, the operator would have failed to comply with two key proposed requirements: (1) Ensuring the tether system could withstand the specified dynamic load placed on it; and (2) constraining the launch vehicle to the maximum flight limit. Additionally, the FAA does not agree that a vehicle starts and stops a tethered launch on the ground. An operator could elect to suspend the vehicle in the air. The FAA does not believe it is necessary to add requirements for the use of slack tethers to the proposed rule because the rule requires the tether design to sustain dynamic (or shock) loading conditions.

Inspection of Tether System

Proposed § 400.2(c)(2)(B)(iv) [10] would require that a tether system not display damage prior to the launch. In the NPRM's preamble, the FAA provided guidance on conducting a visual inspection of the tether system to identify damage such as component fatigue, fracture, and wear.

One commenter, Mr. Thrasher, suggested that the FAA require a launch operator to inspect tether hardware because the FAA is relying on visual inspections to ensure there is no component damage. Mr. Thrasher also recommended that effective inspections of metal components for pre-existing damage, fracture, corrosion, and wear require all surfaces to be bare metal or have clear protective coatings. Further, he noted that any paint or improperly bonded covering used to prevent thermal damage could prevent detection of damage. He proposed that any thermal protective coverings be installed after inspection and any components that require thermal protection be bonded, be visually inspected, and used only one time. He recommended revising proposed § 400.2(c)(2)(B)(iv) to add the following: ''Metal components must be inspected unpainted and free of any coverings or coatings that would interfere with visual inspection. Any metal using bonded protective thermal coatings shall be visually inspected and used only one time.''

Mr. Thrasher's comment implies the FAA intended the visual inspection to be a primary means of ensuring the structural integrity of the tether system. The FAA's intent for the visual inspection is to provide an added measure of safety to reinforce the safety criteria the agency is proposing. Primary among these safety requirements are the proposed conservative factors of safety. The FAA does not intend for the visual inspection to be a primary means of determining if the tether system is safe. The expectation is the operator will conduct a visual inspection on the eve of the launch, after full compliance with all other required design and operational criteria. However, this does not preclude launch operators from conducting a more substantive inspection if they believe it is necessary to ensure compliance and a safe tethered launch.

IV. Regulatory Notices and Analyses

A. Regulatory Evaluation

Changes to Federal regulations must undergo several economic analyses. First, Executive Order 12866 and Executive Order 13563 direct that each Federal agency shall propose or adopt a regulation only upon a reasoned determination that the benefits of the intended regulation justify its costs. Second, the Regulatory Flexibility Act of 1980 (Pub. L. 96–354) requires agencies to analyze the economic impact of regulatory changes on small entities. Third, the Trade Agreements Act (Pub. L. 96–39) prohibits agencies from setting standards that create unnecessary obstacles to the foreign commerce of the United States. In developing U.S. standards, the Trade Act requires agencies to consider international standards and, where appropriate, that they be the basis of U.S. standards. Fourth, the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more annually (adjusted for inflation with base year of 1995). This portion of the preamble summarizes the FAA's analysis of the economic impacts of this proposed rule.

Department of Transportation Order DOT 2100.5 prescribes policies and procedures for simplification, analysis, and review of regulations. If the expected cost impact is so minimal that a proposed rule does not warrant a full evaluation, this order permits a statement to that effect and the basis for it to be included in the preamble if a full regulatory evaluation of the cost and benefits is not prepared. Such a determination has been made for this proposed rule. The reasoning for this determination is discussed below.

The FAA has licensing authority over tethered launches, which are considered launches under chapter III unless they meet the definition of an amateur rocket launch.[11] To conduct such tethered non-amateur rocket launches, operators must obtain a launch license, experimental permit, or apply for a waiver from chapter III. Applying for waivers, licenses, and permits impose a financial burden on vehicle operators and the FAA because of time and resources required to create and analyze these applications.

The proposed rule would establish clear and simple criteria for an effective tether system. In addition, it proposes vehicle and operational criteria as added measures to protect the public in the event of a tether system failure. Operators would not have to apply for a launch license, permit, or waiver from chapter III to conduct tethered launches of non-amateur rockets [12] that met the proposed criteria for an effective tether system and the vehicle and operational criteria. Operators that met the proposed criteria would not have to incur the costs of applying for a launch license, permit, or waiver and would not have to sustain the costs associated with delay in the processing of these applications. The FAA would not have to conduct case-by-case analyses of tethered launches that met the proposed criteria to verify public safety from a launch vehicle explosion or confirm that the tether system would not fail. Furthermore, launch operators that conducted tethered launches would not be compelled to follow the criteria in this proposal as they would still have the option of applying for a launch license, permit, or waiver under chapter III. Therefore, the proposed rule would impose no additional requirements on operators, but would provide an alternative to conducting a tethered launch under chapter III. If the operator deemed it more cost effective to apply for a license, permit, or waiver than to follow the criteria proposed here, the operator would have that option.

For the reasons discussed, the rule would be cost relieving to both operators and the FAA. The FAA requested but received no comments on its conclusion in the NPRM that the rule would be cost relieving to operators and the FAA.

This SNPRM revises the FAA's original proposal by not excluding from

[10] In the NPRM (77 FR 50959), in section heading (C)(4), the FAA inadvertently cited the proposed rule paragraph as § 400.2(c)(3). The correct proposed paragraph is § 400.2(c)(2).

[11] Launches of amateur rockets are excluded from the requirements of chapter III. *See* 14 CFR 400.2 (2011).

[12] Operators launching amateur rockets on a tether would still be subject to part 101 of chapter I and would continue to be excluded from chapter III.

chapter III tethered launches that use specified toxic propellants from chapter III requirements. Even with the change, the rule is still cost relieving relative to the current regulations, even though tethered launches using toxic fuel must comply with chapter III requirements as they currently do. There would be no additional costs or cost savings due to the change to the NPRM. Operators launching vehicles that are eligible for the chapter III exclusion would still benefit from cost savings relative to the current chapter III requirements. The FAA has determined that this proposed rule is not a ''significant regulatory action'' as defined in section 3(f) of Executive Order 12866, and is not ''significant'' as defined in DOT's Regulatory Policies and Procedures.

B. Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (Pub. L. 96–354) (RFA) establishes as a principle of regulatory issuance that agencies shall endeavor, consistent with the objectives of the rule and of applicable statutes, to fit regulatory and informational requirements to the scale of the businesses, organizations, and governmental jurisdictions subject to regulation. To achieve this principle, agencies are required to solicit and consider flexible regulatory proposals and to explain the rationale for their actions to assure that such proposals are given serious consideration. The RFA covers a wide-range of small entities, including small businesses, not-for profit organizations, and small governmental jurisdictions. Agencies must perform a review to determine whether a rule will have a significant economic impact on a substantial number of small entities. If the agency determines that it will, the agency must prepare a regulatory flexibility analysis as described in the RFA.

However, if an agency determines that a rule is not expected to have a significant economic impact on a substantial number of small entities, section 605(b) of the RFA provides that the head of the agency may so certify and a regulatory flexibility analysis is not required. The certification must include a statement providing the factual basis for this determination, and the reasoning should be clear.

This proposed rule is expected to provide an alternative to conducting tethered launches under chapter III and therefore could alleviate the financial burden of applying for a launch license, permit, or waiver to chapter III if an operator met the proposed criteria. The expected outcome would therefore have either a cost saving impact or no impact on small entities affected by the proposed rule. Under this SNPRM, launches that use toxic propellants would have to comply with chapter III, which they have to do currently. Although the changes introduced with the SNPRM might reduce the number of launch vehicles that would be exempt from chapter III, the rule would still have either a cost saving impact or no impact on small entities. The FAA did not receive comments when it reached the same conclusion in the NPRM.

Therefore, as provided in section 605(b), the head of the FAA certifies this rulemaking will not result in a significant economic impact on a substantial number of small entities.

C. International Trade Impact Assessment

The Trade Agreements Act of 1979 (Pub. L. 96–39), as amended by the Uruguay Round Agreements Act (Pub. L. 103–465), prohibits Federal agencies from establishing standards or engaging in related activities that create unnecessary obstacles to the foreign commerce of the United States. Pursuant to these Acts, establishing standards is not considered an unnecessary obstacle to the foreign commerce of the United States, so long as the standard has a legitimate domestic objective, such as the protection of safety, and does not operate in a manner that excludes imports that meet this objective. The statute also requires consideration of international standards and, where appropriate, that they be the basis for U.S. standards. If a foreign launch operator were to conduct a tethered launch in the United States that meets the requirements of this proposed rule, it would be eligible for the proposed exclusion from chapter III. The FAA has assessed the potential effect of this proposed rule and determined that it would have the same impact on domestic and international entities and thus have a neutral trade impact.

D. Unfunded Mandates Assessment

Title II of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires each Federal agency to prepare a written statement assessing the effects of any Federal mandate in a proposed or final agency rule that may result in an expenditure of $100 million or more (in 1995 dollars) in any one year by State, local, and tribal governments, in the aggregate, or by the private sector; such a mandate is deemed to be a ''significant regulatory action.'' The FAA currently uses an inflation-adjusted value of $151.0 million in lieu of $100 million. This proposed rule does not contain such a mandate; therefore, the requirements of Title II of the Act do not apply.

E. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the FAA consider the impact of paperwork and other information collection burdens imposed on the public. The FAA has determined that there would be no new requirement for information collection associated with this proposed rule.

Public comments: The FAA did not receive comments to the NPRM on its determination that the proposed rule would not impose new paperwork requirements.

F. International Compatibility

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to conform to International Civil Aviation Organization (ICAO) Standards and Recommended Practices to the maximum extent practicable. No ICAO Standards and Recommended Practices correspond to these proposed regulations.

G. Environmental Analysis

FAA Order 1050.1E identifies FAA actions that are categorically excluded from preparation of an environmental assessment or environmental impact statement under the National Environmental Policy Act in the absence of extraordinary circumstances. This rulemaking action qualifies for the categorical exclusion identified in paragraph 312f and involves no extraordinary circumstances.

V. Executive Order Determinations

A. Executive Order 12866

See the ''Regulatory Evaluation'' discussion in the ''Regulatory Notices and Analyses'' section elsewhere in this preamble.

B. Executive Order 13132, Federalism

The FAA has analyzed this proposed rule under the principles and criteria of Executive Order 13132, Federalism. The agency has determined that this action would not have a substantial direct effect on the States, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government, and, therefore, would not have Federalism implications.

C. Executive Order 13211, Regulations That Significantly Affect Energy Supply, Distribution, or Use

The FAA analyzed this proposed rule under Executive Order 13211, Actions Concerning Regulations that Significantly Affect Energy Supply, Distribution, or Use (May 18, 2001). The agency has determined that it would not be a ''significant energy action'' under the executive order and would not be likely to have a significant adverse effect on the supply, distribution, or use of energy.

VI. Additional Information

A. Comments Invited

The FAA invites interested persons to participate in this rulemaking by submitting written comments, data, or views. The agency also invites comments relating to the economic, environmental, energy, or federalism impacts that might result from adopting the proposals in this document. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, commenters should send only one copy of written comments, or if comments are filed electronically, commenters should submit only one time.

The FAA will file in the docket all comments it receives, as well as a report summarizing each substantive public contact with FAA personnel concerning this proposed rulemaking. Before acting on this proposal, the FAA will consider all comments it receives on or before the closing date for comments. The FAA will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. The agency may change this proposal in light of the comments it receives.

Proprietary or Confidential Business Information: Do not file proprietary or confidential business information in the docket. Such information must be sent or delivered directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document, and marked as proprietary or confidential. If submitting information on a disk or CD ROM, mark the outside of the disk or CD ROM, and identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), if the FAA is aware of proprietary information filed with a comment, the agency does not place it in the docket. Proprietary information is held in a separate file to which the public does not have access, and the FAA places a note in the docket that it has received it. If the FAA receives a request to examine or copy this information, it treats it as any other request under the Freedom of Information Act (5 U.S.C. 552). The FAA processes such a request under Department of Transportation procedures found in 49 CFR part 7.

B. Availability of Rulemaking Documents

An electronic copy of rulemaking documents may be obtained from the Internet by—

1. Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

2. Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies* or

3. Accessing the Government Printing Office's Web page at *http://www.gpo.gov/fdsys/.*

Copies may also be obtained by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Commenters must identify the docket or notice number of this rulemaking.

All documents the FAA considered in developing this proposed rule, including economic analyses and technical reports, may be accessed from the Internet through the Federal eRulemaking Portal referenced in item (1) above.

List of Subjects

14 CFR Part 400

Space transportation and exploration, Licensing, Safety.

14 CFR Part 401

Space transportation and exploration.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend chapter III of title 14, Code of Federal Regulations as follows:

PART 400—BASIS AND SCOPE

■ 1. The authority citation for part 400 continues to read as follows:

Authority: 51 U.S.C. 50901–50923.

■ 2. Revise § 400.2 to read as follows:

§ 400.2 Scope.

These regulations set forth the procedures and requirements applicable to the authorization and supervision under 51 U.S.C. subtitle V, chapter 509, of commercial space transportation activities conducted in the United States or by a U.S. citizen. The regulations in this chapter do not apply to—

(a) Space activities carried out by the United States Government on behalf of the United States government;

(b) The launch of an amateur rocket as defined in § 1.1 of this title; or

(c) A launch of a tethered launch vehicle that meets the following criteria:

(1) *Launch vehicle.* The launch vehicle must—

(i) Be unmanned;

(ii) Be powered by a liquid or hybrid rocket motor;

(iii) Not use any of the toxic propellants of Table I417–2 and Table I417–3 in Appendix I of part 417 of this chapter; and

(iv) Carry no more than 5,000 pounds of propellant.

(2) *Tether system.* The tether system must—

(i) Not yield or fail under—

(A) The maximum dynamic load on the system; or

(B) A load equivalent to two times the maximum potential engine thrust.

(ii) Have a minimum safety factor of 3.0 for yield stress and 5.0 for ultimate stress.

(iii) Constrain the launch vehicle within 75 feet above ground level as measured from the ground to the attachment point of the vehicle to the tether.

(iv) Display no damage prior to the launch.

(v) Be insulated or located such that it will not experience thermal damage due to the launch vehicle's exhaust.

(3) *Separation distances.* The launch operator must separate its launch from the public and the property of the public by a distance no less than that provided for each quantity of propellant listed in Table A of this section.

TABLE A—SEPARATION DISTANCES FOR TETHERED LAUNCHES

Propellant carried (lbs.)	Distance (ft.) from the launch point
1–500	900
501–1,000	1,200
1001–1,500	1,350
1,501–2,000	1,450
2,001–2,500	1,550
2,501–3,000	1,600
3,001–3,500	1,650
3,501–4,000	1,700
4,001–4,500	1,750
4,501–5,000	1,800

PART 401—ORGANIZATION AND DEFINITIONS

■ 3. The authority citation for part 401continues to read as follows:

Authority: 51 U.S.C. 50101–50923.

■ 4. Amend § 401.5 by adding the definition of *Tether system* in alphabetical order to read as follows:

§ 401.5 Definitions.

* * * * *

Tether system means a device that contains launch vehicle hazards by physically constraining a launch vehicle in flight to a specified range from its launch point. A tether system includes all components, from the tether's point of attachment to the vehicle to a solid base, that experience load during a tethered launch.

* * * * *

Issued in Washington, DC, on July 9, 2014.

George C. Nield,

Associate Administrator, Commercial Space Transportation.

[FR Doc. 2014–16954 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Chapter I

[Docket No. FAA–2014–0463]

Policy on the Non-aeronautical Use of Airport Hangars

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of Proposed Policy; Request for Comments

SUMMARY: Under Federal law, airport operators that have accepted federal grants and/or those that have obligations contained in property deeds for property transferred under various Federal laws such as the Surplus Property Act generally may use airport property only for aviation-related purposes unless otherwise approved by the FAA. Compliance inspections by FAA staff, as well as audits by the Government Accountability Office, have found that some hangars intended for aircraft storage are routinely used to store non-aeronautical items such as vehicles and large household items. In some cases, this storage interferes with—or entirely displaces—aeronautical use of the hangar. Moreover, many airports have a waiting list for hangar space, and a tenant's use of a hangar for non-aeronautical purposes prevents aircraft owners from obtaining access to hangar storage on the airport. At the same time, the FAA realizes that storage of some small incidental items in a hangar that is otherwise used for aircraft storage will have no effect on the aeronautical utility of the hangar. The FAA is proposing a statement of policy on use of airport hangars to clarify compliance requirements for airport sponsors, airport manager, airport tenants, state aviation officials, and FAA compliance staff. This notice solicits public comment on the proposed policy statement.

DATES: Send your comments on or before September 5, 2014. The FAA will consider comments on the proposed policy statement. Any necessary or appropriate revisions resulting from the comments received will be adopted as of the date of a subsequent publication in the **Federal Register**.

ADDRESSES: You may send comments [identified by Docket Number FAA–2014–0463] using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the notice and comment process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground floor of the West Building, 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: Kevin C. Willis, Manager, Airport Compliance Division, ACO–100, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267–3085; facsimile: (202) 267–4629.

SUPPLEMENTARY INFORMATION:

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

Availability of Documents

You can get an electronic copy of this Policy and all other documents in this docket using the Internet by:

(1) Searching the Federal eRulemaking portal (*http://www.faa.gov/regulations/search*);

(2) Visiting FAA's Regulations and Policies Web page at (*http://www.faa.gov/regulations_policies*; or

(3) Accessing the Government Printing Office's Web page at (*http://www.gpoaccess.gov/index.html.*

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Airport Compliance and Management Analysis, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3085. Make sure to identify the docket number, notice number, or amendment number of this proceeding.

Authority for the Policy

This notice is published under the authority described in Title 49 of the United States Code, Subtitle VII, part B, chapter 471, section 47122(a).

Background

Airport Sponsor Obligations

Airport sponsors that have accepted grants under the Airport Improvement Program (AIP) have agreed to comply with certain Federal policies included in each AIP grant agreement as sponsor assurances. The Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified at 49 U.S.C. 47107(a)(1), and the contractual sponsor assurances require that the airport sponsor make the airport available for aviation use. Grant assurance 22, *Economic Nondiscrimination,* requires the sponsor to make the airport available on reasonable terms without unjust discrimination for aeronautical activities, including aviation services. Grant assurance 19, *Operation and Maintenance,* prohibits an airport sponsor from causing or permitting any activity that would interfere with use of airport property for airport purposes. In some cases, sponsors who have received property transfers through surplus property and nonsurplus property agreements have similar federal obligations.

The sponsor may designate some areas of the airport for non-aviation

use,[1] with FAA approval, but aeronautical facilities of the airport must be dedicated to use for aviation purposes. Limiting use of aeronautical facilities to aeronautical purposes ensures that airport facilities are available to meet aviation demand at the airport. Aviation tenants and aircraft sponsors should not be displaced by non-aviation commercial uses that could be conducted off of airport property.

It is the longstanding policy of the FAA that airport property be available for aeronautical use and not be available for non-aeronautical purposes unless that non-aeronautical use is approved by the FAA. Use of a designated aeronautical facility for a non-aviation purpose, even on a temporary basis, requires FAA approval. See FAA Order 5190.6B, *Airport Compliance Manual,* paragraph 22.6. The identification of non-aviation use of aeronautical areas receives special attention in FAA airport compliance inspections. See Order 5190.6B, paragraphs 21.6.e and f(5).

Areas of the airport designated for non-aeronautical use must be shown on an airport's Airport Layout Plan (ALP). The AAIA, at 49 U.S.C. 47107(a)(16), requires that AIP grant agreements include an assurance by the sponsor to maintain an ALP in a manner prescribed by the FAA. Sponsor assurance 29, *Airport Layout Plan,* implements § 47107(a)(16) and provides that an ALP must designate non-aviation areas of the airport. The sponsor may not allow an alteration of the airport in a manner inconsistent with the ALP unless approved by the FAA. See FAA Order 5190.6B, *Airport Compliance Manual,* paragraph 7.18, and Advisory Circular 150/5070–6B, *Airport Master Plans,* chapter 10.

Clearly identifying non-aeronautical facilities not only keeps aeronautical facilities available for aviation use, but also assures that the airport sponsor receives at least Fair Market Value (FMV) revenue from non-aviation uses of the airport. The AAIA requires that airport revenues be used for airport purposes, and that the airport maintain a fee structure that makes the airport as self-sustaining as possible. 49 U.S.C. 47107(a)(13)(A) and (b)(1). The FAA and the Department of Transportation Office of the Inspector General have interpreted these statutory provisions to require that non-aviation activities on an airport be charged a fair market rate for use of airport facilities rather than the aeronautical rate. See *FAA Policies and Procedures Concerning the Use of Airport Revenue,* § VII.C, 64 FR 7696, 7721(Feb. 16, 1999) (FAA Revenue Use Policy). If an airport tenant pays an aeronautical rate for a hangar and then uses the hangar for a non-aeronautical purpose, the tenant may be paying a below-market rate in violation of the sponsor's obligation for a self-sustaining rate structure and FAA's Revenue Use Policy. Confining non-aeronautical activity to designated non-aviation areas of the airport helps to ensure that the non-aeronautical use of airport property is monitored and allows the airport sponsor to clearly identify non-aeronautical fair market value lease rates in order meet their federal obligations. Identifying non-aeronautical uses and charging appropriate rates for these uses prevents the sponsor from subsidizing non-aviation activities with aviation revenues.

FAA Oversight

The FAA's enforcement of appropriate use of airport property has been the subject of two audits by the General Accounting Office (now called Government Accountability Office, or GAO). In August 1980, the GAO released a report to the Secretary of Transportation entitled ''Misuse of Airport Land Acquired through Federal Assistance.'' This report highlighted several cases of federally funded land being used for various non-aeronautical purposes. The report cited a lack of oversight by FAA and recommended more active involvement in oversight. In May 1999, the GAO released the report, ''General Aviation Airports: Unauthorized Land Use Highlights Need for Improved Oversight and Enforcement''. This report highlighted the need for the FAA to increase its efforts to monitor airports for unauthorized use of land.

In response to this second report, the FAA began conducting land use inspections at 18 selected airports each year, at least two in each of the nine FAA regions. A frequent finding from these inspections has been the prevalence of non-aeronautical items stored in aircraft hangars designated for aeronautical use. In some cases, the aircraft hangars contained only non-aeronautical items, such as automobiles (including sponsor-owned police cruisers), boats, large recreational vehicles, etc. In other cases, non-aeronautical items shared space with legitimate aeronautical use of hangars. Inspections have frequently uncovered motorcycles, furniture, tools, and other non-aeronautical items stored in hangars along with aircraft. Some hangar tenants were found to be operating non-aviation commercial businesses out of an airfield hangar.

In May 2011, The Director of the Office of Airport Compliance and Management Analysis issued a Director's Determination under 14 CFR Part 16,[2] finding the City in violation of Grant Assurance 19. *Operations and Maintenance* by allowing non-aeronautical use of airport hangars for storing non-aviation items. The FAA ordered the City to submit a Corrective Action Plan to bring the airport back into compliance. As part of the City of Glendale's effort to formulate a Corrective Action Plan, the City requested the FAA to provide written confirmation on the status of certain items as aeronautical or non-aeronautical. The agency's July 12, 2012 response to the letter became widely circulated in the airport community and has been interpreted by some as general policy. Insofar as that letter suggested that all non-aeronautical items stored in a hangar would constitute a violation of the grant assurances, it applied to a specific situation at a specific airport and does not represent general agency policy.

A sponsor's grant assurance obligations require that its aeronautical facilities be used or be available for use for aeronautical activities. If the presence of non-aeronautical items in a hangar does not interfere with these obligations, then the FAA will generally not consider their presence to constitute a violation of the sponsor's obligation to provide reasonable access to aeronautical users and tenants. In cases where excess hangar capacity is unused because of low aviation demand, a sponsor can request FAA approval for interim non-aeronautical use of a hangar until that hangar is needed again for an aeronautical purpose. However, aeronautical use must take priority and be accommodated over non-aeronautical use even if the rental rate would be higher for the non-aeronautical use (See FAA Order 5190.6B, ¶ 22.6). The sponsor is required to charge a fair market commercial rental rate for any hangar rental or use for non-aeronautical purposes.

Use of Hangars for Fabrication and Assembly of Aircraft

While building an aircraft results in an aeronautical product, the FAA has not found all stages of the building process to be aeronautical for purposes of hangar use. A large part of the

[1] The terms ''non-aviation'' and ''non-aeronautical'' are used interchangeably in this Notice.

[2] *Valley Aviation Services, LLP* v. *City of Glendale, Arizona,* FAA Docket No. 16–09–06 (May 24, 2011) (Director's Determination).

construction process can be and often is conducted off-airport. Only when the various components are assembled into a final functioning aircraft is access to the airfield necessary.

In *Ashton* v. *City of Concord, NC,*[3] the complainant objected to the airport sponsor's prohibition of construction of a homebuilt aircraft in an airport T-hangar. The decision was based on a FAA determination that aircraft construction is not *per se* an aeronautical activity. While final stages of aircraft construction can be considered aeronautical, the airport sponsor prohibited this level of maintenance and repair in T-hangars but provided an alternate location on the airport. The FAA found that the airport sponsor's rules prohibiting maintenance and repair in a T-hangar, including construction of a homebuilt aircraft, did not violate the sponsor's grant assurances.

There have been industry objections to the FAA's designation of any aircraft construction stages as non-aeronautical. While the same principles apply generally to large aircraft manufacturing, compliance issues involving aircraft construction have typically been limited to homebuilt aircraft construction at general aviation airports. Commercial aircraft manufacturers use dedicated, purpose-built manufacturing facilities, and questions of aeronautical use for these facilities are generally resolved at the time of the initial lease. In contrast, persons constructing homebuilt aircraft sometimes seek to rent airport hangars designed for storage of operating aircraft and easy access to a taxiway, even though it may be years before a homebuilt aircraft kit will be able to take advantage of the convenient access to the airfield.

The FAA is not proposing any change to existing policy other than to clarify that final assembly of an aircraft, leading to the completion of the aircraft to a point where it can be taxied, will be considered an aeronautical use.

Proposed Policy and Request for Public Comment

The FAA intends to produce an agency policy on use of hangars and related facilities at federally obligated airports in sufficient detail to provide a clear and standardized guide for airport sponsors and FAA compliance staff. The FAA is proposing a policy statement for public comment based on the following general principles:

1. The primary goal of this policy is to protect federal investment in federally obligated airports by ensuring aeronautical facilities are available to aeronautical users. Aeronautical users requesting the use of a hangar for aircraft storage should not be denied access because the airport sponsor is permitting tenants to use hangars to store vehicles or household items, or to operate non-aviation businesses.

2. A secondary goal of the policy is to ensure that airport sponsors receive fair market rental for any approved use of airport property for non-aviation purposes.

3. The primary purpose of a hangar in an aeronautical area of the airport is aircraft storage or operation of an aeronautical service business that requires maintenance or repair work on aircraft. If a hangar is serving one of these purposes, then incidental storage of non-aviation items that does not interfere with the primary purpose of the hangar and occupies an insignificant amount of physical hangar space will not be considered to constitute a violation of the grant assurances. In such cases, incidental storage of non-aviation items will be treated as having *de minimis* value (for purposes of compliance with the self-sustaining assurance) and will not require the sponsor to increase rent as a result of the storage of these incidental non-aeronautical items.

4. If an airport's hangar capacity substantially exceeds aviation demand (e.g., there are multiple vacant hangars and no requests to rent them for aeronautical purposes), the sponsor may request and FAA may approve interim non-aeronautical use of vacant hangars under the provisions found in FAA Order 5190.6B, Chapter 22.6. FMV non-aeronautical rental rates would apply to any non-aviation use.

5. Final, active assembly of an aircraft in the manufacturing or homebuilt construction process, resulting in a completed, operational aircraft requiring access to the airfield, is considered an aeronautical activity for the purposes of this policy.

6. Using hangar space as a residence on a full-time or even temporary basis is not a compatible land use, no matter where it is located on the airport, and is not permitted.

7. Airport sponsors are expected to take measures to ensure that aeronautical facilities on the airport are reserved for aeronautical use. These measures should include a periodic inspection program to ensure that the waiting time for those persons who are legitimately in need of a hangar for aircraft storage is minimized.

8. Airport sponsors may adopt more stringent rules for use of hangars than required by the grant assurances, based on proprietary concerns for the safe and efficient use of airport property. However, such rules must be reasonable and not unjustly discriminatory against any aeronautical user. For example, an airport sponsor may limit storage of vehicles in hangars if there is concern that vehicular traffic on taxilanes or taxiways may create a safety hazard.

9. The sponsor's federal obligations do not protect non-aeronautical users and/or storage of non-aeronautical items. Non-aeronautical use is not a protected activity.

Proposed Policy and Request for Comments

In accordance with the above, the FAA proposes to adopt the following policy statement on use of hangars at federally obligated airports. The agency requests public comments on the proposed policy statement, as described in the ''Address'' and ''Dates'' information in this notice. Comments received by the due date will be considered in the development of a final agency policy statement.

Use of Aeronautical Land and Facilities

Applicability

This policy applies to all aircraft storage areas or facilities on a federally obligated airport unless designated for non-aviation use on an approved Airport Layout Plan or otherwise approved for non-aviation use by the FAA. The policy statement generally refers to the use of hangars since they are the type of aeronautical facility most often involved in issues of non-aviation use. The policy applies to all users of aircraft hangars, regardless of whether a user is an owner or lessee of the hangar, including airport sponsors, municipalities, and other public entities.

I. General

The intent of this policy is to ensure that the Federal investment in federally obligated airports is protected by making aeronautical facilities available to aeronautical users, and to ensure that airport sponsors receive fair market value for rental of approved non-aviation use of airport property. Sponsors who fail to comply with grant assurances and this policy may be subject to administrative sanctions such as the denial of funding from current and future AIP grants.

[3] *Ashton* v. *City of Concord,* FAA Docket No. 16–99–09 (January 28, 2000) (Director's Determination and affirmed by Final Agency Decision).

II. Standards for Aeronautical Use of Hangars

• Hangars located on airport property must be used for an aeronautical purpose, or be available for use for one, unless otherwise approved by the FAA.

• Aeronautical uses for hangars include:

- Storage of operational aircraft
- Final assembly of aircraft
- Short-term storage of non-operational aircraft for purposes of maintenance, repair, or refurbishment

• Provided the hangar is used primarily for aeronautical purposes, an airport sponsor may permit limited, non-aeronautical items to be stored in hangars provided the items are incidental to aeronautical use of the hangar and occupy an insignificant amount of hangar space (e.g., a small refrigerator). The incidental storage of non-aeronautical items will be considered to be of *de minimis* value for the purpose of assessing rent.

• Generally, items are considered incidental if they:

- Do not interfere with the aeronautical use of the hangar;
- Do not displace the aeronautical contents of the hangar;
- Do not impede access to aircraft or other aeronautical contents of the hangar;
- Do not require a larger hangar than would otherwise be necessary if such items were not present;
- Occupy an insignificant amount of hangar space;
- Are owned by the hangar owner or tenant;
- Are not used for non-aeronautical commercial purposes (i.e., the tenant is not conducting a non-aeronautical business from the hangar including storing inventory);
- Are not stored in violation of airport rules and regulations.

• Hangars should be leased with consideration of the size and quantity of aircraft to be stored therein. To maximize the availability of hangars for all aeronautical users, sponsors should avoid leasing a hangar that is disproportionately large for the aircraft to be stored in the hangar (i.e., hangars built to store multiple aircraft should be used for multiple aircraft storage).

• Hangars must not be used as a residence. The FAA differentiates between a typical pilot resting facility or aircrew quarters versus a hangar residence or hangar home. The former are designed to be used for overnight and/or resting periods for aircrew, and not as a permanent or even temporary residence. See FAA Order 5190.6B, Paragraph 20.5.b.

• This policy on hangar use applies regardless of whether the hangar occupant leases the hangar from the airport sponsor or developer, or the hangar occupant constructed the hangar at their own expense and holds a ground lease only. When designated aeronautical land is made available for construction of hangars, the hangars built on the land will be fully subject to the sponsor's obligations to use aeronautical facilities for aeronautical use.

III. Approval for Non-Aeronautical Use of Hangars

Where hangars are unoccupied and there is no current aviation demand for hangar space, the airport sponsor may request that FAA approve an interim use of a hangar for non-aeronautical purposes for a period no more than five years. Interim leases of unused hangars can generate revenue for the airport and prevent deterioration of facilities. FAA will review the request in accordance with Order 5190.6B, ¶ 22.6. Approved interim or concurrent revenue-production uses must not interfere with safe and efficient airport operations and sponsors should only agree to lease terms that allow the hangars to be recovered on short notice for aeronautical purposes.

The airport sponsor is required to charge non-aeronautical fair market rental fees for the non-aeronautical use of airport property, even on an interim basis. (See *Policies and Procedures Concerning Airport Revenue, § VII.C.*)

IV. No Right to Non-Aeronautical Use

In the context of enforcement of the grant assurances, this policy allows some incidental storage of non-aeronautical items in hangars. However, the policy neither creates nor constitutes a right to store non-aeronautical items in hangars. Airport sponsors may restrict or prohibit storage of non-aeronautical items. Sponsors should consider factors such as emergency access, fire codes, security, insurance, and the impact of vehicular traffic on their surface areas when enacting rules regarding hangar storage. In some cases, permitting certain incidental non-aeronautical items in hangars could inhibit the sponsor's ability to meet obligations associated with grant assurance 19, *Operations and Maintenance.* Sponsors should ensure that taxiways and runways are not used for the vehicular transport of such items to or from the hangars.

V. Sponsor Compliance Actions

It is expected that aeronautical facilities on an airport will be available and used for aeronautical purposes in the normal course of airport business, and that non-aeronautical uses will be the exception. Sponsors should have a program to routinely monitor use of hangars and take measures to eliminate and prevent unapproved non-aeronautical use of hangars. Sponsors should ensure that length of time on a waiting list of those legitimately in need of a hangar for aircraft storage is minimized. Sponsors should also consider incorporating provisions in airport leases, including aeronautical leases, to adjust rental rates to FMV for any non-incidental non-aeronautical use of the leased facilities. FAA personnel conducting a land use or compliance inspection of an airport may request a copy of the sponsor's hangar use program and evidence that the sponsor has limited hangars to aviation use.

Issued in Washington, DC, on July 15, 2014.

Randall S. Fiertz,

Director, Office of Airport Compliance and Management Analysis.

[FR Doc. 2014–17031 Filed 7–21–14; 8:45 am]

BILLING CODE P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

31 CFR Part 1010

RIN 1506–AB27

Imposition of Special Measure Against FBME Bank Ltd., Formerly Known as Federal Bank of the Middle East, Ltd., as a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: In a finding, notice of which is published elsewhere in this issue of the **Federal Register** (''Notice of Finding''), the Director of FinCEN found that FBME Bank Ltd. (''FBME''), formerly known as Federal Bank of the Middle East, Ltd., is a financial institution operating outside of the United States that is of primary money laundering concern. FinCEN is issuing this notice of proposed rulemaking (''NPRM'') to propose the imposition of a special measure against FBME.

DATES: Written comments on this NPRM must be submitted on or before September 22, 2014.

ADDRESSES: You may submit comments, identified by 1506–AB27, by any of the following methods:

• *Federal E-rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments. Include 1506–AB27 in the submission.

• *Mail:* The Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183. Include 1506–AB27 in the body of the text. Please submit comments by one method only.

• Comments submitted in response to this NPRM will become a matter of public record. Therefore, you should submit only information that you wish to make publicly available.

Inspection of comments: Public comments received electronically or through the U.S. Postal Service sent in response to a notice and request for comment will be made available for public review on *http://www.regulations.gov.* Comments received may be physically inspected in the FinCEN reading room located in Vienna, Virginia. Reading room appointments are available weekdays (excluding holidays) between 10 a.m. and 3 p.m., by calling the Disclosure Officer at (703) 905–5034 (not a toll-free call).

FOR FURTHER INFORMATION CONTACT: The FinCEN Resource Center at (800) 767–2825.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the ''USA PATRIOT Act''), Public Law 107–56. Title III of the USA PATRIOT Act amends the anti-money laundering provisions of the Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (the ''Secretary'') to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (''Section 311''), codified at 31 U.S.C. 5318A, grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, institution, class of transaction, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern.

II. Imposition of a Special Measure Against FBME as a Financial Institution of Primary Money Laundering Concern

A. Special Measure

As noticed elsewhere in this issue of the **Federal Register**, on July 15, 2014, the Director of FinCEN found that FBME is a financial institution operating outside the United States that is of primary money laundering concern (''Finding''). Based upon that Finding, the Director of FinCEN is authorized to impose one or more special measures. Following the consideration of all factors relevant to the Finding and to selecting the special measure proposed in this NPRM, the Director of FinCEN proposes to impose the special measure authorized by section 5318A(b)(5) (the ''fifth special measure''). In connection with this action, FinCEN consulted with representatives of the Federal functional regulators, the Department of Justice, and the Department of State, among others.

B. Discussion of Section 311 Factors

In determining which special measures to implement to address the primary money laundering concern, FinCEN considered the following factors.

1. Whether Similar Action Has Been or Will Be Taken by Other Nations or Multilateral Groups Against FBME

Other countries or multilateral groups have not yet taken action similar to those proposed in this rulemaking that would: (1) prohibit domestic financial institutions and agencies from opening or maintaining a correspondent account for or on behalf of FBME; and (2) require certain covered financial institutions to screen their correspondent accounts in a manner that is reasonably designed to guard against processing transactions involving FBME. FinCEN encourages other countries to take similar action based on the information contained in this NPRM and the Notice of Finding.

2. Whether the Imposition of the Fifth Special Measure Would Create a Significant Competitive Disadvantage, Including Any Undue Cost or Burden Associated with Compliance, for Financial Institutions Organized or Licensed in the United States

The fifth special measure proposed by this rulemaking would prohibit covered financial institutions from opening or maintaining correspondent accounts for or on behalf of FBME after the effective date of the final rule implementing the fifth special measure. Currently, only one U.S. covered financial institution maintains an account for FBME; therefore FinCEN believes this action will not present an undue regulatory burden. As a corollary to this measure, covered financial institutions also would be required to take reasonable steps to apply special due diligence, as set forth below, to all of their correspondent accounts to help ensure that no such account is being used to provide services to FBME. For direct correspondent relationships, this would involve a minimal burden in transmitting a one-time notice to certain foreign correspondent account holders concerning the prohibition on processing transactions involving FBME through the U.S. correspondent account. U.S. financial institutions generally apply some level of screening and, when required, conduct some level of reporting of their transactions and accounts, often through the use of commercially-available software such as that used for compliance with the economic sanctions programs administered by the Office of Foreign Assets Control (''OFAC'') of the Department of the Treasury and to detect potential suspicious activity. To ensure that U.S. financial institutions are not being used unwittingly to process payments for or on behalf of FBME, directly or indirectly, some additional burden will be incurred by U.S. financial institutions to be vigilant in their suspicious activity monitoring procedures. As explained in more detail in the section-by-section analysis below, financial institutions should be able to leverage these current screening and reporting procedures to detect transactions involving FBME.

3. The Extent to Which the Proposed Action or Timing of the Action Would Have a Significant Adverse Systemic Impact on the International Payment, Clearance, and Settlement System, or on Legitimate Business Activities of FBME

The requirements proposed in this NPRM would target FBME specifically; they would not target a class of financial transactions (such as wire transfers) or a particular jurisdiction. FBME has approximately $2 billion in assets. While FBME is presently headquartered in Tanzania, FBME transacts over 90% of its global banking business and holds over 90% of its assets in its Cyprus branch. FBME is not a major participant in the international payment system and is not relied upon by the international banking community for clearance or settlement services. Thus, the imposition of the fifth special measure against FBME would not have a significant adverse systemic impact on

the international payment, clearance, and settlement system.

4. The Effect of the Proposed Action on United States National Security and Foreign Policy

The exclusion of FBME from the U.S. financial system as proposed in this NPRM would enhance national security by making it more difficult for money launderers, transnational organized crime, other criminals, sanctions evaders, and terrorists to access the U.S. financial system. More generally, the imposition of the fifth special measure would complement the U.S. Government's worldwide efforts to expose and disrupt international money laundering and terrorist financing.

Therefore, pursuant to the Finding that FBME is a financial institution operating outside of the United States of primary money laundering concern, and after conducting the required consultations and weighing the relevant factors, the Director of FinCEN proposes to impose the fifth special measure.

III. Section-by-Section Analysis for Imposition of the Fifth Special Measure

A. 1010.661(a)—Definitions

1. FBME Bank Ltd.

Section 1010.661(a)(1) of the proposed rule would define FBME to include all domestic and international branches, offices, and subsidiaries of FBME operating in Tanzania, Cyprus, or in any other jurisdiction.

Covered financial institutions should take commercially reasonable measures to determine whether a customer is a branch, office, or subsidiary of FBME.

2. Correspondent Account

Section 1010.661(a)(2) of the proposed rule would define the term ''correspondent account'' by reference to the definition contained in 31 CFR 1010.605(c)(1)(ii). Section 1010.605(c)(1)(ii) defines a correspondent account to mean an account established to receive deposits from, or make payments or other disbursements on behalf of, a foreign bank, or to handle other financial transactions related to the foreign bank. Under this definition, ''payable through accounts'' are a type of correspondent account.

In the case of a U.S. depository institution, this broad definition includes most types of banking relationships between a U.S. depository institution and a foreign bank that are established to provide regular services, dealings, and other financial transactions, including a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit. FinCEN is using the same definition of ''account'' for purposes of this rule as was established for depository institutions in the final rule implementing the provisions of section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[1]

In the case of securities broker-dealers, futures commission merchants, introducing brokers-commodities, and investment companies that are open-end companies (''mutual funds''), FinCEN is also using the same definition of ''account'' for purposes of this rule as was established for these entities in the final rule implementing the provisions of section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[2]

3. Covered Financial Institution

Section 1010.661(a)(3) of the proposed rule would define ''covered financial institution'' with the same definition used in the final rule implementing the provisions of section 312 of the USA PATRIOT Act,[3] which in general includes the following:

- An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));
- a commercial bank;
- an agency or branch of a foreign bank in the United States;
- a Federally insured credit union;
- a savings association;
- a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611);
- a trust bank or trust company;
- a broker or dealer in securities;
- a futures commission merchant or an introducing broker—commodities; and
- a mutual fund.

4. Subsidiary

Section 1010.661(a)(4) of the proposed rule would define ''subsidiary'' as a company of which more than 50 percent of the voting stock or analogous equity interest is owned by FBME.

[1] *See* 31 CFR 1010.605(c)(2)(i).

[2] *See* 31 CFR 1010.605(c)(2)(ii)–(iv).

[3] *See* 31 CFR 1010.605(e)(1).

B. 1010.661(b)—Prohibition on Accounts and Due Diligence Requirements for Covered Financial Institutions

1. Prohibition on Opening or Maintaining Correspondent Accounts

Section 1010.661(b)(1) of the proposed rule imposing the fifth special measure would prohibit covered financial institutions from establishing, maintaining, administering, or managing in the United States any correspondent account for or on behalf of FBME.

2. Special Due Diligence for Correspondent Accounts To Prohibit Use

As a corollary to the prohibition on maintaining correspondent accounts for or on behalf of FBME, section 1010.661(b)(2) of the proposed rule would require a covered financial institution to apply special due diligence to all of its foreign correspondent accounts that is reasonably designed to guard against processing transactions involving FBME. As part of that special due diligence, covered financial institutions must notify those foreign correspondent account holders that the covered financial institutions know or has reason to know provide services to FBME that such correspondents may not provide FBME with access to the correspondent account maintained at the covered financial institution. Covered financial institutions should implement appropriate risk-based procedures to identify transactions involving FBME.

A covered financial institution may satisfy the notification requirement by transmitting the following notice to its foreign correspondent account holders that it knows or has reason to know provide services to FBME:

> Notice: Pursuant to U.S. regulations issued under Section 311 of the USA PATRIOT Act, *see* 31 CFR 1010.661, we are prohibited from establishing, maintaining, administering, or managing a correspondent account for or on behalf of FBME Bank Ltd. The regulations also require us to notify you that you may not provide FBME Bank Ltd. or any of its subsidiaries with access to the correspondent account you hold at our financial institution. If we become aware that the correspondent account you hold at our financial institution has processed any transactions involving FBME Bank Ltd. or any of its subsidiaries, we will be required to take appropriate steps to prevent such access, including terminating your account.

A covered financial institution may, for example, have knowledge through transaction screening software that a correspondent processes transactions for

FBME. The purpose of the notice requirement is to aid cooperation with correspondent account holders in preventing transactions involving FBME from accessing the U.S. financial system. However, FinCEN would not require or expect a covered financial institution to obtain a certification from any of its correspondent account holders that access will not be provided to comply with this notice requirement. Methods of compliance with the notice requirement could include, for example, transmitting a one-time notice by mail, fax, or email. FinCEN specifically solicits comments on the form and scope of the notice that would be required under the rule.

The special due diligence would also include implementing risk-based procedures designed to identify any use of correspondent accounts to process transactions involving FBME. A covered financial institution would be expected to apply an appropriate screening mechanism to identify a funds transfer order that on its face listed FBME as the financial institution of the originator or beneficiary, or otherwise referenced FBME in a manner detectable under the financial institution's normal screening mechanisms. An appropriate screening mechanism could be the mechanism used by a covered financial institution to comply with various legal requirements, such as the commercially available software programs used to comply with the economic sanctions programs administered by OFAC.

A covered financial institution would also be required to implement risk-based procedures to identify indirect use of its correspondent accounts, including through methods used to hide the beneficial owner of a transaction. Specifically, FinCEN is concerned that FBME may attempt to disguise its transactions by relying on types of payments and accounts that would not explicitly identify FBME as an involved party. A financial institution may develop a suspicion of such misuse based on other information in its possession, patterns of transactions, or any other method available to it based on its existing systems. Under the proposed rule, a covered financial institution that suspects or has reason to suspect use of a correspondent account to process transactions involving FBME must take all appropriate steps to attempt to verify and prevent such use, including a notification to its correspondent account holder per section 1010.661(b)(2)(i)(A) requesting further information regarding a transaction, requesting corrective action to address the perceived risk and, where necessary, terminating the correspondent account. A covered financial institution may re-establish an account closed under the rule if it determines that the account will not be used to process transactions involving FBME. FinCEN specifically solicits comments on the requirement under the proposed rule that covered financial institutions take reasonable steps to prevent any processing of transactions involving FBME.

3. Recordkeeping and Reporting

Section 1010.661(b)(3) of the proposed rule would clarify that subsection (b) of the rule does not impose any reporting requirement upon any covered financial institution that is not otherwise required by applicable law or regulation. A covered financial institution must, however, document its compliance with the requirement that it notify those correspondent account holders that the covered financial institution knows or has reason to know provide services to FBME that such correspondents may not process any transaction involving FBME through the correspondent account maintained at the covered financial institution.

IV. Request for Comments

FinCEN invites comments on all aspects of the proposal to impose the fifth special measure against FBME and specifically invites comments on the following matters:

1. The impact of the proposed special measure upon legitimate transactions utilizing FBME involving, in particular, U.S. persons and entities; foreign persons, entities, and governments; and multilateral organizations doing legitimate business.

2. The form and scope of the notice to certain correspondent account holders that would be required under the rule;

3. The appropriate scope of the proposed requirement for a covered financial institution to take reasonable steps to identify any use of its correspondent accounts to process transactions involving FBME; and

4. The appropriate steps a covered financial institution should take once it identifies use of one of its correspondent accounts to process transactions involving FBME.

V. Regulatory Flexibility Act

When an agency issues a rulemaking proposal, the Regulatory Flexibility Act (''RFA'') requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' that will ''describe the impact of the proposed rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

A. Proposal To Prohibit Covered Financial Institutions From Opening or Maintaining Correspondent Accounts With Certain Foreign Banks Under the Fifth Special Measure

1. Estimate of the Number of Small Entities to Whom the Proposed Fifth Special Measure Will Apply

For purposes of the RFA, both banks and credit unions are considered small entities if they have less than $500,000,000 in assets.[4] Of the estimated 7,000 banks, 80 percent have less than $500,000,000 in assets and are considered small entities.[5] Of the estimated 7,000 credit unions, 94 percent have less than $500,000,000 in assets.[6]

Broker-dealers are defined in 31 CFR 1010.100(h) as those broker-dealers required to register with the Securities and Exchange Commission (''SEC''). Because FinCEN and the SEC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the Small Business Administration (''SBA''). The SEC has defined the term ''small entity'' to mean a broker or dealer that: ''(1) had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements, were prepared pursuant to Rule 17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated debt) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this release.'' [7] Based on SEC estimates, 17 percent of broker-dealers are classified

[4] *Table of Small Business Size Standards Matched to North American Industry Classification System Codes,* Small Business Administration Size Standards (SBA Jan. 22, 2014) [hereinafter *SBA Size Standards*].

[5] Federal Deposit Insurance Corporation, *Find an Institution, http://www2.fdic.gov/idasp/main.asp; select* Size or Performance: Total Assets, *type* Equal or less than $: ''500000'' and *select* Find.

[6] National Credit Union Administration, *Credit Union Data, http://webapps.ncua.gov/customquery*\select Search Fields: Total Assets, *select* Operator: Less than or equal to, *type* Field Values: ''500000000'' and *select* Go.

[7] 17 CFR 240.0–10(c).

as ''small'' entities for purposes of the RFA.[8]

Futures commission merchants (''FCMs'') are defined in 31 CFR 1010.100(x) as those FCMs that are registered or required to be registered as a FCM with the Commodity Futures Trading Commission (''CFTC'') under the Commodity Exchange Act (''CEA''), except persons who register pursuant to section 4f(a)(2) of the CEA, 7 U.S.C. 6f(a)(2). Because FinCEN and the CFTC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the CFTC's definition of small business as previously submitted to the SBA. In the CFTC's ''Policy Statement and Establishment of Definitions of 'Small Entities' for Purposes of the Regulatory Flexibility Act,'' the CFTC concluded that registered FCMs should not be considered to be small entities for purposes of the RFA.[9] The CFTC's determination in this regard was based, in part, upon the obligation of registered FCMs to meet the capital requirements established by the CFTC.

For purposes of the RFA, an introducing broker-commodities dealer is considered small if it has less than $35,500,000 in gross receipts annually.[10] Based on information provided by the National Futures Association (''NFA''), 95 percent of introducing brokers-commodities dealers have less than $35.5 million in Adjusted Net Capital and are considered to be small entities.

Mutual funds are defined in 31 CFR 1010.100(gg) as those investment companies that are open-end investment companies that are registered or are required to register with the SEC. Because FinCEN and the SEC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the SBA. The SEC has defined the term ''small entity'' under the Investment Company Act to mean ''an investment company that, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.'' [11] Based on SEC estimates, 7 percent of mutual funds are classified as ''small entities'' for purposes of the RFA under this definition.[12]

As noted above, 80 percent of banks, 94 percent of credit unions, 17 percent of broker-dealers, 95 percent of introducing brokers-commodities, zero FCMs, and 7 percent of mutual funds are small entities. The limited number of foreign banking institutions with which FBME maintains or will maintain accounts will likely limit the number of affected covered financial institutions to the largest U.S. banks, which actively engage in international transactions. Thus, the prohibition on maintaining correspondent accounts for foreign banking institutions that engage in transactions involving FBME under the fifth special measure would not impact a substantial number of small entities.

2. Description of the Projected Reporting and Recordkeeping Requirements of the Fifth Special Measure

The proposed fifth special measure would require covered financial institutions to provide a notification intended to aid cooperation from foreign correspondent account holders in preventing transactions involving FBME from accessing the U.S. financial system. FinCEN estimates that the burden on institutions providing this notice is one hour. Covered financial institutions would also be required to take reasonable measures to detect use of their correspondent accounts to process transactions involving FBME. All U.S. persons, including U.S. financial institutions, currently must exercise some degree of due diligence to comply with OFAC sanctions and suspicious activity reporting requirements. The tools used for such purposes, including commercially available software used to comply with the economic sanctions programs administered by OFAC, can easily be modified to identify correspondent accounts with foreign banks that involve FBME. Thus, the special due diligence that would be required by the imposition of the fifth special measure—*i.e.,* the one-time transmittal of notice to certain correspondent account holders, the screening of transactions to identify any use of correspondent accounts, and the implementation of risk-based measures to detect use of correspondent accounts—would not impose a significant additional economic burden upon small U.S. financial institutions.

B. Certification

For these reasons, FinCEN certifies that the proposals contained in this rulemaking would have a significant impact on a substantial number of small businesses.

FinCEN invites comments from members of the public who believe there would be a significant economic impact on small entities from the imposition of the fifth special measure regarding FBME.

VI. Paperwork Reduction Act

The collection of information contained in this proposed rule is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Desk Officer for the Department of Treasury, Office of Information and Regulatory Affairs, Office of Management and Budget, Paperwork Reduction Project (1506), Washington, DC 20503 (or by email to *oira submission@omb.eop.gov*) with a copy to FinCEN by mail or email at the addresses previously specified. Comments should be submitted by one method only. Comments on the collection of information should be received by September 22, 2014. In accordance with the requirements of the Paperwork Reduction Act and its implementing regulations, 5 CFR 1320, the following information concerning the collection of information as required by 31 CFR 1010.661 is presented to assist those persons wishing to comment on the information collection.

A. Proposed Information Collection Under the Fifth Special Measure

The notification requirement in section 1010.661(b)(2)(i) is intended to aid cooperation from correspondent account holders in denying FBME access to the U.S. financial system. The information required to be maintained by section 1010.661(b)(3)(i) would be used by federal agencies and certain self-regulatory organizations to verify compliance by covered financial institutions with the provisions of 31 CFR 1010.661. The collection of information would be mandatory.

Description of Affected Financial Institutions: Banks, broker-dealers in securities, futures commission merchants and introducing brokers-commodities, and mutual funds.

Estimated Number of Affected Financial Institutions: 5,000.

Estimated Average Annual Burden in Hours Per Affected Financial Institution: The estimated average burden associated with the collection of information in this proposed rule is one hour per affected financial institution.

Estimated Total Annual Burden: 5,000 hours.

FinCEN specifically invites comments on: (a) whether the proposed collection

[8] 76 FR 37572, 37602 (June 27, 2011) (the SEC estimates 871 small broker-dealers of the 5,063 total registered broker-dealers).

[9] 47 FR 18618, 18619 (Apr. 30, 1982).

[10] SBA Size Standards at 28.

[11] 17 CFR 270.0–10.

[12] 78 FR 23637, 23658 (April 19, 2013).

of information is necessary for the proper performance of the mission of FinCEN, including whether the information would have practical utility; (b) the accuracy of FinCEN's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information required to be maintained; (d) ways to minimize the burden of the required collection of information, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to report the information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

VII. Executive Order 12866

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that the proposed rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

List of Subjects in 31 CFR Part 1010

Administrative practice and procedure, banks and banking, brokers, counter-money laundering, counter-terrorism, foreign banking.

Authority and Issuance

For the reasons set forth in the preamble, part 1010, chapter X of title 31 of the Code of Federal Regulations, is proposed to be amended as follows:

1. The authority citation for part 1010 is revised to read as follows:

Authority: 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332 Title III, secs. 311, 312, 313, 314, 319, 326, 352, Pub. L. 107–56, 115 Stat. 307.

■ 2. Add § 1010.661 to read as follows:

§ 1010.661 Special measures against FBME Bank Ltd.

(a) *Definitions.* For purposes of this section:

(1) *FBME Bank Ltd.* means all branches, offices, and subsidiaries of FBME Bank Ltd. operating in any jurisdiction.

(2) *Correspondent account* has the same meaning as provided in § 1010.605(c)(1)(ii).

(3) *Covered financial institution* has the same meaning as provided in § 1010.605(e)(1).

(4) *Subsidiary* means a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

(b) *Prohibition on accounts and due diligence requirements for covered financial institutions*—(1) *Prohibition on use of correspondent accounts.* A covered financial institution shall terminate any correspondent account that is established, maintained, administered, or managed in the United States for, or on behalf of, FBME Bank Ltd.

(2) *Special due diligence of correspondent accounts to prohibit use.* (i) A covered financial institution shall apply special due diligence to its foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving FBME Bank Ltd. At a minimum, that special due diligence must include:

(A) Notifying those foreign correspondent account holders that the covered financial institution knows or has reason to know provide services to FBME Bank Ltd. that such correspondents may not provide FBME Bank Ltd. with access to the correspondent account maintained at the covered financial institution; and

(B) Taking reasonable steps to identify any use of its foreign correspondent accounts by FBME Bank Ltd., to the extent that such use can be determined from transactional records maintained in the covered financial institution's normal course of business.

(ii) A covered financial institution shall take a risk-based approach when deciding what, if any, other due diligence measures it reasonably must adopt to guard against the use of its foreign correspondent accounts to process transactions involving FBME Bank Ltd.

(iii) A covered financial institution that obtains knowledge that a foreign correspondent account may be being used to process transactions involving FBME Bank Ltd. shall take all appropriate steps to further investigate and prevent such access, including the notification of its correspondent account holder under paragraph (b)(2)(i)(A) and, where necessary, termination of the correspondent account.

(3) *Recordkeeping and reporting.* (i) A covered financial institution is required to document its compliance with the notice requirement set forth in paragraph (b)(2)(i)(A) of this section.

(ii) Nothing in this paragraph (b) shall require a covered financial institution to report any information not otherwise required to be reported by law or regulation.

Dated: July 15, 2014.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2014–17172 Filed 7–21–14; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 215, 242, and 252

RIN 0750–AI20

Defense Federal Acquisition Regulation Supplement; Business Systems Compliance (DFARS Case 2012–D042)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Proposed rule; correction.

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** on July 15, 2014, regarding Business Systems Compliance. This correction revises the time scheduled for the public meeting to be held on August 18, 2014. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Gomersall, telephone 571–372–6099.

Correction

In the proposed rule published at 79 FR 41172, dated July 15, 2014, make the following correction to the *Public Meeting Date* section.

Public Meeting Date: The public meeting will be held at the Mark Center Auditorium, 4800 Mark Center Drive, Alexandria, VA 22350–3603, on August 18, 2014, from 2 p.m. to 5 p.m., local time.

Amy G. Williams,

Deputy, Defense Acquisition Regulations System.

[FR Doc. 2014–17216 Filed 7–21–14; 8:45 am]

BILLING CODE 5001–06–P

Notices

Federal Register

Vol. 79, No. 140

Tuesday, July 22, 2014

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

July 16, 2014.

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 regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 August 21, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal and Plant Health Inspection Service

Title: Importation of Fruits and Vegetables.

OMB Control Number: 0579–0128.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701 et seq.) (PPA), the Secretary of Agriculture is authorized to carry out operations or measures to detect, eradicate, suppress, control, prevent, or retard the spread of plant pests not known to be widely distributed throughout the United States. The regulations in ''Subpart—Fruits and Vegetables'' (7 CFR 319.56 through 319.56–50), referred to as the regulations, allow a number of fruits and vegetables to be imported into the United States, under specified conditions, from certain parts of the world. The Animal and Plant Health Inspection Service (APHIS) requires that some plants or plant products be accompanied by a phytosanitary inspection certificate that is completed by plant health officials in the originating or transiting country.

Need and Use of the Information: APHIS uses the following information activities phytosanitary certificate, fruit fly monitoring records and the labeling of boxes to allow a number of fruits and vegetable to be imported in the United States under specified condition from certain parts of the world. This information is used as a guide to the intensity of the inspection that APHIS must conduct when the shipment arrives. Without the information, all shipments would need to be inspected very thoroughly, thereby requiring considerably more time. This would slow the clearance of international shipments.

Description of Respondents: Business or other for profit; Federal Government.

Number of Respondents: 135.

Frequency of Responses: Recordkeeping; Reporting: On occasion.

Total Burden Hours: 200.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–17098 Filed 7–21–14; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 16, 2014.

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 regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 August 21, 2014 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725—17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Farm Service Agency

Title: Transfer of Farm Records Between Counties.

OMB Control Number: 0560–0253.

Summary of Collection: Most Farm Service Agency (FSA) programs are administered on the basis of ''farm''. For program purposes, a farm is a collection of tracts of land that have the same owner and the same operator. Land with different owners may be considered to be a farm if all the land is operated by one person and additional criteria are met. A farm is typically administered in the FSA county office where the farm is physically located. A farm transfer can be initiated if the farm is being transferred back to the county where the farm is physically located, the principal dwelling on the farm operator has changed, a change has occurred in the operation of the land, or there has been a change that would cause the receiving administrative county to be more accessible. Form FSA–179, ''Transfer of Farm Record Between Counties,'' is used as the request for a farm transfer from one county to another initiated by the producer.

Need and Use of the Information: The information collected on the FSA–179 is collected only if a farm transfer is being requested and is collected in a face-to-face setting with county office personnel. The information is used by county office employees to document which farm is being transferred, what county it is being transferred to, and why it is being transferred. Without the information county offices will be unable to determine whether the producer desires to transfer a farm.

Description of Respondents: Farms.

Number of Respondents: 21,240.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 24,780.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–17095 Filed 7–21–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

July 16, 2014.

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 regarding (a) 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; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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), *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 within 30 days of this notification. 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: Supplemental Nutrition Assistance Program Repayment Demand and Program Disqualification.

OMB Control Number: 0584–0492.

Summary of Collection: Section 13(b) of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2202(b)), and Supplemental Nutrition Assistance Program (SNAP) regulations at 7 CFR 273.18(a)(2) require State agencies to initiate collection action. State agencies must provide an affected household with written notification informing the over-issued household of the claim and demanding repayment.

Need and Use of the Information: State agency personnel will collect the information from individuals collecting SNAP benefits. The State agencies must maintain all records associated with this collection for a period of three years so that FNS can review documentation during compliance reviews and other audits. Without the information, FNS would not be able to correct accidental or fraudulent overpayment errors in the SNAP Program.

Description of Respondents: State, Local, and Tribal Government; Individuals or households.

Number of Respondents: 917,619.

Frequency of Responses: Recordkeeping; Reporting: Annually.

Total Burden Hours: 207,833.705.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2014–17097 Filed 7–21–14; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Notice of Funds Availability (NOFA); Noninsured Crop Disaster Assistance for 2012 Fruit Crop Losses

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

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation (CCC) and the Farm Service Agency (FSA) are announcing the availability of Noninsured Crop Disaster Assistance Program (NAP) payments under the 2012 NAP Frost Freeze (NAPFF) Program, which will provide payments for losses to 2012 annual fruit crops grown on bushes or trees in counties that received Secretarial disaster designations due to frost or freeze for the 2012 crop year. This retroactive assistance for 2012 losses is authorized by the Agricultural Act of 2014 (the 2014 Farm Bill). Eligible causes of loss for NAPFF are not limited to frost or freeze, although to be eligible for payment, losses must have occurred in a county that had a Secretarial disaster designation due to frost or freeze for the 2012 crop year. Other qualifying causes of loss, as specified in the current NAP regulations, include damaging weather or adverse natural occurrences such as flooding. The funding available for this program is such sums as may be necessary to cover eligible 2012 fruit losses.

DATES: *Applications:* Applications for payment must be submitted to Farm Service Agency (FSA) county offices by September 22, 2014.

Comments: To comment on the information collection request in Paperwork Reduction Act Requirements section of this document, we will consider comments we receive by September 22, 2014.

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

SUPPLEMENTARY INFORMATION:

Background

NAP is operated by the Farm Service Agency (FSA) for CCC as authorized by

section 196 of the Federal Agriculture Improvement and Reform Act of 1996, as amended (7 U.S.C. 7333). The current NAP regulations are in 7 CFR part 1437. NAP is administered under the general supervision of the Executive Vice-President of CCC (who also serves as Administrator, FSA) and is carried out by FSA State and county committees. NAPFF is a one-time program authorized by section 12305 of the 2014 Farm Bill (Pub. L. 113–79) to provide NAP payments to producers who had losses to 2012 annual fruit crops grown on a bush or tree. Except as otherwise specified in this NOFA, NAPFF will be administered using the existing regulations and procedures for NAP.

NAP coverage is limited to crops other than livestock that are commercially produced for food and fiber, and to other specific crops (christmas trees, turfgrass sod, aquaculture including ornamental fish, ornamental nursery, etc.) for which catastrophic risk protection plan of insurance under 7 U.S.C. 1508(b) is not available through the Risk Management Agency (RMA). Qualifying losses to eligible NAP crops must be due to an eligible cause of loss as specified in 7 CFR part 1437, which includes damaging weather (drought, hurricane, freeze, etc.) or adverse natural occurrence (volcanic eruption, flood, etc.).

NAP coverage is not automatic; producers must apply for NAP and pay a service fee at their FSA county office to obtain coverage, as well as meet certain other eligibility criteria. Information about the service fee is discussed below in the Service Fee section. Catastrophic level NAP covers the amount of losses due to low yield greater than 50 percent of expected production. As specified in current regulations in 7 CFR part 1437, NAP payments for low yield loss are calculated based on the loss of an eligible NAP crop in excess of 50 percent of expected production (guarantee) times 55 percent of the average market price for the crop. This means that the maximum payment for a total loss under NAP catastrophic coverage is 27.5 percent (50 percent of 55 percent).

The 2014 Farm Bill adds the availability of higher coverage levels for most crops (other than those grown for grazing) and retroactive coverage for 2012 fruit losses, as described in more detail in the following section of this document. The 2014 Farm Bill does not change the basic scope of NAP as a risk management program for crops not otherwise covered by a catastrophic risk protection plan of insurance.

2014 Farm Bill Changes to NAP

The 2014 Farm Bill modifies NAP to permit producers an opportunity to obtain additional risk management coverage ranging from 50 to 65 percent of production, in 5 percent increments, and for 100 percent of the average market price. This ''additional assistance'' coverage is discussed below in the Additional Assistance Coverage Levels for 2012 Fruit Losses section. As specified in the 2014 Farm Bill, the premium for this additional level of coverage is 5.25 percent times the level of coverage. The premium is discussed below in the Premium Calculation section. The coverage levels and premium calculations are specified in the 2014 Farm Bill and FSA has no discretion to offer different coverage levels or premiums.

As noted earlier, the 2014 Farm Bill authorized NAP assistance retroactively for losses to 2012 fruit crops grown on trees and bushes in counties that had Secretarial disaster designations for frost or freeze for the 2012 crop year. This additional 2012 NAP assistance is being provided under NAPFF. Where the 2014 Farm Bill was silent with respect to NAPFF, FSA made a discretionary decision to make all producers of eligible fruit crops with eligible losses in disaster counties in 2012 eligible for NAPFF, whether or not they purchased 2012 NAP coverage during the original application period for 2012. Any producers of NAP eligible fruit crops intended for harvest as fresh or processed fruit or juice fruit (and not fruit for intended uses of seed or root stock), without regard to whether or not the producer previously obtained 2012 NAP coverage on eligible fruit crops in eligible counties, will be able to apply for NAPFF assistance for eligible causes of loss to these fruit crops in eligible counties.

Definitions

NAPFF will be implemented using the existing regulations for NAP (7 CFR part 1437), including the definitions in those regulations.

The following definitions from similar disaster assistance programs also apply to this NOFA:

- ''Beginning farmer'' and ''socially disadvantaged farmer'' as defined in 7 CFR 1416.102, and
- ''Bush,'' ''tree,'' and ''vine'' as defined in 7 CFR 1416.402.

The following terms are specifically defined for NAPFF. They are similar to the way these terms are defined in the existing NAP and disaster assistance regulations, but are revised to reflect that NAPFF is only available for 2012 losses:

''Limited resource farmer'' means a farmer or rancher who is both the following:

(a) A person whose direct or indirect gross farm sales did not exceed $163,200 in each of calendar years 2009 and 2010, and

(b) A person whose total household income was at or below the national poverty level for a family of four in each of the same two previous years referenced in paragraph (a) of this definition.

Limited resource producer status may be determined using the USDA Limited Resource Farmer and Rancher Online Self Determination Tool located on the Limited Resource Farmer and Rancher Web site at *http://www.lrftool.sc.egov.usda.gov/.*

For legal entities requesting to be considered Limited Resource Farmer or Rancher, the sum of the gross sales and household income must be considered for all members.

''Crop year'' means the calendar year in which the crop is normally harvested or in which the majority of the crop would have been harvested. For the purpose of NAPFF assistance, the eligible crop year is 2012.

The 2014 Farm Bill sections on AGI and payment limits refer to ''benefits'' from FSA and CCC programs. (Most FSA and CCC program benefits are cash payments, but some programs provide non-cash benefits such as technical assistance and subsidized risk management products.) This NOFA uses the terms ''assistance,'' ''coverage,'' and ''payments'' to refer to NAP and NAPFF benefits. For NAP, in general, the period to apply for coverage ends before the crop is planted and coverage begins at least 30 days after application for coverage. Producers who had previously purchased NAP may be eligible to also receive assistance under NAPFF. For NAPFF only, assistance may be obtained retroactively by producers who did not previously apply for 2012 NAP coverage. In the case of NAPFF, assistance will provide payments for known losses.

Eligible Losses

NAPFF assistance is available only for losses that meet specific eligibility criteria and requirements established by the 2014 Farm Bill. All eligibility requirements described below for eligible fruit crops, eligible counties, eligible causes of loss, and eligible coverage period must be met in order to receive payment.

NAPFF assistance is available only for losses to fruit crops grown on a tree or bush. The following fruit crops are eligible: Apples, apricots, aronia,

atemoya, avocados, bananas, blueberries, breadfruit, caimito, carambola (starfruit), cherimoya, cherries, coconuts, currants, dates, elderberries, figs, gooseberries, grapefruit, guanabana (soursop), guava, guavaberry, huckleberries, jack fruit, jojoba, jujube, kiwifruit, kumquats, lemons, limes, longan, lychee (litchi), mangos, mangosteen, mayhaw berries, mesple, mulberries, nectarines, noni, olives, oranges, papaya, peaches, pears, persimmons, pineapple, plantain, plumcots, plums, pomegranates, prunes, pummelo, quinces, rambutan, sapodilla, sapote, tangelos, tangerines, and wax jamboo fruit.

Fruit crops grown on canes or vines are not eligible. This requirement is statutory and FSA has no discretion to extend NAPFF assistance to crops that do not meet this requirement. To administer NAPFF assistance, FSA is using the definitions of ''bush,'' ''tree,'' and ''vine'' as specified in the regulations for the Tree Assistance Program (TAP) at 7 CFR part 1416, subpart E, for consistency in determining the eligible fruit crops for NAPFF.

Losses must have occurred in an eligible county. Eligible counties for NAPFF are primary counties that received Secretarial disaster designations for the 2012 crop year due to frost or freeze and those counties contiguous to such counties that received Secretarial disaster designations for the 2012 crop year due to frost or freeze. A total of 731 counties, located in the following 37 States, are eligible counties for NAPFF: Arizona, California, Colorado, Connecticut, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New York, North Carolina, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Utah, Vermont, Virginia, Washington, Wisconsin, and Wyoming. A map and a list of eligible counties are available on the FSA Web site and at FSA county offices. If any portion of a producer's fruit crop unit was physically located in an eligible county, the entire crop unit (as unit is defined in the current NAP regulations at 7 CFR 1437.8) is eligible for assistance under NAPFF.

The requirement to provide NAPFF assistance only in eligible counties is specified in the 2014 Farm Bill. CCC has no discretion to offer additional assistance under this NOFA for crops in other counties that did not have frost or freeze Secretarial disaster designations for the 2012 crop year.

As specified in 7 U.S.C. 7333 and in the current NAP regulations in 7 CFR 1437.4, NAP coverage is available only in counties where RMA does not offer catastrophic crop insurance coverage for those crops. CCC has no discretion to offer 2012 NAP coverage, including NAPFF, in counties for crops where catastrophic risk plan of insurance coverage was available for 2012.

While the county in which the loss occurred must have received a Secretarial disaster designation for the 2012 crop year specifically due to frost or freeze, eligible causes of loss in that county for the eligible fruit crop include all the eligible causes of loss specified in the current NAP regulations, not just frost or freeze. For example, if a fruit producer in a county that had a 2012 Secretarial disaster designation due to frost or freeze had losses due to floods or tornadoes, those losses would be eligible for coverage under this NOFA. Eligible causes of loss as specified in the current NAP regulations at 7 CFR 1437.9 include:

- Damaging weather occurring before or during harvest, including, but not limited to, drought, hail, excessive moisture, freeze, tornado, hurricane, excessive wind, or any combination of those;
- Adverse natural occurrence before or during harvest, such as earthquake, flood, or volcanic eruption; or
- A related condition, including, but not limited to, heat, insect infestation, or disease, which occurs as a result of an adverse natural occurrence or damaging weather occurring before or during harvest that directly causes, accelerates, or exacerbates the destruction or deterioration of an eligible crop, as determined by FSA.

The regulations in 7 CFR 1437.9(c) and (e), which specify eligible and ineligible causes of loss, respectively, apply to losses under this NOFA. Only losses to quantity are eligible losses under NAPFF. Value loss crops are not eligible for NAPFF. Payment will not be provided based on losses to quality.

Losses must have occurred during the 2012 crop year NAP coverage period as specified in 7 CFR 1437.5, which varies by crop. The 2012 coverage period for NAP, which applies to any eligible fruit crop grown on a tree or bush under NAPFF, began 30 days after the application closing date for the crop and ended on the earliest of:

- 10 months from the application closing date for the crop,
- The date harvest was complete,
- The normal harvest date,
- Abandonment of the crop, or
- Total destruction of the crop.

Producers applying for NAPFF assistance are not required to have previously filed a 2012 NAP application for coverage during the 2012 application period. Normally, NAP coverage begins no earlier than 30 days after the application is filed. However, under the terms of this NOFA, and as authorized by the 2014 Farm Bill, producers may apply for retroactive coverage only for eligible 2012 fruit crops.

NAPFF payments will be calculated based on the coverage period for the crop as it would have been for the producer who filed a timely application for coverage for 2012 NAP coverage. The coverage period for NAPFF is the longest coverage period that could have existed for the fruit crop in the county without regard to the actual date the producer of that crop filed an application for coverage. In other words, the provision that the coverage period cannot begin earlier than 30 days after the filing of the application for coverage is set aside for NAPFF.

Additional Assistance Coverage Levels for 2012 Fruit Losses

Prior to the 2014 Farm Bill, NAP had only one coverage level—a ''catastrophic'' coverage that covered the amount of loss greater than 50 percent of the expected production based on the approved yield and reported acreage, and calculated payments based on 55 percent of the average market price for the crop established by the FSA state committee. This catastrophic level of coverage was the only type of NAP coverage previously offered in 2012.

The 2014 Farm Bill authorizes the Secretary to provide additional levels of NAP coverage, which requires payment of a premium in addition to the NAP service fee, beginning with the 2015 program year, and also retroactively applies these additional coverage levels to eligible 2012 losses in select counties for select eligible tree or bush fruit crops under this NOFA. FSA will calculate payments for the additional assistance coverage based on 100 percent of the average market price and:

- 50 percent of the approved yield,
- 55 percent of the approved yield,
- 60 percent of the approved yield, or
- 65 percent of the approved yield.

Because FSA is providing this coverage retroactively and losses for the 2012 crop year are known, FSA expects that each applicant would select the additional assistance coverage level that provides the largest payment based on the applicant's known losses and amount of the applicable premium. Therefore, to minimize the burden on the applicants, FSA will calculate

which coverage level will provide the maximum payment for a particular producer's 2012 losses, and automatically subtract the premium for that level of coverage from the payment amount. Producers who already received NAP payments for 2012 losses will be eligible to receive additional NAPFF payments up to the additional assistance coverage level (minus the original NAP payment received), unless such additional payment would exceed the payment limit for NAP. For most applicants, unless they have already received payments at or near the NAP payment limit for other 2012 NAP losses, the maximum payment will be at the 65 percent coverage level. (The premium calculation is described in more detail later in this document.)

Service Fee

If a producer did not previously apply for NAP coverage for the 2012 crop year and pay the applicable service fee, the service fee must be paid at the time of NAPFF application. The service fee for the 2012 crop year is the lesser of $250 per crop or $750 per producer per administrative county, not to exceed a total of $1,875 for a producer with farming interests in multiple counties. This fee is specified in the 2008 Farm Bill and is not changed by the 2014 Farm Bill.

Producers who qualify as limited resource farmers may request a waiver of the service fee. Limited resource farmers who do not already have 2012 NAP coverage must request a service fee waiver and provide a certification of their eligibility for the waiver on form CCC–860 at the time of application. (The waiver of service fees for beginning and socially disadvantaged farmers mandated by the 2014 Farm Bill starts with the 2014 NAP program year and does not apply for NAPFF assistance.) Producers who previously applied for 2012 NAP coverage and submitted a certification of their status as limited resource farmers are not required to submit an additional certification for NAPFF.

Producers who previously applied for 2012 NAP coverage for NAPPF eligible crops or who and paid the maximum applicable service fee are not required to pay an additional service fee to apply for NAPFF crops. If producers paid less than the maximum service fee, then they will be required to pay an additional service fee, up to the maximum, for any additional NAPFF crops for which they apply for assistance. For example, a producer with a farm in a single county who bought coverage for any three 2012 NAP crops has already paid the maximum fee of $750, and therefore would not owe any additional service fees for NAPFF. A producer who had only purchased 2012 coverage for one crop in one county and who previously paid a service fee of $250 would need to pay the additional service fee for any additional NAPFF crops.

Premium Calculation

Premiums for NAPFF assistance will be calculated as the product of the producer's share, times the number of eligible acres devoted to the crop, times the approved yield per acre, times the coverage level, times the average market price, times a 5.25 percent premium fee. The maximum premium per producer, as specified in the 2014 Farm Bill, is $6,562.50 (the product of the applicable payment limitation of $125,000 times a 5.25 percent premium fee for the maximum level of coverage). (This will also be the maximum premium for NAP coverage in 2015 and subsequent years.)

For example, if Farmer Smith has a 100 percent share interest in 20 acres of apple trees intended for the fresh market, and the approved yield per acre for that crop is 500 bushels, and the average fresh market price is $12.75 per bushel, and the coverage level is 65 percent, the premium will be 1.000 (100 percent share) times 20 (acres) times 500 (bushels per acre) times 0.65 (coverage level of 65 percent) times $12.75 (price per bushel) times 0.0525 (premium factor), which equals $4,350.94.

Premiums will be calculated separately for each fruit crop, type, and intended use, (or final use, if different from intended use) but cannot exceed $6,562.50 per producer as explained above. A producer's total premium amount will be the sum of the premiums calculated for each fruit crop and type for which a producer is receiving NAPFF assistance.

The producer will not pay the premium for NAPFF separately; FSA will deduct it from the NAPFF payment. In the example above, if Farmer Smith suffered a 100 percent loss, the payment would be calculated as 1.000 (100 percent share) times 20 (acres) times 500 (bushels per acre) times 0.65 (coverage level) minus 0 bushels (actual production) times $12.75 (price per bushel), minus $4,350.94 (the premium), which equals a NAPFF payment of $78,524.06. (These example calculations do not include any service fees Farmer Smith has paid, because those would have been paid at the time of application for payment.)

Beginning farmers, limited resource farmers, and socially disadvantaged farmers are eligible for a 50 percent reduction of their calculated premium. (If Farmer Smith was a beginning farmer, the premium for apple trees for the fresh market would be $2,175.47.) To be eligible for a premium reduction, producers must request a premium reduction and provide a certification of their eligibility for the premium reduction on form CCC–860 at the time of application. Producers who previously applied for 2012 NAP coverage and submitted a certification of their status as limited resource producers are not required to submit an additional certification for NAPFF.

If a NAPFF payment calculated by FSA as specified in this NOFA is not sufficient to cover the calculated premium, no payment will be issued and no premium is due. (This is unlikely, and would occur only if the producer had relatively small losses, or losses determined after application to be ineligible.)

Application

A producer applying for NAPFF payments is required to file a NAPFF application by September 22, 2014. As noted above, some producers may not owe a service fee, but all producers must file a NAPFF application to be eligible for NAPFF payment, regardless of whether they previously applied for 2012 NAP coverage, filed notices of loss, or received NAP payments for the 2012 crop year. Producers who did not previously apply for 2012 NAP coverage must pay the service fee as discussed above, or request a service fee waiver and provide a certification of their status as a limited resource farmer, if applicable, by September 22, 2014 in order for their NAPFF application to be considered complete.

In addition to a NAPFF application, any producer applying for NAPFF assistance must submit the following documents, if not already on file with the FSA county office:

- NAP application for coverage;
- NAP notice of loss;
- NAP application for payment;
- Acreage report, as specified in 7 CFR part 718;
- Farm operating plan for payment limitation review; and
- AGI certification of eligibility based on the $900,000 AGI limitation as specified in the 2014 Farm Bill.

These supporting documents and certifications are required and must be filed by September 22, 2014. All other general conservation compliance eligibility provisions of 7 CFR part 12 apply to NAPFF in the same way as those provisions applied to all other 2012 NAP assistance.

Production Records

Producers who had 2012 NAP coverage and who already filed a report of production along with an application for payment that met NAP program requirements specified in 7 CFR part 1437 are not required to file additional production reports to accompany their NAPFF application, if that production report included NAPFF crops. Producers applying for NAPFF must certify the total amount of production of crops on the NAP application for payment and, unless previously submitted as specified in the NAP regulations in 7 CFR part 1437, submit verifiable or reliable production records, if available, to justify the certification of harvested production to the FSA county committee. Because this assistance is being made available retroactively, FSA has decided not to require loss adjustment appraisals, or other similar measures or requirements, because physical evidence of the 2012 loss is unlikely to be available for examination or verification.

If a producer applies for NAPFF and the producer has no acceptable verifiable or reliable production records because those records are not available, the FSA county committee will use the higher of the participant's certification of production or a maximum average loss level (MALL) established by the county committee for that crop to determine payment eligibility. This policy applies only to NAPFF assistance. It applies both to producers who have not previously applied for 2012 NAP assistance, and to producers that were previously found ineligible for 2012 NAP payments on an eligible crop for which NAPFF assistance is now being made available because they did not previously submit acceptable production evidence on that fruit crop. MALL will only be used for the purpose of processing the NAPFF application. It will not be used in the producer's approved yield or actual production history (APH) database for other purposes, including for subsequent NAP crop years.

In order for production reports or appraisals to be considered acceptable, production reports and appraisals must meet the requirements specified in 7 CFR part 1437. If the eligible crop was sold or otherwise disposed of through commercial channels, acceptable production records include: Commercial receipts; settlement sheets; warehouse ledger sheets or load summaries; or appraisal information from a loss adjuster acceptable to FSA. If the eligible crop was farm-stored, sold, fed to livestock, or disposed of by means other than commercial channels, acceptable production records for these purposes include: Truck scale tickets; appraisal information from a loss adjuster acceptable to FSA; contemporaneous reliable diaries; or other documentary evidence, such as contemporaneous reliable measurements. Determinations of reliability will take into account, as appropriate, FSA's ability to verify the evidence as well as the similarity of the evidence to reports or data received by FSA for the crop or similar crops. Other relevant factors may also be taken into account. FSA may, at any time before or after paying any individual NAPFF application, verify the production evidence submitted with records on file at the warehouse, gin, or other entity that received or may have received the reported production.

Approved Yield

An approved yield is used to calculate NAPFF payments. These yields will be calculated as specified in the current NAP regulations, with the exceptions discussed below. For producers who previously obtained 2012 NAP coverage, the approved yield previously established for their crop for the 2012 crop year as specified in 7 CFR 1437.102(e)(2) will be used to determine the NAPFF payment amount.

The approved yield for NAPFF will be calculated as specified in 7 CFR part 1437 subpart B for producers who did not previously obtain 2012 NAP coverage. Producers who did not previously obtain 2012 NAP coverage will be allowed to submit actual yields for the APH base period for the purposes of NAPFF as long as verifiable or reliable records are available to confirm the actual yield.

If production yields were not certified in the APH base period for the 2012 approved yield currently established for NAPFF, producers may request that FSA replace the missing yields for such years with the missing crop year's actual yield as long as verifiable or reliable records are provided to justify the actual yield. These actual yields updated for the purpose of NAPFF will be termed ''exception actual yields.'' Any exception actual yields used for calculating NAPFF payments will not be used to calculate any other NAP payments for any other year.

Payment Calculation

The NAPFF payment to the eligible producer will be a net payment, which will be calculated as the maximum payment for which the producer is eligible based on crop losses, minus the premium and any other adjustments required for payment limits, average adjusted gross income (AGI), and other requirements. FSA will calculate NAPFF payments using a calculation similar to the one specified in 7 CFR 1437.105, with changes to address additional assistance coverage, payment limits, and any 2012 NAP assistance previously issued to a producer. Assistance will be calculated separately for each crop and use. FSA will use the following steps to calculate NAPFF payments:

Step 1: Multiply the total eligible acreage planted to the eligible crop by the producer's share.

Step 2: Multiply the result of step 1 by the approved yield per acre for the eligible crop for the producer times the applicable additional assistance coverage level elected by the producer. (For most producers, the coverage level will be 65 percent.)

Step 3: Multiply the applicable production for 2012 by the producer's share. (The applicable production for 2012 will be either the net production of the total eligible acreage based on acceptable production records, or the higher of the producer's certified production or production arrived at by applying MALL.)

Step 4: Subtract the result of step 3 from the result of step 2. (This subtracts actual or estimated production from expected production times the coverage level.) If this result is a negative number, the producer did not have sufficient losses to qualify for a NAPFF payment.

Step 5: Multiply the result of step 4 by the average market price and apply any applicable payment factors for harvested, prevented planted, or unharvested crops as specified in 7 CFR 1437.11.

Step 6: Multiply the value of salvage and secondary use by the producer's share, and subtract the result from the result of step 5.

Step 7: Verify that the amount in Step 6 would not exceed the 2014 Farm Bill payment limits

Step 8: Subtract the amount, if any, of 2012 NAP assistance previously paid to the producer for the same crop from the result of step 6. (For example, if the producer previously received payment for 2012 catastrophic level NAP coverage for the same crop, but now qualifies for 65 percent coverage of 100 percent of market price under NAPFF, the previous payment is subtracted from the NAPFF payment.)

Step 9: Subtract the applicable premium amount based on the applicable additional assistance coverage level from the result of step 8.

The result of Step 9 will be the NAPFF payment to the producer.

Payment and Income Limitations

Sections 1603 and 1605 of the 2014 Farm Bill establish payment and income limitations, respectively, that apply to 2014 and subsequent crop, program, or fiscal year benefits, and retroactive 2012 crop year benefits for programs that were authorized by the 2014 Farm Bill. FSA already implemented these payment and income limitations, which are specified in 7 CFR part 1400.

Under the 2008 Farm Bill, NAP assistance for the 2012 crop year was limited to $100,000, directly or indirectly, per person or legal entity. The 2014 Farm Bill increases the payment limitation for NAP benefits to $125,000 per person or legal entity. As under the 2008 Farm Bill, attribution of payments under 7 CFR part 1400 applies in administering the payment limitation of the 2014 Farm Bill. The $125,000 payment limit is retroactive to 2012 for NAPFF only, not for any other 2012 NAP payments.

That means that a person or legal entity may receive up to $125,000 total for NAPFF and other NAP payments for 2012, but the 2008 Farm Bill payment limit of $100,000 for all other 2012 NAP payments still applies. A producer can receive $125,000 total for the 2012 crop year if and only if at least $25,000 of such total 2012 crop year payments is from NAPFF assistance. (A producer could receive up to $125,000 for NAPFF payments alone.) If the producer is not eligible for any NAPFF payments, the total amount of 2012 crop year payments under NAP is still limited to $100,000.

The 2014 Farm Bill establishes an average AGI limit for most FSA and CCC programs of $900,000. The applicable years for determining average AGI for 2012 are 2008, 2009, and 2010. Under the 2008 Farm Bill, NAP payments were subject to a limit of $500,000 nonfarm average AGI. The $900,000 limit under the 2014 Farm Bill is for total average AGI, and this single AGI limit replaces the multiple limits for farm and non-farm income, and the separate limit for conservation programs, that were required by the 2008 Farm Bill. The $500,000 average AGI limitation from the 2008 Farm Bill does not apply to NAPFF under the 2014 Farm Bill, but remains in effect for any other 2012 NAP. This means that a producer who was not eligible for 2012 NAP due to exceeding the 2008 Farm Bill AGI limits may be eligible for NAPFF (but not any other 2012 NAP payments) if they are under the higher 2014 Farm Bill AGI limit.

All persons or legal entities, directly or indirectly applying for NAPFF assistance under this NOFA, must certify by the application deadline that the person or legal entity does not exceed the $900,000 average AGI limit. This includes members of legal entities, who must provide a certification by the application deadline in accordance with the regulations in 7 CFR 1400.502. The certification is in addition to any previous AGI certifications that the person or entity may have previously made regarding average AGI limits as required by the 2008 Farm Bill.

Multiple Benefit Exclusion

The provisions regarding multiple benefits in 7 CFR 1437.13 apply. Producers are prohibited from receiving benefits under both NAP, including NAPFF, and any other program administered by the Secretary for the same crop loss. If a producer is eligible to receive payments under NAP, including NAPFF, and benefits under any other program administered by the Secretary for the same crop loss, the producer must choose whether to receive the other program benefits or payments under NAP, including NAPFF, but not both.

Funding Authority and Sequestration

The NAPFF assistance announced in this NOFA is authorized by section 12305 of the 2014 Farm Bill. CCC funding for NAP, including NAPFF, is authorized by 7 U.S.C. 7333, as amended. The amount of available funding is not limited. However, the payments in FY 2015 will be subject to sequestration as required by the Balanced Budget and Emergency Deficit Control Act of 1985, as amended by the Budget Control Act of 2011, which mandates that federal agencies implement automatic, annual reductions to discretionary and mandatory spending limits. Payments made in FY 2014 are not sequestered.

Miscellaneous Provisions

The miscellaneous provisions in 7 CFR 1437.15 apply to NAPFF assistance.

The MALL value for a crop in a county will be established by the county committee and is not based on information from any individual program participant or applicant. MALLs established for NAPFF will be determined by county committees in accordance with instructions issued by the FSA's Deputy Administrator for Farm Programs. MALLs are matters of general applicability; they are not individual producer decisions or extent of eligibility decisions and are not subject to individual appeal or administrative review. The only issues that can be appealed with regard to MALLs are whether or not a particular MALL is being correctly applied (that is, that the producer either has or does not have acceptable production records accompanying their application and certification of production, or that the producer's certification of production is higher or lower than the level of production that would be arrived at using the county committee's established MALL).

All certifications of acreage and production are subject to verification and spot check. CCC may at any time request information or review the accuracy of any certification or report made by producers or applicants and if a review is performed that reveals unearned payments were issued, unearned payments must be refunded to FSA with interest from the date of disbursement.

Consistent with regulations in 7 CFR part 1437 and NAP's basic contract provisions, if a crop is subject to an arrangement, agreement, or contract for guaranteed payment, documentation of the arrangement, agreement, or contract for guaranteed payment must be provided in addition to acceptable verifiable or reliable records. Concealing the existence or failure to divulge or report the existence of any guaranteed payment contract or similar arrangement or agreement constitutes a misrepresentation of production information to FSA and renders the applicant ineligible for assistance under the application and possibly additional remedies as prescribed for the person or legal entity in 7 CFR part 1437 and NAP's basic provisions.

Rulemaking

FSA does not consider this NOFA to be subject to rulemaking requirements because NAPFF is a limited program for 2012 losses only, is not of general application and future effect, and the existing NAP regulation applies as discussed above. NAPFF is subject to specific requirements of the 2014 Farm Bill for which FSA has little discretion. If this NOFA is considered to be a rule, then the rulemaking exceptions of the Administrative Procedure Act would apply. Specifically, if this notice is considered a rule, then it would be contrary to the public interest to delay its effectiveness to allow for public comment. This NOFA provides payments for producers for 2012 losses, and it would be contrary to public interest to delay the effective date for public comments on payments that are already at least 2 years after the eligible

losses have occurred and for which FSA has no discretion.

Paperwork Reduction Act Requirements

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), FSA submitted an emergency information collection request on NAPFF so FSA can begin the application period upon publication of this NOFA. FSA is also requesting comments from all interested individuals and organizations on a new information collection request. This information collection is one-time activity. If FSA needs to continue this request, the information collection request will be merged with 0560–0175, Noninsured Crop Disaster Assistance Program information collection request upon the expiration date. Additionally, NAP is authorized by 7 CFR 7 U.S.C. 7333 and implemented under regulations in 7 CFR 1437. In NAP, the information FSA collects allows FSA to provide assistance under NAP for losses of commercial crops or other agricultural commodities (except livestock) for which catastrophic risk protection under 7 U.S.C. 1508(b) is not available, and that are not produced for food or fiber.

In the emergency request, NAPFF will only apply to 2012 annual fruit crops grown on bushes and trees. Therefore, FSA is making payments for losses to 2012 annual fruit crops grown on bushes or trees and located in counties that received Secretarial disaster designations, including counties contiguous to such counties, due to frost or freeze for the 2012 crop year.

Title: 2012 Noninsured Crop Assistance Program (NAP) Frost Freeze Program (NAPFF).

OMB Number: 0560–NEW.

Type of Request: New information collection.

Abstract: This information collection is needed for FSA to identify eligible producers of 2012 annual fruit crops grown on bushes or trees located in eligible counties and to make payments to those producers through NAPFF. FSA requires each producer to submit an application on a form specified by FSA to the FSA county office to apply for payments for losses to their eligible crops in eligible counties. The majority of producers will only need to submit the new application form (CCC–473) because the rest of their information will already be on-file from their 2012 NAP application and will be up to date in the FSA county office. However, some producers will also need to complete forms CCC–473, CCC–452, CCC–471, CCC–576, Part B and Part G, FSA–578, CCC–860, CCC–941, CCC–902, AD–1026, and other required documentation if FSA does not have them on file as discussed above in the Application section.

The formula used to calculate the total burden hours is the estimated average time per response (including travel time) times the total estimated annual responses.

Respondents: Producers.

Estimated Number of Respondents: 3,191.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Response: 3,191.

Estimated Average Time per Response (The average travel time, which is included in the average annual burden, is estimated to be 1 hour per respondent.): 5.2572 hours.

Estimated Total Annual Burden on Response: 16,776 hours.

We are requesting comments on this information collection to help us:

(1) Evaluate whether the collection of information is necessary for the proper performance of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of burden, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; or

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All responses to this notice, including names and addresses, when provided, will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

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 10.451, Noninsured Assistance.

Signed on July 16, 2014.

Juan M. Garcia,

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

[FR Doc. 2014–17237 Filed 7–21–14; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Tongass Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Tongass Advisory Committee (Committee) will meet in Ketchikan, Alaska. The Committee is established consistent with the Federal Advisory Committee Act of 1972 (5 U.S.C. App. 2). Additional information concerning the Committee, including the meeting agenda, can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/goto/R10/Tongass/TAC.*

DATES: The meetings will be held on the following dates:

- Wednesday, August 6, 2014—10:00 a.m. to 5:00 p.m.
- Thursday, August 7, 2014—8:30 a.m. to 5:00 p.m.
- Friday, August 8, 2014—8:30 a.m. to 12:30 p.m.

All meetings are subject to cancellation. For status of the meetings prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meetings will be held at the Best Western Landing Hotel, Sunny Point Ball Room, 3434 Tongass Avenue, Ketchikan, Alaska. Written comments may be submitted as described under Supplementary Information. All comments, including names and addresses, when provided, are placed in the record and available for public inspection and copying. The public may inspect comments received at the Tongass National Forest Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Nicole McMurren, Committee Coordinator, by phone at 907–772–5875, or by email at *nmcmurren@fs.fed.us.* Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

(1) Perform administrative tasks such as ethics training, Federal Advisory Committee Act (FACA) training, and discuss the committee members goals and interest; and

(2) Define areas where the committee can provide the most valuable input for developing an ecologically, socially, and economically sustainable forest

management strategy on the Tongass National Forest.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by July 28, 2014 to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee's staff before or after the meeting. Written comments and time request for oral comments must be sent to Jason Anderson, Designated Federal Officer, Tongass National Forest, P.O. Box 309, Petersburg, Alaska 99833; by email to *jasonanderson@fs.fed.us,* or via facsimile to 907–772–5895. Summary/minutes of the meeting will be posted on the Web site listed above within 45 days after the meeting.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: July 15, 2014.

Beth G. Pendleton,

Regional Forester, Alaska Region.

[FR Doc. 2014–17220 Filed 7–21–14; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

RIN 0596–AC71

Notice of Reopening of Public Comment Period—Proposed Directives for National Best Management Practices (BMPs) for Water Quality Protection on National Forest System (NFS) Lands

AGENCY: Forest Service, USDA.

ACTION: Notice of reopening of public comment period.

SUMMARY: The Forest Service is reopening the public comment period for the proposed directive regarding best management practices (BMPs) for water quality protection on National Forest System (NFS) lands for an additional 30 days. The original notice called for comments to be submitted by July 7, 2014.

DATES: Comments must be received, in writing, on or before August 21, 2014.

ADDRESSES: Submit comments electronically by following the instructions at the federal eRulemaking portal at *http://www.regulation.gov.* Comments may also be submitted by electronic mail to *fsm2500@fs.fed.us* or by mail to BMP Directive Comments, USDA Forest Service, Attn: Michael Eberle—WFWARP, 201 14th St. SW., Washington, DC 20250. If comments are submitted electronically, duplicate comments should not be sent by mail. Please confine comments to issues pertinent to the proposed directive, explain the reasons for any recommended changes, and, where possible, reference the specific section and wording being addressed. All comments, including names and addresses when provided, will be placed in the record and will be made available to the public for review and copying. The public may inspect the comments received on the proposed directive at the USDA Forest Service Headquarters, located in the Yates Federal Building at 201 14th Street SW., Washington, DC, on regular business days between 8:30 a.m. and 4:30 p.m. Those wishing to inspect the comments are encouraged to call ahead at (202) 205–1205 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Michael Eberle, Watershed, Fish, Wildlife, Air and Rare Plants Staff at (202) 205–1093. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service at (800) 877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Daylight Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Forest Service proposed to revise Forest Service Manual (FSM 2500) and Handbook (FSH 2509.19) directives for best management practices (BMPs) for water quality protection on National Forest System (NFS) lands to establish a National system of BMPs and associated monitoring protocols and require their use on NFS lands in order to meet existing mandates under the Federal Water Pollution Control Act Amendments of 1972 (Clean Water Act) (Pub. L. 92–500) and corresponding State laws. To provide the public the opportunity to review and comment on these proposed directives, the Agency initiated a 60-day comment period which closed on July 7, 2014. The Agency has decided to reopen the comment period for an additional 30 days to provide an opportunity to gather additional public input to inform the final directives for National Best Management Practices (BMPs) for Water Quality Protection on National Forest System (NFS) Lands.

Dated: July 15, 2014.

Thomas L. Tidwell,

Chief, U.S. Forest Service.

[FR Doc. 2014–17163 Filed 7–21–14; 8:45 am]

BILLING CODE 3411–15–P

COMMISSION ON CIVIL RIGHTS

Sunshine Act Meeting

AGENCY: United States Commission on Civil Rights.

ACTION: Amended Notice of Briefing and Business Meeting.

DATE AND TIME: Friday, July 25, 2014; 9:00 a.m. E.S.T.

PLACE: 1331 Pennsylvania Ave. NW., Suite 1150, Washington, DC 20425.

Briefing Agenda—9:00 a.m.–1:30 p.m.

This briefing is open to the public.

Topic: *Enforcement of Sexual Harassment Policy at Educational Institutions by the U.S. Department of Education's Office for Civil Rights (OCR) and the Civil Rights Division of the Department of Justice (DOJ).*

I. Introductory Remarks by Chairman Castro
II. Issue Panel I—9:05 a.m.–10:15 a.m.: OCR/DOJ Guidance Speakers' Remarks and Questions from Commissioners
III. Issue Panel II—10:15 a.m.–11:10 a.m.: OCR/DOJ Guidance Speakers' Remarks and Questions from Commissioners
IV. Issue Panel III—11:10 a.m.–12:00 p.m. Data on Sexual Harassment Speakers' Remarks and Questions from Commissioners
V. Issue Panel IV—12:00 p.m.–1:30 p.m.: Pros/Cons on OCR/DOJ Guidance Speakers' Remarks and Questions from Commissioners
VI. Adjourn Briefing

Business Meeting Agenda—2:00 p.m.

I. Program Planning
  a. Discussion and Vote on Part A & Part B of the briefing report: Increasing Compliance with Section 7 of the NVRA
  b. Consideration and Vote on Commission letter regarding Federal Response to the Unaccompanied Minor Immigrants
  c. Discussion and Vote on the FY2015 Statutory Enforcement Report topic
  d. Discussion and Vote on two briefing topics for FY2015
II. Management and Operations

- Staff Director's Report

III. State Advisory Committee (SAC) Appointments

- Arizona
- Missouri
- Virginia

CONTACT PERSON FOR FURTHER INFORMATION: Lenore Ostrowsky, Acting Chief, Public Affairs Unit (202) 376–8591.

Hearing-impaired persons who will attend the briefing and require the services of a sign language interpreter should contact Pamela Dunston at (202) 376–8105 or at *signlanguage@usccr.gov* at least seven business days before the scheduled date of the meeting.

Dated: July 18, 2014.

Marlene Sallo,

Staff Director.

[FR Doc. 2014–17338 Filed 7–18–14; 4:15 pm]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[S–94–2014]

Foreign-Trade Zone 87—Lake Charles, Louisiana; Application for Subzone; LEEVAC Shipyards, LLC; Jennings, Louisiana

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Lake Charles Harbor & Terminal District, grantee of FTZ 87, requesting subzone status for the facility of LEEVAC Shipyards, LLC, located in Jennings, Louisiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on July 16, 2014.

The proposed subzone (75 acres) is located at 111 Bunge Street in Jennings (Jefferson Davis Parish). The proposed subzone would be subject to the existing activation limit of FTZ 87. Production authority has already been approved for the facility (B–11–2014, 79 FR 31297, 6/2/2014).

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 2, 2014. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to September 15, 2014.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: July 16, 2014.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2014–17235 Filed 7–21–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–428–842, A–588–871, and A–455–804]

Grain-Oriented Electrical Steel From Germany, Japan, and Poland: Final Determinations of Sales at Less Than Fair Value and Certain Final Affirmative Determination of Critical Circumstances

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

SUMMARY: The Department of Commerce (the Department) determines that grain-oriented electrical steel (GOES) from Germany, Japan, and Poland is being, or is likely to be, sold in the United States at less than fair value (LTFV), as provided in section 735 of the Tariff Act of 1930, as amended (the Act). The period of investigation (POI) is July 1, 2012, through June 30, 2013. The final weighted-average dumping margins of sales at LTFV are listed below in the ''Final Determinations'' section of this notice.

DATES: July 22, 2014.

FOR FURTHER INFORMATION CONTACT: Stephen Banea at (202) 482–0656 (Germany); Steve Bezirganian at (202) 482–1131 (Japan); or Alan Ray at (202) 482–5403 (Poland); AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On May 12, 2014, the Department published the preliminary determinations of sales at LTFV of GOES from Germany, Japan, and Poland.[1] We invited, but did not receive, interested party comments on the preliminary determinations in these investigations.

In May and June 2014, the mandatory respondents in the investigations from Germany and Japan requested that the Department postpone the final determinations in those cases, pursuant to section 735(a)(2)(A) of the Act and 19 CFR 351.210(e)(1). These companies also requested that the Department extend provisional measures from a four-month period to not more than six months, in accordance with section 733(d) of the Act and 19 CFR 351.210(e)(2). Subsequently, the petitioners and a domestic interested party[2] submitted letters jointly opposing these requests.[3]

Scope of the Investigations

The scope of the investigations covers GOES, which is a flat-rolled alloy steel product containing by weight specific levels of silicon, carbon, and aluminum. For a complete description of the scope of the investigations, see Appendix I to this notice.

Verification

The Department did not verify any of the mandatory respondents in these investigations because none of the mandatory respondents participated in the investigations prior to the issuance of the preliminary determinations.

Requests To Postpone the Final Determinations for Germany and Japan

On May 14 and May 19, 2014, respectively, the Department received requests to postpone the final determinations from the mandatory respondents in the Japan investigation (*i.e.,* Nippon Steel & Sumitomo Metal Corporation (NSSMC) and JFE Steel Corporation (JFE)) and the mandatory respondent in the German investigation (*i.e.,* ThyssenKrupp Electrical Steel GmbH (TKES)). On May 19, 2014, the

[1] *See Grain-Oriented Electrical Steel from Germany, Japan, Poland, and the Russian Federation: Preliminary Determinations of Sales at Less Than Fair Value, Certain Affirmative Preliminary Determinations of Critical Circumstances, and Postponement of Russian Final Determination,* 79 FR 26941 (May 12, 2014) (*Preliminary Determinations*).

[2] The petitioners are AK Steel Corporation, Allegheny Ludlum, LLC, and the United Steelworkers. The domestic interested party is the International Union, United Automobile, Aerospace, and Agricultural Implemental Workers of America (UAW). Collectively, these parties are referred to as ''the domestic industry.''

[3] For further discussion of this issue, see the ''Requests to Postpone the Final Determinations for Germany and Japan'' section of this notice.

domestic industry objected to all three requests, arguing that there are compelling reasons to deny them. Specifically, the domestic industry contends that postponements would be inappropriate in these cases because: (1) The mandatory respondents failed to participate in these investigations and, thus, there is nothing to be gained from these non-cooperative companies in terms of argument or additional factual information; (2) unlike past investigations in which the Department postponed final determinations, the petitioners and other members of the domestic industry objected to the postponements, thus providing a compelling reason not to extend; and (3) postponing the deadlines would require the Department to prepare multiple final determinations (*i.e.,* one for Poland in July and then two others for Germany and Japan in September).

On May 20 and 21, 2014, respectively, JFE and NSSMC responded to the objections of the domestic industry, stating that: (1) There is no requirement under the statute or the regulations that a respondent may request a postponement of the final only if it participated in the investigation; (2) the Department's workload would be essentially unaffected by a postponement; and (3) the Department has recently postponed its final determinations under similar circumstances.[4] TKES did not respond to the domestic industry's arguments.

On May 28, 2014, the domestic industry responded to JFE's and NSSMC's submissions, stating that respondents' failure to respond to the Department's information requests impeded the proceeding, and when the Department has postponed final determinations in the past, there either had been no objection from the petitioners or the petitioners had requested the postponement. Thus, the domestic industry contends that the precedent cited by JFE and NSSMC is not applicable.

On June 2, 2014, NSSMC replied to the domestic industry's May 28 submission, noting that the domestic industry had identified only one instance where a request for postponement was denied.[5] According to NSSMC, that case was not factually similar because, unlike these investigations, the Department had identified a ''record of misleading and contradictory responses.''[6] Furthermore, NSSMC noted that the domestic industry cited no statute, regulation, or precedent indicating that a petitioner's position on a postponement request is relevant.

Section 735(a)(2)(A) of the Act provides that a final determination may be postponed until not later than 135 days after the date of the publication of the preliminary determination if, in the event of an affirmative preliminary determination, a request for such postponement is made by exporters who account for a significant proportion of exports of the subject merchandise. Further, 19 CFR 351.210(e)(2) requires that requests by respondents for postponement of a final determination be accompanied by a request for extension of provisional measures from a four-month period to not more than six months.

After considering all submissions on this issue, the Department has determined that additional time is not required to complete these final determinations, given that: (1) No interested parties have submitted case briefs or otherwise commented on our preliminary determinations; (2) the Department will avoid expenditure of further administrative resources by completing the Germany and Japan investigations at the same time as the Poland investigation, in which no exporter requested a postponement of the final determination; (3) the domestic industry, including the petitioners, object to postponing these final determinations, unlike the circumstances in *Stainless Pipe from Malaysia;* and, (4) section 735(a)(2) of the Act and the Department's regulations at 19 CFR 351.210(e)(1) provide that the Department may postpone a final determination, but do not require us to do so upon request. Therefore, we have exercised our discretion under the Act and are not postponing the final determinations.

Final Determinations

We made no changes to our preliminary determinations in the Germany, Japan, and Poland investigations. Therefore, we continue to determine that the following margins exist for the following entities for the POI:

Manufacturer/ exporter	Dumping margin (percent)
Germany	
ThyssenKrupp Electrical Steel GmbH	241.91
All Others	133.70
Japan	
JFE Steel Corporation	172.30
Nippon Steel & Sumitomo Metal Corporation	172.30
All Others	93.36
Poland	
Stalprodukt S.A.	99.51
All Others	78.10

Certain Final Affirmative Determination of Critical Circumstances

We made no changes to our critical circumstances analysis for Poland announced in the *Preliminary Determinations* and described in ''Decision Memorandum for the Preliminary Determination of the Antidumping Duty Investigation of Grain-Oriented Electrical Steel from Poland,'' which is hereby adopted by this notice. Thus, pursuant to 735(a)(3) of the Act, we continue to find that critical circumstances exist with respect to imports of GOES from Poland from Stalprodukt S.A. and the companies covered by the ''all others'' rate.

Continuation of Suspension of Liquidation

In accordance with section 735(c)(1)(B) of the Act, the Department will instruct U.S. Customs and Border Protection (CBP) to continue to suspend liquidation of all appropriate entries of GOES from Germany and Japan as described in the ''Scope of the Investigations'' section of this notice, which were entered, or withdrawn from warehouse, for consumption on or after May 12, 2014, the date of publication of the preliminary determinations of those investigations in the **Federal Register**.

With respect to entries of GOES from Poland, in accordance with section 735(c)(4)(A) of the Act, the Department will instruct CBP to continue to suspend liquidation of all entries from Stalprodukt S.A. and the companies covered by the ''all others'' rate that were entered, or withdrawn from warehouse, for consumption on or after February 11, 2014, which is ninety days prior to the publication of the preliminary determination of that investigation in the **Federal Register**.

Further, the Department will instruct CBP to require a cash deposit equal to

[4] *See Welded Stainless Pressure Pipe from Malaysia: Preliminary Determination of Sales at Less Than Fair Value, Affirmative Preliminary Determination of Critical Circumstances, in Part, and Postponement of Final Determination,* 79 FR 808, 809–10 (January 7, 2014) (*Stainless Pipe from Malaysia*).

[5] *See Preliminary Determination of Sales at Less Than Fair Value: Certain Stainless Steel Wire Rods From India,* 58 FR 41729, 41731 (August 5, 1993) (*Steel Wire Rod From India*).

[6] *Id.*

the weighted-average amount by which normal value exceeds U.S. price as follows: (1) for the mandatory respondents listed in the table above, the cash deposit rate will be equal to the dumping margin which the Department determined in these final determinations; (2) if the exporter is not a mandatory respondent identified in these investigations, but the producer is, the cash deposit rate will be the rate established for the producer of the subject merchandise; and (3) the cash deposit rates for all other producers or exporters will be 133.70 percent for entries from Germany, 93.36 percent for entries from Japan, and 78.10 percent for entries from Poland. The suspension of liquidation instructions will remain in effect until further notice.

International Trade Commission Notification

In accordance with section 735(d) of the Act, we will notify the ITC of the final affirmative determinations of sales at LTFV. Because the final determinations in these proceedings are affirmative, in accordance with section 735(b)(2) of the Act, the ITC will make its final determination as to whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports of GOES from Germany, Japan, and Poland no later than 45 days after our final determinations. If the ITC determines that material injury or threat of material injury does not exist for any country, the associated proceeding will be terminated and all securities posted will be refunded. If the ITC determines that such injury does exist for any country, the Department will issue an antidumping duty order for that country directing CBP to assess, upon further instruction by the Department, antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding Administrative Protective Orders

This notice 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 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 the terms of an APO is a sanctionable violation.

These determinations and this notice are issued and published pursuant to sections 735(d) and 777(i)(1) of the Act.

Dated: July 16, 2014.

Paul Piquado,

Assistant Secretary for Enforcement and Compliance.

Appendix I—Scope of the Investigations

The scope of these investigations covers grain-oriented silicon electrical steel (GOES). GOES is a flat-rolled alloy steel product containing by weight at least 0.6 percent but not more than 6 percent of silicon, not more than 0.08 percent of carbon, not more than 1.0 percent of aluminum, and no other element in an amount that would give the steel the characteristics of another alloy steel, in coils or in straight lengths. The GOES that is subject to these investigations is currently classifiable under subheadings 7225.11.0000, 7226.11.1000, 7226.11.9030, and 7226.11.9060 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive. Excluded are flat-rolled products not in coils that, prior to importation into the United States, have been cut to a shape and undergone all punching, coating, or other operations necessary for classification in Chapter 85 of the HTSUS as a transformer part (*i.e.,* laminations).

[FR Doc. 2014–17226 Filed 7–21–14; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Opportunity To Comment on Presidential Memorandum Calling for Improving the Entry Process and Airport-Specific Plans for International Travelers to the United States

AGENCIES: International Trade Administration, Department of Commerce; U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice; opportunity for comments.

SUMMARY: On Thursday, May 22, President Obama issued a Presidential Memorandum, Establishing a National Goal and Developing Airport Specific Action Plans to Enhance the Entry Process for International Travelers to the United States. The Memorandum directs the Secretaries of Commerce and Homeland Security to develop within 120 days a national goal for improving service levels for international arrivals. It also directs the Secretaries to develop airport-specific action plans that include actions from both private and public sectors to measurably improve the entry experience for international arrivals to those airports. This notice notifies interested stakeholders about how to submit comments and ideas on determining the national goal and how to improve all aspects of the international arrivals process.

DATES: Comments must be received on or before Friday, August 15, 2014.

ADDRESSES: Electronic comments are preferred and may be sent to: *OACIE@trade.gov and modelports@cbp.dhs.gov.* Written comments may be sent to: Jennifer Pilat, 1401 Constitution Avenue NW., Suite 4043, International Trade Administration, Washington, DC 20230 or Daniel Tanciar, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 2.4A, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Jennifer Pilat, 1401 Constitution Avenue NW., Suite 4043, International Trade Administration, Washington, DC 20230, *oacie@trade.gov,* 202–482–4501 or Daniel Tanciar, U.S. Customs and Border Protection, 1300 Pennsylvania Ave. NW., Room 2.4A, Washington, DC 20229, *modelports@cbp.dhs.gov,* 202–344–1249.

SUPPLEMENTARY INFORMATION: On May 22, 2014, President Obama directed the Secretaries of Commerce and Homeland Security to lead an interagency team over the next 120 days, in close partnership with industry, to develop a national goal and develop airport-specific plans to enhance the entry process for international travelers to the United States. The measures the Administration is taking to expedite the arrivals process will enhance security by focusing officer time on the highest-risk passengers and facilitating the process for the vast majority of legitimate travelers.

Along with general comments and suggestions, the Departments of Commerce and Homeland Security are also specifically seeking input on the following questions:

1. What are your suggestions to improve the international arrivals experience at U.S. Airports?

2. What kind of technology should be considered to improve the international arrivals experience?

3. What recommendations do you have for U.S. Customs and Border Protection (CBP) to improve passport and baggage inspection?

4. What recommendations do you have for the airlines to improve the arrivals experience?

5. What recommendations do you have for airport operators to improve airport facilities as it relates to international arrivals?

6. Is there anything missing in the international arrivals process that should be added to make the process more comfortable and/or pleasant?

7. What recommendations do you have to improve traveler perception of the international arrivals process?

Members of the public or interested stakeholders may submit comments or ideas regarding this Memorandum, for consideration in drafting the national goal and airport-specific plans. All comments submitted should reference this notice.

Stakeholder input may be submitted to: *OACIE@trade.gov and modelports@cbp.dhs.gov* by Friday, August 15, 2014. Electronic comments are preferred. Written comments may be sent to: Jennifer Pilat, 1401 Constitution Avenue NW., Suite 4043, International Trade Administration, Washington, DC 20230 or Daniel Tanciar, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW., Room 2.4A, Washington, DC 20229.

The fact sheet, and Travel and Tourism progress report are available at: *http://www.whitehouse.gov/the-press-office/2014/05/22/fact-sheet-report-president-obama-visits-cooperstown-highlight-travel-an.*

The full text of the May 22 Memorandum is available at: *http://www.whitehouse.gov/the-press-office/2014/05/22/presidential-memorandum-establishing-national-goal-and-developing-airpor.*

Dated: July 17, 2014.

Praveen Dixit,

Acting Principal Deputy Assistant Secretary for Industry and Analysis, International Trade Administration.

Dated: July 17, 2014.

John P. Wagner,

Acting Assistant Commissioner, Office of Field Operations, U.S. Customs and Border Protection.

[FR Doc. 2014–17215 Filed 7–17–14; 4:15 pm]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XR39

Endangered and Threatened Species; Recovery Plans

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

ACTION: Notice of availability.

SUMMARY: NMFS announces the adoption of a Final Endangered Species Act (ESA) recovery plan for the endangered Sacramento River winter-run Chinook salmon Evolutionarily Significant Unit (ESU) (herein referred to as winter-run Chinook salmon), the threatened Central Valley spring-run Chinook salmon ESU (herein referred to as spring-run Chinook salmon), and the threatened California Central Valley steelhead Distinct Population Segment (DPS) (herein referred to as steelhead). The Final Recovery Plan for these species (Final Recovery Plan) is now available.

ADDRESSES: Electronic copies of the Final Recovery Plan are available online at: *http://www.nmfs.noaa.gov/pr/recovery/plans.htm http://swr.nmfs.noaa.gov/recovery/index.htm*

A CD ROM of the Final Recovery Plan can be obtained by emailing a request to *Aimee.Moore@noaa.gov* with the subject line ''CD ROM Request for CV Chinook Salmon and Steelhead Recovery Plan'', by phone at (916) 930–3600, or by writing to NMFS Protected Resources Division, 650 Capitol Mall, Suite 5–100, Sacramento, CA, 95814 ATTN: Recovery Coordinator

FOR FURTHER INFORMATION CONTACT: Brian Ellrott, Central Valley Recovery Coordinator by email to *Brian.Ellrott@noaa.gov* or by phone at (916) 930–3612.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973 (ESA), as amended (16 U.S.C. 1531 *et seq.*) requires that we develop and implement recovery plans for the conservation and survival of threatened and endangered species under our jurisdiction, unless it is determined that such plans would not result in the conservation of the species. The Sacramento River winter-run Chinook salmon (*Oncorhynchus tshawytscha*) ESU, currently listed as endangered, was listed as a threatened species under emergency provisions of the ESA in August 1989 (54 FR 32085) and formally listed as a threatened species in November 1990 (55 FR 46515). Winter-run Chinook salmon were re-classified as an endangered species on January 4, 1994 (59 FR 440). NMFS listed spring-run Chinook salmon as threatened (64 FR 50394) on September 16, 1999. Steelhead were listed as threatened on March 19, 1998 (63 FR 13347).

We published a Notice of Availability of the Draft Recovery Plan in the **Federal Register** on October 7, 2009 (71 FR 51553) and held eight public meetings to obtain comments on the Draft Plan. In response to multiple requests, we extended the public comment period for an additional 60 days on November 24, 2009 (74 FR 61329). We received extensive comments on the Draft Plan, summarized the comments and identified the comments that prompted revisions for the Final Recovery Plan. We revised the Draft Plan based on the comments received, and this final version now constitutes the Recovery Plan for the Sacramento River winter-run Chinook salmon ESU, the Central Valley spring-run Chinook salmon ESU, and the California Central Valley steelhead DPS.

The Final Plan

The ESA requires that recovery plans incorporate, to the extent practicable: (1) Objective, measurable criteria which, when met, would result in a determination that the species is no longer threatened or endangered; (2) site-specific management actions necessary to achieve the plan's goals; and (3) estimates of the time required and costs to implement recovery actions. Our goal is to restore winter-run Chinook salmon, spring-run Chinook salmon, and steelhead to the point where they are viable and no longer need the protections of the ESA.

The Final Recovery Plan provides background on the natural history of salmon and steelhead in the Central Valley, population viability trends for winter-run Chinook salmon, spring-run Chinook salmon, and steelhead, and the potential threats to these species. The Final Recovery Plan lays out a recovery strategy to address the potential threats based on the best available science and includes goals that incorporate objective, measurable criteria which, when met, would result in a determination that the species be removed from the list. The Final Recovery Plan is not regulatory, but presents guidance for use by agencies and interested parties to assist in the recovery of winter-run Chinook salmon, spring-run Chinook salmon, and steelhead. The Final Recovery Plan

identifies substantive actions needed to achieve recovery by addressing the threats to the species. The strategy for recovery includes a linkage between management actions and an active research and monitoring program intended to fill data gaps and assess effectiveness. The Final Recovery Plan incorporates an adaptive management framework by which management actions and other elements will evolve and adapt as we gain information through research and monitoring. The Final Recovery Plan references many of the significant efforts already underway to allow Chinook salmon and steelhead in the Central Valley to access a diversity of high quality habitats that have been lost or degraded due to human land use.

We expect the Final Recovery Plan to help us and other Federal agencies take a consistent approach to section 7 consultations under the ESA and to other ESA decisions. For example, the Final Recovery Plan will provide information on the biological context for the effects that a proposed action may have on the listed ESU. The best available information in the Final Recovery Plan on the natural history, threats, actions, and priorities for recovery can be used to help assess risks. Consistent with the adoption of this Final Recovery Plan for winter-run Chinook salmon, spring-run Chinook salmon, and steelhead, we will implement relevant actions for which we have authority, work cooperatively on implementation of other actions, and encourage other Federal and state agencies to implement recovery actions for which they have responsibility and authority.

Recovery of winter-run Chinook salmon, spring-run Chinook salmon, and steelhead will require a long-term effort throughout the Central Valley and surrounding watersheds in cooperation and coordination with Federal, state, tribal and local government agencies, and the community.

Conclusion

NMFS has reviewed the Plan for compliance with the requirements of the ESA section 4(f), determined that it does incorporate the required elements and is therefore adopting it as the Final Recovery Plan for the Sacramento River winter-run Chinook salmon ESU, the Central Valley spring-run Chinook salmon ESU, and the Central Valley steelhead DPS.

Authority: 16 U.S.C. 1531 *et seq.*

Dated: July 11, 2014.

Angela Somma,

Chief, Endangered Species Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–17177 Filed 7–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD390

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Pacific Fishery Management Council's (Pacific Council) Highly Migratory Species Management Team (HMSMT) will hold a meeting, which is open to the public.

DATES: The HMSMT will meet Tuesday, August 12 to Thursday, August 14, 2014. This meeting will start at 8:30 a.m. and continue until business is concluded on each day.

ADDRESSES:

Meeting address: The meeting will be held at the following locations:

August 12, Pacific Room, Southwest Fisheries Science Center, 8901 La Jolla Shores Dr., La Jolla, CA 92037–1509;

August 13, T–29 Martin Johnson House, Scripps Institute of Oceanography, 8840 Biological Grade, La Jolla, CA 92037;

August 14, Stenella Room, Southwest Fisheries Science Center, 8901 La Jolla Shores Dr., La Jolla, CA 92037–1509.

Council address: Pacific Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220–1384.

FOR FURTHER INFORMATION CONTACT: Dr. Kit Dahl, Pacific Council; telephone: (503) 820–2280.

SUPPLEMENTARY INFORMATION: The HMSMT will discuss the development of alternatives and analyses for issues to be addressed as part of the HMS biennial harvest specifications and management measures process. The Pacific Council identified six topics to potentially address through the biennial process (see the June 2014 Decision Summary Document at *www.pcouncil.org* for a complete list). The Pacific Council assigned highest priority to reducing recreational catch of Pacific bluefin tuna and identifying take caps (''hard caps'') for selected protected species (marine mammals and sea turtles) for the California drift gillnet fishery. The HMSMT will also discuss the exempted fishing permit (EFP) review process, which is scheduled for the September and November Pacific Council meetings. EFP proposals have been solicited with a deadline of August 15. Finally, the HMSMT will discuss completion of the 2014 HMS Stock Assessment and Fishery Evaluation (SAFE) document. The HMSMT will report on their work at the September 12–17, 2014, Pacific Council meeting in Spokane, WA.

Although non-emergency issues not contained in the meeting agenda may be discussed, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this document and any issues arising after publication of this document 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 intent to take final action to address the emergency.

Special Accommodations

The meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt at (503) 820–2280 at least 5 days prior to the meeting date.

Dated: July 17, 2014.

Tracey L. Thompson,

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

[FR Doc. 2014–17197 Filed 7–21–14; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XD213

Marine Mammals; File No. 18694

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that a permit has been issued to Mervi Kunnasranta, Ph.D., University of Eastern Finland, P.O. Box 111, 80101 Joensuu Finland, has applied in due form for a permit to conduct commercial/educational photography on harbor seals (*Phoca vitulina*).

DATES: Written, telefaxed, or email comments must be received on or before August 21, 2014.

ADDRESSES: The permit and related documents are available for review upon written request or by appointment in the following office:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)427–8401; fax (301)713–0376.

FOR FURTHER INFORMATION CONTACT: Courtney Smith or Amy Sloan, (301)427–8401.

SUPPLEMENTARY INFORMATION: On April 3, 2014, notice was published in the **Federal Register** (79 FR 18669) that a request for a permit to conduct commercial or educational photography had been submitted by the above-named applicant. The requested permit has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*) and the regulations governing the taking and importing of marine mammals (50 CFR part 216). Section 104(c)(6) provides for photography for educational or commercial purposes involving non-endangered and non-threatened marine mammals in the wild.

Permit No. 18694 authorizes commercial/educational underwater and vessel-based filming and photography of the freshwater harbor seal population at Lake Iliamna, Alaska. Filming will take place for approximately one week between spring and fall annually, most likely during the seals' molt period in summer, after pupping; up to 280 seals may be approached and filmed annually. Obtained footage will be part of an international documentary film presenting the world's other freshwater seal species, to be published in Europe.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an final determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: July 17, 2014.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2014–17187 Filed 7–21–14; 8:45 am]

BILLING CODE 3510–22–P

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

TIME AND DATE: Thursday, July 24, 2014, 10 a.m.–12 p.m.

PLACE: Room 420, Bethesda Towers, 4330 East West Highway, Bethesda, Maryland.

STATUS: Commission Meeting—Open to the Public

Matters To Be Considered

Hearing: Agenda and Priorities for Fiscal Years 2015 and 2016

A live webcast of the Meeting can be viewed at *www.cpsc.gov/live.*

For a recorded message containing the latest agenda information, call (301) 504–7948.

CONTACT PERSON FOR MORE INFORMATION: Todd A. Stevenson, Office of the Secretary, U.S. Consumer Product Safety Commission, 4330 East West Highway, Bethesda, MD 20814, (301) 504–7923.

Dated: July 17, 2014.

Todd A. Stevenson,

Secretary.

[FR Doc. 2014–17276 Filed 7–18–14; 11:15 am]

BILLING CODE 6355–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

Providing Accelerated Payment to Small Business Subcontractors

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Notice.

SUMMARY: In accordance with the Director, Defense Procurement and Acquisition Policy memorandum of July 14, 2014, DoD is re-instating the temporary practice of providing accelerated payments to all prime contractors.

DATES: Effective August 1, 2014 through December 31, 2016, unless otherwise rescinded or extended.

FOR FURTHER INFORMATION CONTACT: Mark Gomersall, phone 571–372–6099.

SUPPLEMENTARY INFORMATION: OMB Memorandum M–14–10, *Extension of Policy to Provide Accelerated Payment to Small Business Subcontractors* (July 10, 2014) has extended the temporary policy previously initiated in OMB Memorandum M–12–16, *Providing Prompt Payment to Small Business Subcontractors* (July 11, 2012), which established the administration's initiative to accelerate Federal Payments to prime contractors, so that prime contractors can, in turn, expedite payments to their small business subcontractors. The memoranda are available at: *http://www.whitehouse.gov/omb/memoranda_default*

This notice promulgates the Director, Defense Procurement and Acquisition Policy (DPAP) memorandum, *Providing Accelerated Payment to Small Business Subcontracts* (July 14, 2014), to implement the OMB Memorandum M–14–10 within DoD.

DoD is re-instating the temporary practice of providing accelerated payments to all prime contractors, effective August 1, 2014. DoD contracting officers will continue to use the clause at FAR 52.232–40, Providing Accelerated Payments to Small Business Subcontractors, which requires contractors, upon receipt of accelerated payments from the Government, to make accelerated payments to small business subcontractors. The Director, DPAP memorandum is available at: *http://www.acq.osd.mil/dpap/policy/policyvault/USA004292–14–DPAP.pdf.*

Amy G. Williams

Deputy, Defense Acquisition Regulations System.

[FR Doc. 2014–17061 Filed 7–21–14; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–513–000]

Colombia Pipeline, LLC; Notice of Application

Take notice that on July 1, 2014, Colombia Pipeline, LLC (Colombia), 17086 Interstate Highway 10 West, Suite 210, San Antonio, Texas 78257, filed an application pursuant to section 3 of the Natural Gas Act and part 153 of the Commission's regulations, for an order authorizing the siting, connection, construction, and operation of new border crossing pipeline facilities for the exportation of up to 1.120 billion cubic feet per day of natural gas at the International Boundary between the United States and Mexico in Webb County, Texas, and for a Presidential Permit for such facilities, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the

last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Any questions regarding this application should be directed to Brandon Seale, Vice President of Mexican Operations, Howard Midstream Energy Partners, LLC, 17086 Interstate Highway 10 West, Suite 210, San Antonio, Texas 78257, or call (210) 278–1543, or fax (210) 298–2221, or by email *bseale@howardenergypartners.com.*

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit 7 copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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.

Comment Date: 5:00 p.m. Eastern Time on August 6, 2014.

Dated: July 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17208 Filed 7–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–514–000]

ANR Pipeline Company; Notice of Application

Take notice that on July 2, 2014, ANR Pipeline Company (ANR), 717 Texas Street, Suite 2400, Houston, TX 77002–2761, filed an application in the above referenced docket pursuant to section 7(c) of the Natural Gas Act (NGA) requesting to install, own and operate one new compressor unit and appurtenant facilities at ANR's existing Sulphur Springs Compressor Station located in Henry County, Indiana. ANR avers that the Project will provide 133,643 Dekatherms per day (Dth/d) of additional firm service on ANR's Lebanon Lateral from the Glen Karn meter facilities in Darke County, Ohio to the Sulphur Springs Compressor Station. ANR estimates the total cost of the Project to be $35.3 million, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (886) 208–3676 or TYY, (202) 502–8659.

Any questions concerning this application may be directed to Robert Jackson, Director Certificates and Regulatory Administration, ANR Pipeline Company, 717 Texas Street, Suite 2400, Houston, Texas, 77002–2761, by telephone at (832) 320–5487, or by email at *robert_jackson@transcanada.com.*

Pursuant to section 157.9 of the Commission's rules (18 CFR 157.9), within 90 days of this Notice, the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding; or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental

Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's EA.

There are two ways to become involved in the Commission's review of this project. First, any person wishing to obtain legal status by becoming a party to the proceedings for this project should, on or before the comment date stated below file with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). A person obtaining party status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by all other parties. A party must submit seven copies of filings made in the proceeding with the Commission and must mail a copy to the applicant and to every other party. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, 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.

Comment Date: 5:00 p.m. Eastern Time on August 6, 2014.

Dated: July 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17209 Filed 7–21–14; 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: RP14–1096–000.
Applicants: Transcontinental Gas Pipe Line Company.
Description: Remove X–270 and X–276 References to be effective 7/1/2014.
Filed Date: 7/10/14.
Accession Number: 20140710–5045.
Comments Due: 5 p.m. ET 7/22/14.

Docket Numbers: RP14–1097–000.
Applicants: Questar Pipeline Company.
Description: Non-Conforming TSAs version 6.0.0 to be effective 7/1/2014.
Filed Date: 7/10/14.
Accession Number: 20140710–5050.
Comments Due: 5 p.m. ET 7/22/14.

Docket Numbers: RP14–1098–000.
Applicants: Cameron Interstate Pipeline, LLC.
Description: Cameron Interstate Pipeline New Section 8.41 Termination Provision to be effective 8/1/2014.
Filed Date: 7/10/14.
Accession Number: 20140710–5089.
Comments Due: 5 p.m. ET 7/22/14.

Docket Numbers: RP14–1099–000.
Applicants: ANR Pipeline Company.
Description: Part 6.2.10—GT&C, Sale of Service, Revision to be effective 8/11/2014.
Filed Date: 7/10/14.
Accession Number: 20140710–5122.
Comments Due: 5 p.m. ET 7/22/14.

Docket Numbers: RP14–1100–000.
Applicants: Texas Eastern Transmission, LP.
Description: Correct Section Reference in GT&C Section 4.1(I)(2) to be effective 8/10/2014.
Filed Date: 7/10/14.
Accession Number: 20140710–5147.
Comments Due: 5 p.m. ET 7/22/14.

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.

Filings in Existing Proceedings

Docket Numbers: RP14–1017–001.
Applicants: Columbia Gas Transmission, LLC.
Description: PAL Allocation Compliance Filing to be effective 7/1/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5024.
Comments Due: 5 p.m. ET 7/23/14.

Docket Numbers: RP14–1018–001.
Applicants: Columbia Gulf Transmission, LLC.
Description: PAL Allocation Compliance Filing to be effective 7/1/2014.
Filed Date: 7/11/14.
Accession Number: 20140711–5028.
Comments Due: 5 p.m. ET 7/23/14.

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

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

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: July 14, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–17198 Filed 7–21–14; 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: RP14–1090–000.
Applicants: Cimarron River Pipeline, LLC.
Description: Withdraw of Noncontiguous Filing.
Filed Date: 7/14/14.
Accession Number: 20140714–5138.
Comments Due: 5 p.m. ET 7/28/14.

Docket Numbers: RP14–1101–000.
Applicants: WBI Energy Transmission, Inc.
Description: Negotiated & Non-Conforming Agreements—Devon to be effective 7/18/2014.
Filed Date: 7/14/14.
Accession Number: 20140714–5079.
Comments Due: 5 p.m. ET 7/28/14.

Docket Numbers: RP14–1102–000.
Applicants: Trailblazer Pipeline Company LLC.
Description: Housekeeping 2014–07–14 Contact Info on Title Page to be effective 8/14/2014.
Filed Date: 7/14/14.
Accession Number: 20140714–5080.
Comments Due: 5 p.m. ET 7/28/14.

Docket Numbers: RP14–1103–000.
Applicants: Rockies Express Pipeline LLC.
Description: 2014–07–14 Title Page Contact Information to be effective 8/14/2014.
Filed Date: 7/14/14.
Accession Number: 20140714–5081.
Comments Due: 5 p.m. ET 7/28/14.

Docket Numbers: RP14–1104–000.
Applicants: Tallgrass Interstate Gas Transmission, L.
Description: Housekeeping to change contact name on title page to be effective 8/14/2014.
Filed Date: 7/14/14.
Accession Number: 20140714–5082.
Comments Due: 5 p.m. ET 7/28/14.

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: July 15, 2014.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2014–17199 Filed 7–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL14–83–000]

NM Neptune, LLC; Notice of Petition for Declaratory Order

Take notice that on July 14, 2014, pursuant to Rule 207(a) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2), NM Neptune, LLC (NM Neptune), filed a petition for declaratory order requesting that the Commission disclaim jurisdiction over NM Neptune under sections 201 and 203(a)(1) of the Federal Power Act, as amended (FPA).[1]

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, 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. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioner.

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 August 13, 2014.

Dated: July 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17210 Filed 7–21–14; 8:45 am]

BILLING CODE 6717–01–P

[1] 16 U.S.C. 824,824b (2006).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP14–88–000; Docket No. CP14–100–000]

Tennessee Gas Pipeline Company, L.L.C.; National Fuel Gas Supply Corporation; Notice of Availability of the Environmental Assessment for the Proposed Niagara Expansion Project and Northern Access 2015 Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Niagara Expansion Project, proposed by Tennessee Gas Pipeline Company, L.L.C. (TGP) and the Northern Access 2015 Project, proposed by National Fuel Gas Supply Corporation (National Fuel) in the above-referenced dockets. TGP requests authorization to construct new natural gas pipeline facilities and modifications at existing compressor and meter stations in Erie and Chautauqua Counties, New York and Mercer County, Pennsylvania to lease 140,000 dekatherms per day of natural gas capacity from National Fuel. National Fuel proposes to construct compression and metering facilities in Erie and Cattaraugus Counties, New York to provide the proposed leased capacity to TGP. According to TGP and National Fuel, their projects would increase natural gas delivery capacity in the northeast region of the U.S.

The EA assesses the potential environmental effects of the construction and operation of the Niagara Expansion Project and the Northern Access 2015 Project in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of

the proposed projects, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

TGP proposes to construct approximately 3.1 miles of 30-inch-diameter natural gas pipeline in Chautauqua County, New York; modify piping at an existing compressor station in Mercer County, Pennsylvania; install a new pig [1] receiver at an existing compressor station in Chautauqua County, New York; and modify an existing meter station in Erie County, New York to allow for bi-directional flow.

National Fuel proposes to construct a new 15,400 horsepower compressor station in Cattaraugus County, New York; install 7,700 horsepower of additional compression and ancillary facilities at the existing Concord Compressor Station in Erie County, New York; and modify the existing East Eden Station in Erie County, New York to allow for bi-directional flow.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers and libraries in the project area; and parties to this proceeding. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that the Commission has the opportunity to consider your comments prior to making its decision on this project, it is important that we receive your comments in Washington, DC on or before August 15, 2014.

For your convenience, there are three methods you can use to file your comments with the Commission. In all instances, please reference the project docket number (CP14–88–000 or CP14–100–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

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

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

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (18 CFR 385.214).[2] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (i.e., CP14–88 or CP14–100). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

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

Dated: July 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17207 Filed 7–21–14; 8:45 am]

BILLING CODE 6717–01–P

[1] A pig is an internal tool that can be used to clean and dry a pipeline and/or to inspect it for damage or corrosion.

[2] See the previous discussion on the methods for filing comments.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2964–015]

City of Sturgis; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment to modify the recreation plan.

b. *Project No:* 2964–015.

c. *Date Filed:* July 3, 2014.

d. *Applicant:* City of Sturgis

e. *Name of Project:* Sturgis Hydroelectric Project.

f. *Location:* The Sturgis Project is located on the St. Joseph River in St. Joseph County, Michigan. The project does not occupy any federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ms. Piper C. Tittle, PE, Vice President/Senior Civil Engineer, Lawson-Fisher, P.C., 525 West Washington Avenue, South Bend, Indiana 4660, (574) 234–3167.

i. *FERC Contact:* Mary Karwoski at (202) 502–6543, or email: *mary.karwoski@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* August 15, 2014.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the

eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (p–2964–015) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of Request:* The licensee proposes to amend its recreation plan to modify all of the wetland hiking trails to consist of a minimum 36″ width slip resistant compacted aggregate surface with resting/passing intervals approximately every 200 feet. Access pathways to recreation amenities would be widened to 60'' minimum with slip resistant surface. The proposed hiking trail at Covered Bridge Park would be reduced in length from 2,605 linear feet to 1,675 linear feet. The proposed hiking trail at Pahl Point Park would be reduced in length from 700 linear feet to 465 linear feet.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above. Agencies may obtain copies of the application directly from the applicant.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214, respectively. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person commenting, protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: July 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17211 Filed 7–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14584–000]

Dynegy Point Estero Wave Park, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 7, 2014, Dynegy Point Estero Wave Park, LLC (Dynegy) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the proposed Point Estero Wave Park Project (project). The proposed project would be developed in a phased approach. First, under a demonstration phase, Dynegy plans to deploy a single approximately 1-megawatt (MW) GWAVE Power Generating Vessel (wave energy converter or WEC). Second, under a potential commercial license, Dynegy plans to deploy 10 to 16 approximately 1–MW WEC's. Third, Dynegy plans to seek authorization to deploy additional WEC's with a total installed capacity of 650 MW. Two or more high voltage submarine cables would transmit power to shore, interconnecting with Pacific Gas and Electric's switchyard facilities at Morro Bay. The requested project boundary comprises approximately 5.2 square nautical miles (4-miles-long by 1.5-miles-wide) of coastal waters and lands located along the coast of San Luis Obispo County, California, near the town of Morro Bay.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing or construction activities or to otherwise enter upon lands or waters owned by others without the owners' express permission.

Applicant Contact: Henry D. Jones, Dynegy Inc., 601 Travis, Suite 1400, Houston, TX 77002; (713) 767–0480.

FERC Contact: Jim Hastreiter, (503) 552–2760.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the

instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link.

For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and 5 copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14584) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: July 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17212 Filed 7–21–14; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14585–000]

Dynegy Estero Bay Wave Park, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On February 7, 2014, Dynegy Estero Bay Wave Park, LLC (Dynegy) filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act, proposing to study the feasibility of the proposed Estero Bay Wave Park Project (project). The proposed project would be developed in a phased approach. First, under a demonstration phase, Dynegy plans to deploy a single approximately 1-megawatt (MW) GWAVE Power Generating Vessel (wave energy converter or WEC). Second, under a potential commercial license, Dynegy plans to deploy 10 to 16 approximately 1–MW WEC's. Third, Dynegy plans to seek authorization to deploy additional WEC's with a total installed capacity of 650 MW. Two or more high voltage submarine cables would transmit power to shore, interconnecting with Pacific Gas and Electric's switchyard facilities at Morro Bay. The requested project boundary comprises approximately 2.73 square nautical miles (1.0-mile-wide by 2.73-miles-long) of coastal waters and lands located along the coast of San Luis Obispo County, California, near the town of Morro Bay.

The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land disturbing or construction activities or to otherwise enter upon lands or waters owned by others without the owners' express permission.

Applicant Contact: Henry D. Jones, Dynegy Inc., 601 Travis, Suite 1400, Houston, TX 77002; (713) 767–0480.

FERC Contact: Jim Hastreiter, (503) 552–2760.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*http://www.ferc.gov/docs-filing/ferconline.asp*) under the ''eFiling'' link.

For a simpler method of submitting text only comments, click on ''Quick Comment.'' For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov;* call toll-free at (866) 208–3676; or, for TTY, contact (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and 5 copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14585) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: July 16, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2014–17213 Filed 7–21–14; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2014–0229; FRL–9914–10–OAR]

Confidentiality of Business Information Submitted in Compliance Documents for 2014 and Subsequent Model Year Vehicles, Engines and Equipment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; request for comment.

SUMMARY: The Environmental Protection Agency (EPA) is seeking comment on a draft Class Determination regarding the confidentiality of business information submitted in compliance documents for 2014 and subsequent model year vehicles, engines and equipment.

DATES: Comments must be submitted on or before September 5, 2014.

ADDRESSES: Submit your comments referencing Docket ID No. EPA–HQ–OAR–2014–0229 online using *www.regulations.gov* (our preferred method), by email to *pugliese.holly@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Mailcode 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

FOR FURTHER INFORMATION CONTACT: Holly Pugliese, Compliance Division, Office of Transportation and Air Quality, Environmental Protection Agency, 2000 Traverwood, Ann Arbor, Michigan, 48105; telephone number: 734–214–4288; fax number: 734–214–4869; email address: *pugliese.holly@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA's Office of General Counsel (OGC) issues class determinations to describe the categories of business information submitted to the Agency that can be considered confidential and when and if such information can be released to the public when disclosure is requested under the Freedom of Information Act (''FOIA'' or ''the Act''). On March 28, 2013, OGC issued ''Class Determination 1–13, Confidentiality of Business Information Submitted in Certification Applications for 2013 and Subsequent Model Year Vehicles, Engines and Equipment'' (*www.epa.gov/ogc/documents/1-13.pdf*). Class

Determination 1–13 addresses the information submitted to the Compliance Division (CD) in EPA's Office of Transportation and Air Quality (OTAQ) by vehicle, engine, and equipment manufacturers for the purpose of obtaining certificates of conformity which are required before a manufacturer can legally sell vehicles, engines, or equipment in the United States.

As a follow-up to that class determination, OGC will be issuing a new class determination that will address the confidentiality of business information submitted in compliance reports for 2014 and subsequent model year vehicles, engines and equipment. This class determination will apply prospectively for 2014 and subsequent model year vehicles, engines and equipment regulated by OTAQ and covers information that is submitted by manufacturers to satisfy post-certification compliance reporting requirements as required by applicable Clean Air Act regulatory requirements. A copy of the draft class determination can be found under Docket ID No. EPA–HQ–OAR–2014–0229 at *www.regulations.gov.*

For the class determination covering certification information, EPA solicited comment directly from manufacturers through trade associations. However, because this is the first class determination issued by EPA that addresses compliance documents and information, EPA believes that a more formal approach is appropriate. EPA will review all comments submitted to the docket and will issue the final class determination later this year.

Dated: July 15, 2014.

Byron J. Bunker,

Director, Compliance Division, Office of Transportation and Air Quality.

[FR Doc. 2014–17240 Filed 7–21–14; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to all Interested Parties of the Termination of the Receivership of 10413, Central Progressive Bank Lacombe, LA

Notice Is Hereby Given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Central Progressive Bank, Lacombe, LA (''the Receiver'') intends to terminate its receivership for said institution. The FDIC was appointed receiver of Central Progressive Bank on November 18, 2011. 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 32.1, 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: July 17, 2014.

Federal Deposit Insurance Corporation

Ralph E. Frable,

Assistant Executive Secretary.

[FR Doc. 2014–17200 Filed 7–21–14; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL HOUSING FINANCE AGENCY

[No. 2014–N–9]

Fannie Mae and Freddie Mac Draft Private Mortgage Insurer Eligibility Requirements: Request for Public Input

AGENCY: Federal Housing Finance Agency.

ACTION: Notice; input accepted.

The Federal Housing Finance Agency (FHFA), acting in its capacity as Conservator, is requesting public input on the draft eligibility requirements that the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) would use to approve private mortgage insurers that provide mortgage insurance on loans owned or guaranteed by Fannie Mae and Freddie Mac. Additional information about the draft eligibility requirements and the process for submitting input can be found on FHFA's Web site and accessed through the following link: *www.fhfa.gov/open-for-comment-or-input.*

FHFA requests that input be submitted no later than September 8, 2014. Submitted responses will be posted without change, including personal information such as name, street address, email address, and telephone number on *http://www.fhfa.gov.* If you are unable to view the documents online you may request a paper copy by contacting Rona Richardson by phone at (202) 649–3224, by email at *Rona.Richardson@fhfa.gov*, or in writing at the Federal Housing Finance Agency, Constitution Center, 9th Floor (OHRP), 400 7th Street SW., Washington, DC 20024.

Dated: July 15, 2014.

Melvin W. Watt,

Director, Federal Housing Finance Agency.

[FR Doc. 2014–17139 Filed 7–21–14; 8:45 am]

BILLING CODE 8070–01–P

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of June 17–18, 2014

In accordance with Section 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on June 17–18, 2014.[1]

Consistent with its statutory mandate, the Federal Open Market Committee seeks monetary and financial conditions that will foster maximum employment and price stability. In particular, the Committee seeks conditions in reserve markets consistent with federal funds trading in a range from 0 to ¼ percent. The Committee directs the Desk to undertake open market operations as necessary to maintain such conditions. Beginning in July, the Desk is directed to purchase longer-term Treasury securities at a pace of about $20 billion per month and to purchase agency mortgage-backed securities at a pace of about $15 billion per month. The Committee also directs the Desk to engage in dollar roll and coupon swap transactions as necessary to facilitate settlement of the Federal Reserve's agency mortgage-backed securities transactions. The Committee directs the Desk to maintain its policy of rolling over maturing Treasury securities into new issues and its policy of reinvesting principal payments on all agency debt

[1] Copies of the Minutes of the Federal Open Market Committee at its meeting held on June 17–18, 2014, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, DC 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's Annual Report.

and agency mortgage-backed securities in agency mortgage-backed securities. The System Open Market Account manager and the secretary will keep the Committee informed of ongoing developments regarding the System's balance sheet that could affect the attainment over time of the Committee's objectives of maximum employment and price stability.

By order of the Federal Open Market Committee, July 14, 2014.

William B. English,

Secretary, Federal Open Market Committee.

[FR Doc. 2014–17123 Filed 7–21–14; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Meeting

TIME AND DATE: 1:00pm. (Eastern Time) July 28, 2014.

PLACE: Frostburg University, Lane University Center—Board Room 109, 101 Midlothian Rd., Frostburg, MD 21532.

STATUS: Parts will be open to the public and parts will be closed to the public.

MATTERS TO BE CONSIDERED:

Parts Open to the Public

1. Approval of the Minutes of the June 23, 2014 Board Member Meeting
2. Thrift Savings Plan Activity Reports
   a. Monthly Participant Activity Report
   b. Quarterly Investment Policy Report
   c. Legislative Report
3. Quarterly Reports
   a. Vendor Financials
   b. Audit Status
   c. Budget Review
4. Office of Participant Operations and Policy Report
5. Report on Participant Behavior and Demographics—Analysis of 2009–2013
6. Executive Director Succession Management Plan

Parts Closed to the Public

7. Semi Annual OGC Litigation Review

CONTACT PERSON FOR MORE INFORMATION: Kimberly Weaver, Director, Office of External Affairs, (202) 942–1640.

Dated: July 18, 2014.

Dharmesh Vashee,

Assistant General Counsel, Federal Retirement Thrift Investment Board.

[FR Doc. 2014–17307 Filed 7–18–14; 11:15 am]

BILLING CODE 6760–01–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0163; Docket 2014–0001; Sequence 4]

Information Collection; General Services Administration; Information Specific to a Contract or Contracting Action (Not Required by Regulation)

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Information Specific to a Contract or Contracting Action (not required by regulation).

DATES: Submit comments on or before: September 22, 2014.

ADDRESSES: Submit comments identified by Information Collection 3090–0163, Information Specific to a Contract or Contracting Action (Not Required by Regulation), by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090–0163. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0163, Information Specific to a Contract or Contracting Action (Not Required by Regulation)''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0163, Information Specific to a Contract or Contracting Action (Not Required by Regulation)'', on your attached document.
- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0163, Information Specific to a Contract or Contracting Action (Not Required by Regulation).

Instructions: Please submit comments only and cite Information Collection 3090–0163, Information Specific to a Contract or Contracting Action (Not Required by Regulation), in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Jeffrey M. Pitts, Program Analyst, GSA Acquisition Policy Division, at telephone 202–501–0712 or email *jeffrey.pitts@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The General Services Administration (GSA) has various mission responsibilities related to the acquisition and provision of supplies, transportation, information technology, telecommunications, real property management, and disposal of real and personal property. These mission responsibilities generate requirements that are realized through the solicitation and award of public contracts. Individual solicitations and resulting contracts may impose unique information collection/reporting requirements on contractors, not required by regulation, but necessary to evaluate particular program accomplishments and measure success in meeting special program objectives.

B. Annual Reporting Burden

Respondents: 126,870.
Responses per Respondent: 1.35.
Total Responses: 171,275.
Hours Per Response: .40.
Total Burden Hours: 68,510.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies Of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0163, Information Specific to a Contract or Contracting Action (Not Required by Regulation), in all correspondence.

Dated: July 16, 2014.

Jeffrey Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–17191 Filed 7–21–14; 8:45 am]

BILLING CODE 6820–61–P

GENERAL SERVICES ADMINISTRATION

[OMB Control No. 3090–0250;Docket No. 2014–0001; Sequence 5]

Information Collection; General Services Administration Acquisition Regulation; Zero Burden Information Collection Reports

AGENCY: Office of the Chief Acquisition Officer, General Services Administration (GSA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB information collection.

SUMMARY: Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division (MVCB) will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding Zero Burden Information Collection Reports.

DATES: Submit comments on or before: September 22, 2014.

ADDRESSES: Submit comments identified by Information Collection 3090–0250, Zero Burden Information Collection Reports, by any of the following methods:

- *Regulations.gov: http://www.regulations.gov.*

Submit comments via the Federal eRulemaking portal by searching the OMB control number 3090–0250. Select the link ''Comment Now'' that corresponds with ''Information Collection 3090–0250, Zero Burden Information Collection Reports''. Follow the instructions provided on the screen. Please include your name, company name (if any), and ''Information Collection 3090–0250, Zero Burden Information Collection Reports'' on your attached document.

- *Fax:* 202–501–4067.
- *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0250, Zero Burden Information Collection Reports.

Instructions: Please submit comments only and cite Information Collection 3090–0250, Zero Burden Information Collection Reports, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Dana Munson, Procurement Analyst, General Services Acquisition Policy, at telephone 202–357–9652 or via email to *dana.munson@gsa.gov*

SUPPLEMENTARY INFORMATION:

A. Purpose

This information requirement consists of reports that do not impose collection burdens upon the public. These collections require information which is already available to the public at large or that is routinely exchanged by firms during the normal course of business. A general control number for these collections decreases the amount of paperwork generated by the approval process.

GSA has a published rule in the **Federal Register** that falls under information collection 3090–0250. The rule that prescribed clause 552.238–70 ''Identification of Electronic Office Equipment Providing Accessibility for the Handicapped'' was published at 56 FR 29442, June 27, 1991, titled ''Implementation of Public Law 99–506'', with an effective date of July 8, 1991.

B. Annual Reporting Burden

None.

C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0250, Zero Burden Information Collection Reports, in all correspondence.

Dated: July 16, 2014.

Jeffrey Koses,

Senior Procurement Executive, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2014–17194 Filed 7–21–14; 8:45 am]

BILLING CODE 6820–61–P

GOVERNMENT ACCOUNTABILITY OFFICE

Medicaid and CHIP Payment and Access Commission Nominations

AGENCY: Government Accountability Office (GAO).

ACTION: Notice on letters of nomination.

SUMMARY: The Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) established the Medicaid and CHIP Payment and Access Commission (MACPAC) to review Medicaid and CHIP access and payment policies and to advise Congress on issues affecting Medicaid and CHIP. CH1PRA gave the Comptroller General of the United States responsibility for appointing MACPAC's members. For appointments to MACPAC that will be effective January 1, 2015, I am announcing the following: Letters of nomination and resumes will be accepted through September 5th, 2014 to ensure adequate opportunity for review and consideration of nominees prior to appointment of new members.

ADDRESSES: *Email: MACPACappointments@gao.gov.*

Mail: U.S. GAO, Attn: MACPAC Appointments, 441 G Street NW., Washington, DC 20548.

FOR FURTHER INFORMATION: GAO: Office of Public Affairs, (202) 512–4800.

Public Law 111–3, Section 506; 42 U.S.C. § 1396.

Gene L. Dodaro,

Comptroller General of the United States.

[FR Doc. 2014–17124 Filed 7–21–14; 8:45 am]

BILLING CODE 1610–02–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ).

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, July 25, 2014, from 8:30 a.m. to 3:00 p.m.

ADDRESSES: The meeting will be held at the Eisenberg Conference Center,

Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Designated Management Official, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850, (301) 427–1456. For press-related information, please contact Alison Hunt at (301) 427–1244.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than Friday, July 11, 2014. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality is authorized by Section 941 of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to AHRQ's conduct of its mission including providing guidance on (A) priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships.

The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Friday, July 25, 2014, there will be a subcommittee meeting for the National Healthcare Quality and Disparities Report scheduled to begin at 7:30 a.m. The subcommittee meeting is open the public. The Council meeting will convene at 8:30 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The meeting is open to the public. The meeting will begin with the AHRQ Director presenting an update on current research, programs, and initiatives. Following the Director's Update, the agenda will include a discussion on Delivery System Reform and updates from the Office of the National Coordinator for Health Information Technology (ONC) and from AHRQ on Health Information Technology. The final agenda will be available on the AHRQ Web site at *www.AHRQ.gov* no later than Friday, July 18, 2014.

Dated: July 3, 2014.

Richard Kronick,

AHRQ Director.

[FR Doc. 2014–16668 Filed 7–21–14; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–718–721]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by August 21, 2014:

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, *Attention:* CMS Desk Officer, *Fax Number:* (202) 395–5806 *OR*, Email: *OIRA_submission@omb.eop.gov*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*
2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*
3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Business Proposal Forms for Quality Improvement Organizations (QIOs); *Use:* The submission of proposal information by current quality improvement associations (QIOs) and other bidders, on the appropriate forms, will satisfy our need for meaningful, consistent, and verifiable data with which to evaluate contract proposals. We use the data collected on the forms associated with this information collection request to negotiate QIO contracts. We will be able to compare the costs reported by the QIOs on the cost reports to the proposed

costs noted on the business proposal forms. Subsequent contract and modification negotiations will be based on historic cost data. The business proposal forms will be one element of the historical cost data from which we can analyze future proposed costs. In addition, the business proposal format will standardize the cost proposing and pricing process among all QIOs. With well-defined cost centers and line items, proposals can be compared among QIOs for reasonableness and appropriateness.

Form Number: CMS–718–721 (OMB control number: 0938–0579); *Frequency:* Annually; *Affected Public:* Business or other for-profits and Not-for-profit institutions; *Number of Respondents:* 20; *Total Annual Responses:* 20; *Total Annual Hours:* 1,000. (For policy questions regarding this collection contact Clarissa Whatley at 410–786–7154.)

Dated: July 16, 2014.

Martique Jones,

Deputy Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2014–17137 Filed 7–21–14; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0913]

Agency Information Collection Activities; Proposed Collection; Comment Request; 513(g) Request for Information

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 (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 the information collection burden estimate for requests for a written statement from FDA regarding the classification and regulatory requirements that may be applicable to a particular device (513(g) requests).

DATES: Submit either electronic or written comments on the collection of information by September 22, 2014.

ADDRESSES: Submit electronic comments on the collection of information to *http://www.regulations.gov.* Submit written comments on the collection of information to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. All comments should be identified with the docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: FDA PRA Staff, Office of Operations, Food and Drug Administration, 8455 Colesville Rd., COLE–14526, Silver Spring, MD 20993–0002, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: 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.

513(g) Request for Information—(OMB Control Number 0910–0705)—Extension

Section 513(g) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 360c(g)) provides a means for obtaining the Agency's views about the classification and regulatory requirements that may be applicable to a particular device. Section 513(g) provides that within 60 days of the receipt of a written request of any person for information respecting the class in which a device has been classified or the requirements applicable to a device under the FD&C Act, the Secretary of Health and Human Services shall provide such person a written statement of the classification (if any) of such device and the requirements of the FD&C Act applicable to the device.

The guidance document entitled ''Guidance for Industry and Food and Drug Administration Staff FDA and Industry Procedures for Section 513(g) Requests for Information Under the Federal Food, Drug, and Cosmetic Act'' establishes procedures for submitting, reviewing, and responding to requests for information respecting the class in which a device has been classified or the requirements applicable to a device under the FD&C Act that are submitted in accordance with section 513(g) of the FD&C Act. FDA does not review data related to substantial equivalence or safety and effectiveness in a 513(g) request for information. FDA's responses to 513(g) requests for information are not device classification decisions and do not constitute FDA clearance or approval for marketing. Classification decisions and clearance or approval for marketing require submissions under different sections of the FD&C Act. Additionally, the FD&C Act, as amended by the FDA Amendments Act of 2007 (Public Law 110–85), requires FDA to collect user fees for 513(g) requests for information. The guidance document entitled ''Guidance for Industry and Food and Drug Administration Staff User Fees for 513(g) Requests for Information'' assists FDA staff and regulated industry by describing the user fees associated with 513(g) requests. The Medical Device User Fee Cover Sheet (Form FDA 3601), which accompanies the supplemental material described in this information collection, is approved under OMB Control No. 0910–0511 and expires April 30, 2016.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
Center for Devices and Radiological Health 513(g) requests	114	1	114	12	1,368
Center for Biologics Evaluation and Research 513(g) requests	4	1	4	12	48
Total					1,416

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Respondents to this collection of information are mostly device manufacturers; however, anyone may submit a 513(g) request for information. The total number of annual responses is based on the average number of 513(g) requests received each year by the Agency.

Dated: July 10, 2014.

Peter Lurie,

Associate Commissioner for Policy and Planning.

[FR Doc. 2014–16564 Filed 7–21–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0926]

Advancing the Use of Biomarkers and Pharmacogenomics; Notice of Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public meeting; request for comments.

The Food and Drug Administration (FDA or the Agency) is announcing a public meeting to discuss current scientific and regulatory approaches to biomarker development, acceptance, and utility in drug and biologic (hereafter referred to as therapeutic product) development programs. The purpose of the public meeting is to initiate constructive discussion and information sharing on the advancement of biomarker science in the context of therapeutic product development among relevant stakeholders. Specifically, the meeting will focus on identifying challenges for biomarker applications in early- and late-phase clinical trials and emerging best practices for successful biomarker-based programs, including codevelopment of in vitro diagnostic devices and use of biomarkers as outcome measures in clinical trials. FDA is conducting this meeting in collaboration with Brookings Institution. This meeting satisfies an FDA commitment that is part of the fifth authorization of the Prescription Drug User Fee Act (PDUFA V).

Date and Time: The meeting will be held on September 5, 2014, from 9 a.m. to 5 p.m.

Location: The public meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle NW., Washington, DC 20005. For additional travel and hotel information, please refer to *http://www.brookings.edu/events/2014/09/05-biomarkers-pharmaceutical-FDA.* (FDA has verified the Web site addresses throughout this notice, but FDA is not responsible for subsequent changes to the Web sites after this document publishes in the **Federal Register**).

Contacts: Padmaja Mummaneni, Food and Drug Administration, Center for Drug Evaluation and Research, 10903 New Hampshire Ave., Bldg. 51, Rm. 2164, Silver Spring, MD 20993, 301–796–2027, email: *padmaja.mummaneni@fda.hhs.gov;* or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911, email: *stephen.ripley@fda.hhs.gov.*

Registration: The meeting venue has limited seating. Individuals who wish to attend the public meeting must register on or before August 5, 2014, by visiting *http://events.SignUp4.com/PDUFA Public2014.* Early registration is recommended. When registering, please provide the following information: Name, title, company or organization (if applicable), postal address, telephone number, and email address. Registration is free and will be on a first-come, first-served basis. However, Brookings may limit the number of participants from each organization based on space limitations. Onsite registration on the day of the meeting by Brookings will be based on space availability.

If you need special accommodations because of disability, please contact Joanna Klatzman at the Brookings Institution (email: *jklatzman@brookings.edu*) at least 7 days before the meeting.

Streaming Webcast of the Public Meeting: A live Webcast of this meeting will be viewable at *http://www.brookings.edu/events/2014/09/05-biomarkers-pharmaceutical-FDA* on the day of the meeting. A video record of the meeting will be available at the same Web address for 1 year.

Comments: Regardless of attendance at the public meeting, interested persons may submit electronic comments to *http://www.regulations.gov* or written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. It is only necessary to send one set of comments. Identify all comments with the corresponding docket number found in brackets in the heading of this document. To ensure consideration, submit comments by November 5, 2014. Received comments may be seen in the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *http://www.regulations.gov.*

Transcripts: Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov.* It may be viewed at the Division of Dockets Management (see *Comments*). A transcript will also be available in either hard copy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to Division of Freedom of Information (ELEM–1029), Food and Drug Administration, 12420 Parklawn Dr, Element Bldg., Rockville, MD 20857.

SUPPLEMENTARY INFORMATION:

I. Background

On July 9, 2012, the President signed into law the Food and Drug Administration Safety and Innovation Act (FDASIA) (Pub. L. 112–144). Title I of FDASIA reauthorizes PDUFA and provides FDA with the user fee resources necessary to maintain an efficient review process for human drug and biological products. The reauthorization of PDUFA includes performance goals and procedures for

the Agency that represents FDA's commitments during fiscal years 2013–2017. These commitments are fully described in the document entitled ''PDUFA Reauthorization Performance Goals and Procedures Fiscal Years 2013 through 2017'' (''PDUFA Goals Letter''), available on FDA's Web site at *http://www.fda.gov/downloads/ForIndustry/UserFees/PrescriptionDrugUserFee/UCM270412.pdf.* Section IX of the PDUFA Goals Letter, titled Enhancing Regulatory Science and Expediting Drug Development,'' includes an enhancement to advance the use of biomarkers and pharmacogenomics. As part of this enhancement, FDA committed to hold a public meeting to discuss the current status of biomarkers and pharmacogenomics and potential strategies to facilitate scientific exchanges in regulatory and non-regulatory contexts. The public meeting announced by this notice will fulfill this commitment.

II. Purpose and Scope of the Meeting

The objectives of the meeting are as follows:

- Initiate constructive discussion and information-sharing about challenges and best practices in biomarker acceptance and utility in the context of therapeutic product development programs,
- share current experience regarding critical issues in the transition of exploratory biomarkers to their use in clinical trial design and analysis plans, including best practices in the coordination of codevelopment of therapeutic products with in vitro diagnostic devices, and
- obtain input on evidentiary criteria for biomarkers as outcome measures in clinical trials.

Although many external stakeholders propose using predictive, prognostic, pharmacodynamic, or surrogate biomarkers to enhance therapeutic product development, the scientific rationale, quality, and quantity of supportive data to support the transition from exploratory studies to confirmatory trials are variable. This meeting will discuss common uses of biomarkers in therapeutic product development programs. Discussion topics include specific considerations for early- and late-phase clinical trials when employing biomarker-based trial designs, emerging best practices in codevelopment of therapeutic products with in vitro diagnostic devices, and discussion of context-specific scenarios in which biomarkers may be used as outcome measures.

The public input from the meeting will be used to identify opportunities for biomarker-related regulatory guidance, improve understanding and consistency in regulatory review of therapeutic product applications that incorporate biomarkers in clinical trial designs, and identify potential strategies to facilitate scientific exchanges in regulatory and non-regulatory contexts.

III. Scope of Public Input Requested

FDA seeks input on a range of topics related to common challenges and emerging strategies for application of biomarkers in clinical trials, whether for patient selection or as an outcome measure in therapeutic product development. Potential topics for discussion include the following:

1. Critical Issues in the Transition of Exploratory Biomarkers to Companion Diagnostic Devices

- Early-phase trial designs and exploratory biomarker analysis approaches to effectively inform whether biomarker-enriched confirmatory trial strategies or other strategies are appropriate,
- evidentiary standards for incorporating novel biomarkers into the design and analysis of pre-marketing confirmatory trials (e.g., for patient selection), and need for and timing of data collection in non-targeted populations,
- prospective/retrospective approaches to validate biomarkers in the context of confirmatory trials,
- approaches to establish and modify thresholds for quantitative biomarkers prior to conducting confirmatory trials,
- best practices for biospecimen collection and in vitro diagnostic assay development in early-phase therapeutic trials to support subsequent biomarker/diagnostic codevelopment,
- best practices for effective communication between regulatory agencies and therapeutic or diagnostic sponsors in the setting of codevelopment, and
- codevelopment considerations for biomarkers that are predictive, but not necessarily essential to the safe and effective use of the therapeutic product.

2. Use of a Biomarker as a Clinical Trial Outcome Measure

- Criteria for consideration of biomarker outcomes in clinical trials as correlates,
- principles to consider for biomarker outcomes as replacement endpoints of clinical endpoints considering the following:
  - Multiple causal pathways of a disease process,
  - biomarker endpoint is not in the causal pathway of the disease process,
  - interventions with mechanisms of action independent of the disease process,
- evidence for a compelling context for the use of a biomarker as a surrogate endpoint, and
- roles, if any, on metaanalysis of clinical trials data to establish the utility of biomarker outcomes as surrogates.

In this **Federal Register** notice, FDA has included specific issues that will be addressed by the presenters and panelists. Time will be reserved during the meeting for general comments and questions from the audience following the panel discussions. FDA will do its best to accommodate requests to speak.

The agenda and background materials will be available approximately 2 weeks before the meeting at *http://www.brookings.edu/events/2014/09/05-biomarkers-pharmaceutical-FDA.*

Dated: July 16, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–17090 Filed 7–21–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–0001]

Endocrinologic and Metabolic Drug Products Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Endocrinologic and Metabolic Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the Agency on FDA's regulatory issues.

Date and Time: The meeting will be held on September 12, 2014, from 8 a.m. to 5 p.m.

Location: The Marriott Inn and Conference Center, University of Maryland University College (UMUC), Potomac Ballroom, 3501 University Blvd. East, Hyattsville, MD 20783. The conference center's telephone number is 301–985–7300. Information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at:

http://www.fda.gov/Advisory Committees/default.htm; under the heading ''Resources for You,'' click on ''Public Meetings at the FDA White Oak Campus.'' Please note that visitors to the White Oak Campus must enter through Building 1.

Contact Person: Karen Abraham-Burrell, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., White Oak Bldg. 31, Rm. 2147, Silver Spring, MD 20993–0002, 301–796–9001, FAX: 301–847–8533, email: *EMDAC@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

Agenda: The committee will discuss biologics license application (BLA) 125511, proposed trade name NATPARA (established name: Recombinant Human Parathyroid Hormone (rDNA) or (rhPTH[1–84]), submitted by NPS Pharmaceuticals, Inc., for the proposed indication of replacement for endogenous parathyroid hormone (1–84) for the long-term treatment of hypoparathyroidism.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before August 27, 2014. Oral presentations from the public will be scheduled between approximately between 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before August 19, 2014. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by August 20, 2014.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA 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 Karen Abraham-Burrell at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: July 16, 2014.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2014–17086 Filed 7–21–14; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Committee on Training in Primary Care Medicine and Dentistry; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given of the following meeting:

Name: Advisory Committee on Training in Primary Care Medicine and Dentistry (ACTPCMD).

Date and Time: August 5, 2014 (9:30 a.m.–5:00 p.m.) August 6, 2014 (8:30 a.m.–3:00 p.m.)

Place: Combined In-Person and Webinar Format, Health Resources and Services Administration (HRSA), U.S. Department of Health and Human Services, 5600 Fishers Lane, Room 18–67, Rockville, Maryland 20857.

Status: The meeting will be open to the public.

Purpose: The ACTPCMD provides advice and recommendations on a broad range of issues relating to grant programs authorized by sections 222 and 749 of the Public Health Service Act, as amended by section 5103(d) and re-designated by section 5303 of the Patient Protection and Affordable Care Act of 2010.

Agenda: The meeting will begin with introductions of seven new members to the committee and then move to opening remarks from HRSA senior officials who will provide an update on HRSA's newly created Bureau of Health Workforce. The new members will receive a comprehensive update on the committee's latest 11th Report to Congress, which will focus on the training of health professionals in community settings, the members will then break-out into workgroups and continue development of the report. A short timeline for finalizing the report will be created.

Public Comment: An opportunity will be provided for public comment at the end of each day of the meeting, or written comments to the members may be sent prior to the meeting to Shane Rogers at *srogers@hrsa.gov.*

The agenda will be available 2 days prior to the meeting on the HRSA Web site (*http://www.hrsa.gov/advisory committees/bhpradvisory/actpcmd/index.html*). Agenda items are subject to change as priorities dictate.

SUPPLEMENTARY INFORMATION: As this meeting will be a combined format of both in-person and webinar, members of the public and interested parties who wish to participate ''in-person'' should make an immediate request by emailing their first name, last name, and contact email to the Designated Federal Official for the committee, Mr. Shane Rogers, at *srogers@hrsa.gov* or call (301) 443–5260. Space is limited. Due to the fact that this meeting will be held within a federal government building and public entrance to such facilities require prior planning, access will be granted upon request only and will be on a first come, first served basis. Members of the public who wish to participate via webinar should view the committee's Web site for the specific webinar access information at least 2 days prior to the date of the meeting: *http://www.hrsa.gov/advisorycommittees/bhpradvisory/actpcmd/index.html.*

FOR FURTHER INFORMATION CONTACT: Mr. Shane Rogers, Designated Federal Official, ACTPCMD, Bureau of Health Workforce, Health Resources and Services Administration, Room 12C–06, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, call (301) 443–5260, or email *srogers@hrsa.gov*.

Dated: July 15, 2014.

Jackie Painter,

Acting Director, Division of Policy and Information Coordination.

[FR Doc. 2014–17087 Filed 7–21–14; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the meeting of the Council of Councils.

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.

A portion of 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: Council of Councils.

Open: September 5, 2014.

Time: 8:15 a.m. to 12:15 p.m.

Agenda: Council Business Matters and Updates; KOMP2: Update and Envisioning a Possible Second Phase; NIH Update; Enhancing Reproducibility—Update; Update on Stimulating Peripheral Activity to Relieve Conditions.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Closed: September 5, 2014.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: Review of grant applications.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Open: September 5, 2014.

Time: 2:00 p.m. to 4:15 p.m.

Agenda: Review and Vote on Council of Councils Operating Procedures for 2015; Update on NIH-Sponsored Research Resources/Core Activities; Early Independence Award Process Evaluation and Discussion; High-End Instrument Funding Opportunity—Update on the Planning Process.

Place: National Institutes of Health, 9000 Rockville Pike, Building 31, C Wing, 6th Floor, Conference Room 6, Bethesda, MD 20892.

Contact Person: Franziska Grieder, DVM, Ph.D., Executive Secretary, Director, Office of Research Infrastructure Programs, Division of Program Coordination, Planning, and Strategic Initiatives, Office of the Director, NIH, 6701 Democracy Boulevard, Room 948, Bethesda, MD 20892, *GriederF@mail.nih.gov*, 301–435–0744.

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. Information is also available on the Council of Council's home page at *http://dpcpsi.nih.gov/council/* where an agenda will be posted before the meeting date.

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. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS).

Dated: July 16, 2014.

Carolyn Baum,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–17166 Filed 7–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Biomedical Imaging and Bioengineering; 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 Advisory Council for Biomedical Imaging and Bioengineering.

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/or 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 grant applications and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Council for Biomedical Imaging and Bioengineering, NACBIB, September, 2014.

Date: September 16, 2014.

Open: 9:00 a.m. to 12:15 p.m.

Agenda: Report from the Institute Director, other Institute Staff and presentations of task force reports.

Place: The William F. Bolger Center, Franklin Building, Classroom 1, 9600 Newbridge Drive, Potomac, MD 20854.

Closed: 1:15 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: The William F. Bolger Center, Franklin Building, Classroom 1, 9600 Newbridge Drive, Potomac, MD 20854.

Contact Person: William J. Heetderks, MD, Ph.D., Acting Associate Director, Office of Research Administration, National Institute of Biomedical Imaging and Bioengineering, 6707 Democracy Boulevard, Room 221, Bethesda, MD 20892.

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.

Information is also available on the Institute's/Center's home page: *http://www.nibib1.nih.gov/about/NACBIB/NACBIB.htm,*

where an agenda and any additional information for the meeting will be posted when available.

Dated: July 16, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–17169 Filed 7–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: August 1, 2014.

Time: 11:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Mary Clare Walker, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.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: Center for Scientific Review Special Emphasis Panel; Myocardial Ischemia and Metabolism.

Date: August 8, 2014.

Time: 11:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kimm Hamann, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4118A, MSC 7814, Bethesda, MD 20892, 301–435–5575, *hamannkj@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: July 16, 2014.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–17168 Filed 7–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Social Neuroscience and Neuroeconomics of Aging.

Date: July 29, 2014.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Virtual Meeting).

Contact Person: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–379–5632, *hfriedman@csr.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: Center for Scientific Review Special Emphasis Panel; Member Conflict: Epidemiology of Chronic Conditions

Date: July 30, 2014.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Heidi B. Friedman, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1012A, MSC 7770, Bethesda, MD 20892, 301–379–5632, *hfriedman@csr.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.

(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: July 16, 2014.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–17170 Filed 7–21–14; 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 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: Center for Scientific Review Special Emphasis Panel; ZRG1 PSE–K 02 M, Member Conflict: Epidemiology.

Date: July 22, 2014.

Time: 12:00 p.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

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.*

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.

(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: July 16, 2014.

Michelle Trout,

Program Analysts, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–17165 Filed 7–21–14; 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 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 Institute on Aging Special Emphasis Panel; Calorie Restriction, IGF–1 and Stress Resistance II.

Date: August 25, 2014.

Time: 12:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institute on Aging, Gateway Building 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Bita Nakhai, Ph.D., Scientific Review Branch, National Institute on Aging, Gateway Bldg., 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814, 301–402–7701, *nakhaib@nia.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS).

Dated: July 16, 2014.

Melanie J. Gray,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2014–17167 Filed 7–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Listing of Members of the National Institutes of Health's Senior Executive Service 2014 Performance Review Board (PRB)

The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service 2014 Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314(c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability, and objectivity in performance appraisals and which requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register.**

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Colleen Barros, Chair
Michael Gottesman
Camille Hoover
Caroline Lewis
Sally Rockey
Lawrence Tabak
Michael Tartakovsky

For further information about the NIH Performance Review Board, contact the Office of Human Resources, Workforce Relations Division, NIH, Building 31, Room B3C07, Bethesda, Maryland 20892; telephone 301–402–9203 (not a toll-free number).

Dated: July 14, 2014.

Francis S. Collins,

Director, National Institutes of Health.

[FR Doc. 2014–17236 Filed 7–21–14; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0048]

Agency Information Collection Activities: Application for Premium Processing Service, Form I–907; Revision of a Currently Approved Collection

ACTION: 60-Day Notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration Services (USCIS) invites the general public and other Federal agencies to comment upon this proposed revision of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until September 22, 2014.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0048 in the subject box, the agency name and Docket ID USCIS–2006–0025. To avoid duplicate submissions, please use only one of the following methods to submit comments:

(1) *Online.* You may access the **Federal Register** Notice and submit comments via the Federal eRulemaking Portal Web site by visiting *www.regulations.gov.* In the search box either copy and paste, or type in, the e-Docket ID number USCIS–2006–0025. Click on the link titled Open Docket Folder for the appropriate Notice and supporting documents, and click the Comment Now tab to submit a comment;

(2) *Email.* Submit comments to *USCISFRComment@uscis.dhs.gov*;

(3) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

SUPPLEMENTARY INFORMATION:

Comments

Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov*, and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that

is available via the link in the footer of *http://www.regulations.gov*.

Note: The address listed in this notice should only be used to submit comments concerning this information collection. Please do not submit requests for individual case status inquiries to this address. If you are seeking information about the status of your individual case, please check ''My Case Status'' online at: *https://egov.uscis.gov/cris/Dashboard.do*, or call the USCIS National Customer Service Center at 1–800–375–5283.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Revision of a Currently Approved Collection.

(2) *Title of the Form/Collection:* Application for Premium Processing Services.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* I–907; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals and households. USCIS uses the information provided on Form I–907 to provide petitioners the opportunity to request faster processing of certain employment-based petitions and applications.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:*

- Filing by Mail: 199,714 responses at 30 minutes (.50 hours) per response.
- Electronically: 2,108 responses at 20 minutes (.333 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 100,559 annual hour burden.

If you need a copy of the information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number 202–272–8377.

Dated: July 17, 2014.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2014–17225 Filed 7–21–14; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R4–ES–2014–N150; 40120–1112–0000–F2]

Incidental Take Permit for Hydrocarbon Test Well Drilling Pad Construction; Greene County, Mississippi

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: Under the Endangered Species Act, we, the U.S. Fish and Wildlife Service, announce the receipt and availability of a proposed low-effect habitat conservation plan and accompanying incidental take permit for take of the gopher tortoise incidental to construction of a hydrocarbon test well drilling pad in Greene County, Mississippi. We invite public comments on these documents.

DATES: We must receive any written comments at our Mississippi Field Office (see **ADDRESSES**) on or before August 21, 2014.

ADDRESSES:

Obtaining Documents: Documents are available for public inspection by appointment during normal business hours at the Fish and Wildlife Service's Mississippi Field Office, 6578 Dogwood View Parkway, Jackson, MS 39213. Please submit comments by U.S. mail to the Fish and Wildlife Service's Mississippi Field Office.

Submitting Comments: For how to submit comments, see Public Comments in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Mr. David Felder, Fish and Wildlife Biologist (see **ADDRESSES**); telephone: 601–321–1131.

SUPPLEMENTARY INFORMATION:

Introduction

We announce the availability of the proposed low-effect habitat conservation plan (HCP) which analyzes the take of the threatened gopher tortoise (*Gopherus polyphemus*) incidental to construction of a hydrocarbon test well drilling pad. The applicant (Petro-Chem Operating Company, Inc.) requests a 5-year incidental take permit (ITP) under section 10(a)(1)(B) of the Endangered Species Act (Act; 16 U.S.C. 1531 *et seq.*). If we approve the ITP, the applicant anticipates the taking of up to three individual gopher tortoises over the 5-year span of the ITP.

Applicant's Proposal

The applicant proposes to minimize and mitigate the take of up to three gopher tortoises by relocating the tortoises impacted by test well drilling pad construction to the Chickasawhay Conservation Bank in Greene County, Mississippi, using Service-approved relocation methods. The Chickasawhay Conservation Bank is a Service-approved gopher tortoise relocation site that is conserved and managed in perpetuity for gopher tortoises. All fees associated with the relocation of tortoises and conservation bank management will be paid by Petro-Chem Operating Company, Inc.

Service's Preliminary Determination

The Service has made a preliminary determination that the applicant's project, including the proposed mitigation and minimization measures, will individually and cumulatively have a minor or negligible effect on the species covered in the HCP. Therefore, issuance of the ITP is a ''low-effect'' action and qualifies as a categorical exclusion under the National Environmental Policy Act (NEPA) (40 CFR 1506.6), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1), and as defined in our Habitat Conservation Planning Handbook (November 1996).

We base our determination that issuance of the ITP qualifies as a low-effect action on the following three criteria: (1) Implementation of the project would result in minor or negligible effects on federally listed, proposed, and candidate species and their habitats; (2) Implementation of the project would result in minor or negligible effects on other environmental values or resources; and

(3) Impacts of the plan, considered together with the impacts of other past, present, and reasonably foreseeable similarly situated projects, would not result, over time, in cumulative effects to environmental values or resources that would be considered significant. As more fully explained in our environmental action statement and associated Low-Effect Screening Form, the applicant's proposed project qualifies as a ''low-effect'' project. This preliminary determination may be revised based on our review of public comments that we receive in response to this notice.

Public Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

If you wish to comment, you may submit comments by any one of several methods. Please reference TE40185B–0 in such comments. You may mail comments to the Fish and Wildlife Service's Mississippi Field Office (see **ADDRESSES**). You may also comment via the internet to *david_felder@fws.gov.* Please include your name and return address in your internet message. If you do not receive a confirmation from us that we have received your internet message, contact us directly at either telephone number listed under **FOR FURTHER INFORMATION CONTACT**. Finally, you may hand-deliver comments to the office listed under **ADDRESSES**.

Covered Area

The area encompassed by the HCP and ITP application is the 2.46 acre hydrocarbon test well drilling pad and associated access road, located at latitude 31.319229, longitude 7 −88.783426, Greene County, Mississippi.

Next Steps

We will evaluate the ITP application, including the HCP and any comments we receive, to determine whether the application meets the requirements of section 10(a)(1)(B) of the Act. We will also evaluate whether issuance of a section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in our final analysis to determine whether or not to issue the ITP. If we determine that the requirements are met, we will issue the ITP for the incidental take of gopher tortoises.

Authority

We provide this notice under Section 10 of the Act (16 U.S.C. 1531 *et seq.*) and NEPA regulations (40 CFR 1506.6).

Dated: July 15, 2014.

Cary Norquist,

Assistant Field Supervisor, Mississippi Field Office.

[FR Doc. 2014–17193 Filed 7–21–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–R9–ES–2011–0099; FF09E40000 145 FXES11150900000]

RIN 1018–AY29

Policy Regarding Voluntary Prelisting Conservation Actions

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Announcement of draft policy and solicitation of public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce a draft policy on crediting voluntary conservation actions taken for species prior to their listing under the Endangered Species Act. The proposed policy seeks to give landowners, government agencies, and others incentives to carry out voluntary conservation actions for nonlisted species by allowing the benefits to the species from a voluntary conservation action undertaken prior to listing under the Act to be used—either by the person who undertook such action or by a third party—to mitigate or to serve as a compensatory measure for the detrimental effects of another action undertaken after listing. This policy will help us further our efforts to protect native species and conserve the ecosystems on which they depend.

DATES:

General Comments: We will accept comments from all interested parties until September 22, 2014. Please note that if you are using the Federal eRulemaking Portal (see **ADDRESSES** below), the deadline for submitting an electronic comment is 11:59 p.m. Eastern Standard Time on this date.

Comments on the Information Collections Aspects of this Proposal: Comments on the information collection aspects of the proposed policy will be considered if received by August 21, 2014.

ADDRESSES:

General Comments: You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* In the Search box enter the Docket number for the proposed policy, which is FWS–R9–ES–2011–0099. You may enter a comment by clicking on ''Comment Now!''. Please ensure that you have found the correct document before submitting your comment.
- *U.S. mail or hand delivery:* Public Comments Processing, Attn: Docket No. FWS–R9–ES–2011–0099; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, PDM–2042; Arlington, VA 22203.

We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Request for Information below for more information).

Comments on the Information Collection Aspects of this Proposal: Send comments specific to the information collection aspects of this proposed policy to Desk Officer for the Department of the Interior at OMB—OIRA at (202) 395–5806 (fax) or *OIRA_Submission@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 2042–PDM, 4401 North Fairfax Drive, Arlington, VA 22203 (mail), or *hope_grey@fws.gov* (email).

FOR FURTHER INFORMATION CONTACT: Jim Serfis, U.S. Fish and Wildlife Service, Branch of Communication and Candidate Conservation, 4401 N Fairfax Drive, Suite 420, Arlington, VA 22203, telephone 703/358–2171; facsimile 703/358–1735.

SUPPLEMENTARY INFORMATION:

Background

The U.S. Fish and Wildlife Service (Service or FWS) is charged with implementing the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act); the goal of the Act is to provide a means to conserve the ecosystems upon which listed species depend and a program for listed species conservation. Through its Candidate Conservation program, the Service encourages the public to take conservation actions for species prior to them being listed under the Act. Doing so may result in precluding the need to list a species, may result in listing a

species as threatened instead of endangered, or, if a species becomes listed, may provide the basis for its recovery and eventual removal from the protections of the Act. As explained below, the proposed policy provides incentives to the public to implement these prelisting conservation actions.

Recognizing that species benefit from focused conservation actions taken to address threats to their survival, the Service encourages landowners to conserve candidate and other at-risk species by stabilizing and increasing populations so that the species may not need listing. In March 2012, the Service published in the **Federal Register** an advance notice of proposed rulemaking inviting the public to identify potential changes to our regulations under the Act (77 FR 15354, March 15, 2012). Our goal was to create additional incentives and improve or expand existing ones for landowners and others to invest in early voluntary conservation actions to benefit species that may become listed as threatened or endangered species. Because we received a request from the Association of Fish and Wildlife Agencies to extend the comment period, we published a notice in the **Federal Register** extending the comment period an additional 60 days (77 FR 28347, May 14, 2012).

The comments and recommendations in the 95 responses the Service received in response to the advance notice of proposed rulemaking supported the tenet that, if the need to list a species under the Act can be avoided, everyone, including the species, benefits. The responses also underscored the need for incentives for individuals and agencies, both Federal and State, to invest in conservation actions for species prior to listing. The comments and recommendations made by the individuals, organizations, and agencies covered an array of issues such as the need for guidance on developing crediting programs, updating the Service's mitigation policy, the need for conservation strategies to guide candidate conservation agreements, streamlining the conservation agreement process, and improving conservation banking. The comments are available at *http://www.regulations.gov* in Docket No. FWS–R9–ES–2011–0099.

The proposed policy described herein is based on recommendations generated by the advance notice of proposed rulemaking. The Service will address other recommendations through additional regulations, policies, or guidance.

Introduction: Incentivizing voluntary conservation action prior to listing. The proposed policy has two stated purposes, as set forth in section 1. The first, and more general of these, is to incentivize voluntary conservation actions on behalf of species before they reach the point at which they need to be listed as threatened or endangered under the Act. Such voluntary conservation actions, if carried out at a sufficient scale, could contribute to precluding the need to list the species. The proposed policy seeks to reward those who voluntarily undertake to help the species when they have no legal obligation to do so. As described in more detail later, the reward is that the benefits to the species from a voluntary conservation action undertaken prior to listing can be used—either by the person who undertook that action or by a third party—to mitigate or be a compensatory measure for the detrimental effects of another action undertaken after listing. In this policy, the credit earned by undertaking a prelisting conservation action can be transferred to a third party if the prelisting conservation action and the credit are for the same species and within the same State.

Clarifying existing regulations at 50 CFR 402.14(g)(8). A second, more narrow, purpose of the proposed policy is to clarify a provision that has been in the regulations that implement section 7 of the Act since 1986, but that received little explanation then or thereafter. That provision, set forth in 50 CFR 402.14(g)(8), states that the Service ''will give appropriate consideration to any beneficial actions taken by the Federal agency or applicant, including any actions taken prior to the initiation of consultation'' during the course of consultation under section 7(a)(2) of the Act or ''early consultation'' under section 7(a)(3). The proposed policy makes clear that beneficial actions ''taken prior to the initiation of consultation'' include actions taken prior to listing, provided they meet the policy's definition of a ''voluntary prelisting action.'' In addition to clarifying that prelisting beneficial actions are among the actions to be given ''appropriate consideration,'' the policy also clarifies how the Service will give appropriate consideration to those beneficial actions that are subject to the policy. Specifically, in the course of section 7 consultations, the Service will consider the beneficial effects of a voluntary prelisting conservation action to be included as part of the environmental baseline for the agency action if requested by the action agency or, in the case of an agency action involving a permit applicant, by such applicant.

The policy also makes clear that the Service will evaluate the conservation value of a prelisting conservation action based on its inclusion and priority in a conservation strategy for the species. A conservation strategy is a foundational document that should guide all conservation efforts for at-risk nonlisted species, including Federal, State, Tribal, and private conservation actions. A strategy can be authored by any one of these entities, but ideally it will be created as a joint effort. Coordinated efforts will likely result in better conservation outcomes for the species and efficiencies in implementing and monitoring conservation actions. From the Service's perspective, the primary goal of the strategy is to provide the necessary information to guide management of a species so that it does not need the protections of the Act.

How voluntary prelisting conservation actions are to be treated. Section 2 of the policy sets forth in general terms how the Service will treat voluntary prelisting conservation actions. Two possibilities are described. First, such an action can be treated as a mitigation or a compensatory measure to offset the impacts of the incidental taking of a listed species for which a permit is sought under Section 10(a)(1)(B) of the Act. Alternatively, where a proposed action that detrimentally affects a listed species is authorized, funded, or carried out by a Federal agency, the voluntary prelisting conservation action can be treated as a compensatory measure for the proposed action. Section 7 of the Act, unlike Section 10(a)(1)(B), does not explicitly require that detrimental impacts be mitigated, but it is long-established practice under section 7 that Federal agencies or their permit applicants can incorporate mitigating measures into their proposed projects so as to reduce their overall impact. The proposed policy makes clear that voluntary prelisting conservation measures can be used in this manner.

Section 2 of the proposed policy also establishes that a voluntary prelisting conservation action undertaken by anyone, including a Federal agency, can be treated as described in the policy if the action is undertaken in a State that chooses to participate. Thus, unlike some other incentive-based policies (e.g., the Safe Harbor Agreements policy (64 FR 32717, June 17, 1999) and the Candidate Conservation Agreements with Assurances (CCAA) policy (64 FR 32726, June 17, 1999)) that apply only to non-Federal property owners, the proposed policy applies to anyone or any entity who wants to take advantage of it and who undertakes the prelisting

conservation action in a participating State.

Defining voluntary prelisting conservation actions. Section 3 of the proposed policy defines ''voluntary prelisting conservation actions.'' The definition has three key components. First, the action has to be undertaken before the species it is intended to benefit is listed under the Act. An action can be undertaken at any time prior to listing, including after the species has been proposed for listing. Once a species is listed, however, no new voluntary *prelisting* conservation actions can occur for the species, but ongoing actions initiated prior to listing would continue. The policy also specifies that actions taken prior to the policy being finalized will not be considered. Second, the action must be truly voluntary, one that is not required by the Act or by any other Federal, State, or local regulatory mechanism.

Acknowledging the jurisdiction of the States over nonlisted species, the last component requires the action be undertaken as part of a State-administered program. In short, the proposed policy contemplates the active engagement of the States in designing and implementing a program to encourage voluntary prelisting conservation actions, as further described in section 4 of the proposed policy. The policy also makes it clear that States can use Federal funds in accordance with Section 6 of the Act to measure, monitor, and provide oversight to ensure the successful implementation and maintenance of the voluntary pre-listing conservation actions as they relate to candidate species. The States may contract with a third party to fulfill the measuring, monitoring, and oversight obligations that are necessary to ensure the successful implementation and maintenance of the voluntary prelisting conservation actions.

Relationship to CCAAs and similar agreements. Although CCAAs and voluntary prelisting conservation actions covered by the proposed policy serve the same purpose, conservation of nonlisted species before they become listed, they employ different mechanisms, have different approval requirements, and have other important differences.

First, CCAAs and voluntary prelisting conservation actions employ different mechanisms for achieving a conservation benefit to the species. A CCAA is intended to provide a property owner (non-Federal) with an assurance that, if the species covered by the CCAA is later listed as threatened or endangered, no new restrictions or conservation obligations will be imposed on the property owner for that species. In contrast, the purpose of the proposed policy's treatment of a voluntary prelisting conservation action is to give a property owner (Federal or non-Federal) the opportunity to have that action serve as mitigation or a compensatory measure for the detrimental impact of an action undertaken after the species is listed as endangered or threatened.

Second, CCAAs are subject to more exacting approval requirements. To qualify for a CCAA, a non-Federal property owner must commit to carry out conservation measures that, assuming other necessary property owners were to carry out commensurate conservation measures, would be sufficient to preclude the need to list a species. In contrast, to be treated as a voluntary prelisting conservation action under the proposed policy, an action need only be beneficial to a particular species; the policy requires no specific magnitude of benefit.

While it is possible for a voluntary prelisting conservation action to satisfy the requirements of both the CCAA policy and this proposed policy, the action cannot be treated under both policies: Using a conservation action as mitigation or a compensatory measure against a future detrimental action is inconsistent with the intent of the CCAA policy to secure durable conservation commitments that would constitute a particular property owner's necessary contributions to precluding the need to list a species.

Role of the States. The role of the States under the proposed policy, should they choose to participate, is addressed in greater detail in section 4. This section of the proposed policy aims to ensure the primacy of the States in conserving species before they are listed, while ensuring an effective partnership with the Service so that voluntary prelisting conservation actions will be recognized by the Service in the event that the species is later listed. An important role of the States is to ensure that voluntary prelisting conservation actions are effectively implemented and maintained. The primary tracking and oversight is to be done by the States who will then annually provide information on the conservation actions to the Service. In short, to avail themselves of the postlisting opportunity provided by the proposed policy, persons planning to undertake voluntary prelisting conservation actions must do so within the framework of a State- or multi-State-approved program; the most recent version of a State Wildlife Action Plan or other State conservation strategies should provide useful guidance as to both the type and the location of conservation actions that would be most beneficial for particular species.

Some States may have their own laws or regulatory authorities (separate from the Act) under which they can impose mitigation requirements for certain activities. If that is the case, and a person who undertakes a voluntary prelisting conservation action is allowed by the State to treat the benefits of that action as fulfilling the mitigation requirements of State law, the individual cannot subsequently use the same action as mitigation for a separate activity carried out after listing. That is, if used prior to listing to meet the mitigation requirements of State law, the benefits of prelisting conservation actions cannot be used again as mitigation for separate actions carried out later. Use of prelisting conservation to meet State mitigation requirements should be reflected in the register maintained by a State so as to prevent such double counting.

Role of the Fish and Wildlife Service. The role of the Service is addressed in section 5 of the proposed policy. This section explains that the Service will assist the State(s), as needed, in tracking the implementation and maintenance of the prelisting conservation actions. While States have the primary role in managing species that are not listed under the Act, they may not have the necessary resources to fully track the prelisting conservation actions. Consequently, the Service will assist the States, as needed, to help achieve the mutual goal of conserving species before they need to be listed under the Act. Additionally, the Service will coordinate between the State(s) and other Federal agencies to help develop conservation actions and assist in tracking the implementation and maintenance of those actions.

Quantifying beneficial and detrimental impacts. Providing credit for an effort to mitigate or serve as a compensatory measure for the impacts of a detrimental action on a species (or any other resource) requires measuring both the detrimental impact and the offsetting benefit to be secured through a mitigation action or compensatory measure. Section 6 of the proposed policy provides that, in evaluating the impacts of both detrimental actions and beneficial actions, the Service will use the same criteria, standards, and metrics to quantify the former as it uses to quantify the latter. However, over time, new scientific information may indicate that the metric may need revision or a new metric should be used. The Service

will work with the landowner to decide if the metric needs to be changed. In cases where failure to utilize a new or revised metric would appreciably reduce the likelihood of survival and recovery of the affected species in the wild, the Service will require a new or improved metric as appropriate and will alert the landowner. The proposed policy does not itself specify what those uniform criteria, standards, or metrics should be or even how they should be developed. Instead, those will need to be developed separately and are likely to vary from species to species or situation to situation. However, the benefit of a voluntary prelisting conservation action for which credit is given must be greater than the detriment from the action for which the credit is used, that is, the benefit from the prelisting action, combined with the detriment from a later action, must result in a positive assistance to the recovery of the species. This would be achieved by setting aside a specific percentage of the credits to gain a positive assistance to the recovery of the species. The specific percentage will depend on the species and the nature of the actions. In addition, a voluntary prelisting conservation action can be supplemented with an additional postlisting conservation action so that the combined benefit of prelisting and postlisting conservation actions is greater than the detriment from the postlisting detrimental actions.

Preferential use of voluntary prelisting conservation actions to offset the impacts of post-listing activities. Since the purpose of the proposed policy is to incentivize voluntary prelisting conservation actions by allowing the benefits of such actions to serve as mitigation or a compensatory measure for the detriments of postlisting actions, that purpose would clearly be undercut if the Service were routinely to require some other form of mitigation or compensatory measure for actions that it consults on or authorizes after listing. Put differently, those who invest in prelisting conservation actions under the proposed policy are likely to want a reasonable assurance that, when the Service evaluates the mitigation or compensatory measure needs for postlisting activities, we will give consideration to those already-established mitigation or compensatory measures. This scenario does not require that in all cases the Service must use prelisting conservation actions as mitigation or a compensatory measure for post-listing detrimental actions. Where there is a mitigation or compensatory measure alternative that clearly produces a better, or more certain, environmental outcome, the Service can require or encourage its use. Likewise, if the proponent of a postlisting action can achieve a commensurate environmental outcome with less effort, cost, and time expended, the proposed policy allows such proponent the flexibility to make that choice.

Effect of using voluntary prelisting conservation actions to offset the impact of post-listing activities. As previously noted, section 4 of the proposed policy makes clear that, if a State treats the benefits of a prelisting conservation action as meeting State mitigation requirements for actions carried out prior to listing, the use of those benefits precludes their later reuse. In a parallel fashion, section 7 of the proposed policy provides that, after listing, once the Service allows the benefits of a prelisting conservation action to serve as mitigation or a compensatory measure for the impacts of a postlisting action, those same benefits may not be used again to offset the impacts of other later postlisting actions.

Proposed Policy Regarding Voluntary Prelisting Conservation Actions

Section 1. Purpose: The purpose of this policy is to incentivize voluntary conservation efforts on behalf of species before they are listed as endangered or threatened species under the Endangered Species Act (''Act''), and to clarify the manner in which the Service ''will give appropriate consideration to any beneficial actions taken by the Federal agency or applicant, including any actions taken prior to the initiation of consultation'' under section 7(a)(2) or 7(a)(3) of the Act, as provided in 50 CFR 402.14(g)(8).

Section 2. Treatment of Voluntary Prelisting Conservation Actions. If requested to do so by the person or Federal, State, Tribe, or local government agency that undertakes a qualifying voluntary prelisting conservation action, or by a third party to whom the credits have been transferred, the Service will treat the action as (1) a measure to minimize and mitigate the impact of the taking of an endangered or threatened species pursuant to section 10(a)(1)(B) of the Act, or (2) an intended compensatory measure of a proposed Federal agency action subject to the consultation requirements of section 7(a)(2) or 7(a)(3) of the Act. Specifically, in the course of section 7 consultations, the Service will consider the beneficial effects of voluntary prelisting conservation actions to be included as part of the environmental baseline for the action under consideration if requested by the action agency or, in the case of an agency action involving a permit application, by such applicant. The Service's determination of the effects of the action being considered under these two sections of the Act will reflect the conservation value of the voluntary prelisting action based on priority actions identified in a conservation strategy for the species. The credits earned by undertaking a prelisting conservation action may be transferred to a third party but must be used for the same species and within the same State where the credit was earned.

Section 3. Definition of Voluntary Prelisting Conservation Actions. As used in this policy, the term ''voluntary prelisting conservation action'' refers to any conservation measure undertaken to benefit a nonlisted species of plant or wildlife as described below, including but not limited to, the acquisition or transfer of ownership of land or water or interests therein for conservation purposes; the restraint or relinquishment of the lawful use of a particular resource negatively affecting such species; the establishment, restoration, enhancement, or commitment to continue management of habitat for such species; and the cooperation either in the introduction of such species into a portion of its historical range where it is absent or in the augmentation of such species in an area where it occurs. The benefit of the voluntary prelisting conservation action for which credit is given must be greater than the detriment of the action for which the credit is used, that is the benefit from the prelisting action combined with the detriment of a the postlisting action must result in positive assistance to the recovery of the species. In addition, a voluntary prelisting conservation action can be supplemented with an additional postlisting conservation action so that the combined benefit of prelisting and postlisting conservation actions is greater than the detriment from the postlisting detrimental action.

A voluntary prelisting conservation action must be:

(1) Beneficial to a species that is, or may become, a candidate or proposed for listing as threatened or endangered,

(2) Started prior to the final listing of the benefitted species as an endangered or threatened species under the Act, and after the date this policy is finalized. The actions may be part of an already established conservation program, plan, or strategy or be included in such a program, plan, or strategy that has been developed after the date this policy is finalized.

(3) Not required by any Federal, State, or local law, regulation, permit, or other regulatory mechanism.

(4) Undertaken as part of a State- or multi-State-administered program, including the most recent version of a State Wildlife Action Plan or other State conservation strategy that is intended to encourage voluntary conservation measures for the species.

Section 6 funds may be used to measure, monitor, and oversee the implementation of the pre-listing conservation actions as they relate to candidate species.

Section 4. Role of the States. A State choosing to participate in the voluntary prelisting conservation actions crediting system established by the proposed policy must maintain a register of all voluntary prelisting conservation actions undertaken pursuant to a State or multi-State-administered program as described above and for which the property owners have requested treatment under the proposed policy, and must record any transfer to a third party of the mitigation or compensatory measure rights associated with such actions. The State will provide appropriate oversight to ensure the effective implementation and maintenance of voluntary prelisting conservation actions and provide a mechanism to notify the Service of each voluntary prelisting conservation action. Such actions could be based on or found in the most recent version of its State Wildlife Action Plans or other State conservation strategy for the species and could be performed by a third party, including a Federal agency. If a State- or multi-State-administered program allows voluntary prelisting conservation actions to serve as mitigation or a compensatory measure for the environmental impacts of activities regulated by the State and undertaken prior to the listing of a species as an endangered or threatened species, the State will reflect the use of such voluntary prelisting conservation actions for such purposes in its register, and, to the extent so used, such voluntary prelisting conservation actions will no longer be available for treatment as provided in this policy.

Section 5. Role of the Fish and Wildlife Service. The Service, when requested, will assist the State, to the extent its resources allow, with the measuring, monitoring, and oversight functions described in section 4. The Service will coordinate between the State and other Federal agencies to help develop conservation actions and oversee implementation of actions taken by other Federal agencies to ensure effectiveness and maintenance of those actions. The Service will review any voluntary prelisting conservation program for consistency with this policy and the other mitigation policies and guidelines established by the Service.

Section 6. Evaluating the Impacts of Voluntary Prelisting Conservation Actions. In treating any voluntary prelisting conservation action as a measure to minimize and mitigate the impact of the taking of any endangered or threatened species pursuant to Section 10(a)(1)(B) of the Act, or as an intended part of any proposed Federal action subject to the consultation requirements of section 7(a)(2) or 7(a)(3) of the Act, the Service will evaluate the beneficial impacts of such action according to the same criteria, standards, and metrics that it uses to evaluate the beneficial impacts of other mitigating or compensatory measures and the detrimental impacts of activities that give rise to mitigating or compensatory measures. However, over time, new scientific information may indicate that the metric may need revision or a new metric should be used. The Service will work with the landowner to advise them of the need for a change. In cases where failure to utilize a new or revised metric would appreciably reduce the likelihood of survival and recovery of the affected species in the wild, the Service will require a new or improved metric as appropriate and will alert the landowner. Species-specific metrics will be developed to facilitate the evaluation of the prelisting conservation actions and the detrimental actions. The benefit of a voluntary prelisting conservation action for which credit is given must be greater than the detriment from the action for which the credit is used, that is, the benefit from the prelisting action, combined with the detriment from a later action, must result in a positive assistance to the recovery of the species. The positive assistance to the recovery of the species will be achieved by setting aside a specific percentage of the credits. The specific percentage will depend on the species and the nature of the actions.

Section 7. Effect of Treating a Voluntary Prelisting Conservation Action as a Mitigating or Compensatory Measure. To the extent that a voluntary prelisting conservation action is treated by the Service as a measure to minimize or mitigate any future impact of the taking of an endangered or threatened species pursuant to section 10(a)(1)(B) of the Act, or as an intended compensatory measure of a Federal agency action subject to the consultation requirements of section 7(a)(2) or 7(a)(3) of the Act, such action may not be used again.

Request for Information

We intend that a final policy will consider information and recommendations from all interested parties. We, therefore, solicit comments, information, and recommendations from governmental agencies, Indian Tribes, the scientific community, industry groups, environmental interest groups, and any other interested parties. All comments and materials received by the date listed above in **DATES** will be considered prior to the approval of a final document.

In addition to more general comments and information, we ask that you comment on the following specific aspects of the policy:

(1) The policy requires an overall positive assistance to the species; how should we define this benefit?

(2) The policy requires that a prelisting conservation action be part of a State plan. What approach should we take if there is no State plan for the species?

(3) For those species for which the State does not have the authority or jurisdiction, should we revise the policy to allow prelisting conservation actions for these species to receive credit? If so, how would these prelisting conservation actions be tracked and monitored?

(4) How should we quantify the value of the voluntary prelisting conservation actions and credits?

(5) Based on the species and the nature of the actions, how should we determine the percentage set aside?

(6) The policy allows for the transfer of credits. How could we develop an uncomplicated trading system mechanism?

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.*

Required Determinations

As mentioned above, we intend to apply this policy, when finalized, in considering prelisting voluntary conservation efforts. Below we discuss compliance with several Executive Orders and statutes as they pertain to this draft policy.

Regulatory Planning and Review (Executive Orders 12866 and 13563)

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

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

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

Under the Regulatory Flexibility Act (RFA), as amended by the Small Business Regulatory Enforcement Fairness Act of 1996 (SBREFA), 5 U.S.C. 601 et seq., whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (i.e., small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. The SBREFA amended the RFA to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

This draft policy sets forth the Service's policy regarding the consideration of voluntary prelisting conservation actions through Section 7 of the Act should a species be listed. A full description of the action, why it is being considered, and the legal basis for this action are set forth earlier in this document. The policy will provide an incentive to Federal, State, or local government agencies, Indian Tribes, nongovernmental organizations, or private individuals to take voluntary conservation actions for species before they are listed under the Act.

The Service, States, local government agencies, Indian Tribes, nongovernmental organizations, or private landowners are the entities that are affected by this draft policy. However, the effect is very limited; if they so choose, each entity would only need to report, to the State, limited information on any voluntary conservation action they took and wished to receive credit under this policy. Therefore, for the reasons described above, this draft policy would not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act (2 U.S.C. 1501 et seq.)

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*):

(a) On the basis of information contained in the ''Regulatory Flexibility Act'' section above, this draft policy would not ''significantly or uniquely'' affect small governments. We have determined and certify pursuant to the Unfunded Mandates Reform Act, 2 U.S.C. 1502, that this policy would not impose a cost of $100 million or more in any given year on local or State governments or private entities. As explained above, small governments could potentially be affected because the draft policy could place additional requirements on any city, county, or other local municipalities. However, the requirement, which is to collect minimal information on any prelisting conservation actions they voluntarily choose to implement and report to their State wildlife agency, would only result in a minimal effect.

(b) This draft policy would not produce a Federal mandate on State, local, or Tribal governments or the private sector of $100 million or greater in any year; that is, it is not a ''significant regulatory action''' under the Unfunded Mandates Reform Act. This policy could impose only minimal obligations on local or tribal governments and as well as on State governments if they choose to participate. As such, a Small Government Agency Plan is not required.

Takings—Executive Order 12630

In accordance with Executive Order 12630, this draft policy would not have significant takings implications. This draft policy would not pertain to ''taking'' of private property interests, nor would it directly affect private property. A takings implication assessment is not required because this draft policy (1) would not effectively compel a property owner to suffer a physical invasion of property and (2) would not deny all economically beneficial or productive use of the land or aquatic resources. This draft policy would substantially advance a legitimate government interest (establish a policy through which the Service would consider voluntary prelisting conservation actions through Section 7 of the Act should a species become listed) and would not present a barrier to all reasonable and expected beneficial use of private property.

Federalism—Executive Order 13132

In accordance with Executive Order 13132 (Federalism), this draft policy does not have significant Federalism effects and a Federalism assessment is not required. This draft policy pertains only to the Service's treatment of voluntary prelisting conservation actions should the species become listed under the Act, and would not have substantial direct effects on the States, on the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. A State that chooses to participate under the policy must monitor prelisting conservation actions. Since States have an existing mechanism to conduct the monitoring for other purposes, the proposed policy does not create a new requirement.

Civil Justice Reform—Executive Order 12988

In accordance with Executive Order 12988 (Civil Justice Reform), this draft policy would not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. The establishment of a policy for the Service to consider voluntary prelisting conservation actions in the context of Section 7 of the Act should the species be listed should not significantly affect or burden the judicial system.

Paperwork Reduction Act of 1995

This proposed policy contains a collection of information that we have submitted to OMB for review and approval under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.). We may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

OMB Control No.: 1018–NEW.

Title: Voluntary Prelisting Conservation Actions.

Service Form Number(s): None.

Description of Respondents: Individuals; businesses and organizations; and State, tribal and local governments.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: Ongoing for recordkeeping and annually for reporting.

Activity	Number of respondents	Number of responses	Completion time per response	Total annual burden hours
Report Information to States:				
Individuals	20	20	15 minutes	5
Private Sector	280	280	15 minutes	70
Government	100	100	15 minutes	25
States Collect and Report Information to the Service	10	10	20 hours	200
Totals	410	410		300

We will collect the following information:

- Description of the prelisting conservation action being taken.
- Location of the action (does not include a specific address).
- Name of the entity taking the action and their contact information (email address only).
- Frequency of the action (ongoing for X years, or one-time implementation) and an indication if the action is included in a State Wildlife Action Plan.
- Any transfer to a third party of the mitigation or compensatory measure rights.

We estimate that 10 States will choose to participate. Each State will collect information from landowners, businesses and organizations, and tribal and local governments that wish to receive credit for voluntary prelisting conservation actions. States may collect this information via an Access database, Excel spreadsheet, or other database of their choosing and submit the information to the Fish and Wildlife Service (via email) annually. We will use this information to calculate the amount of credits that the entity taking the conservation action will receive. We will keep track of the credits and notify the entity of how much credit they have earned. The entity can then use these credits to mitigate or offset the detrimental effects of other actions they take after the species is listed (assuming it is listed).

As part of our continuing efforts to reduce paperwork and respondent burdens, we invite the public and other Federal agencies to comment on any aspect of the reporting burden associated with this proposed information collection. We specifically invite comments concerning:

- Whether or not the collection of information is necessary for the proper implementation of the proposed Prelisting Conservation Actions policy, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

If you wish to comment on the information collection requirements of this proposed policy, send your comments directly to OMB (see detailed instructions under the heading Comments on the Information Collection Aspects of this Proposal in the ADDRESSES section). Please identify your comments with 1018–AY29. Please provide a copy of your comments to the Service Information Collection Clearance Officer (see detailed instructions under the heading Comments on the Information Collection Aspects of this Proposal in the ADDRESSES section).

National Environmental Policy Act (NEPA)

We have analyzed the proposed policy in accordance with the criteria of the National Environmental Policy Act (NEPA) (42 U.S.C. 4332(c)), the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of NEPA (40 CFR 1500–1508), and the Department of the Interior's NEPA procedures (516 DM 2 and 8; 43 CFR part 46).

We have determined that the proposed policy is categorically excluded from NEPA documentation requirements consistent with 40 CFR 1508.4 and 43 CFR 46.210(i). This categorical exclusion applies to policies, directives, regulations, and guidelines that are ''of an administrative, financial, legal, technical, or procedural nature.'' This action does not trigger an extraordinary circumstance, as outlined in 43 CFR 46.215, applicable to the categorical exclusion. Therefore, the proposed policy does not constitute a major Federal action significantly affecting the quality of the human environment.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951), Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments,'' and the Department of the Interior Manual at 512 DM 2, we have considered possible effects on federally recognized Indian tribes and have preliminarily determined that there are no potential adverse effects of issuing this draft policy. Our intent with the draft policy is to provide a consistent approach to the consideration of voluntary prelisting conservation actions, including those taken on Tribal lands. We will continue to work with Tribes as we finalize this draft policy.

Energy Supply, Distribution, or Use

Executive Order 13211 (Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) requires agencies to prepare Statements of Energy Effects when undertaking certain actions. The draft policy, if made final, is not expected to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Clarity of the Draft Policy

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule or policy we publish must:

a. Be logically organized;

b. Use the active voice to address readers directly;

c. Use clear language rather than jargon;

d. Be divided into short sections and sentences; and

e. Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in **ADDRESSES**. To better help us revise this draft policy, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you believe lists or tables would be useful, etc.

Authors

The primary authors of the draft policy are staff members of the Ecological Services Program, Branch of Communications and Candidate Conservation, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Arlington, VA 22203.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: May 8, 2014.

Stephen Guertin,

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

[FR Doc. 2014–17022 Filed 7–21–14; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–16123; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before June 28, 2014. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation. Comments may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St. NW., MS 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service, 1201 Eye St. NW., 8th floor, Washington, DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by August 6, 2014. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: July 1, 2014.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program.

CONNECTICUT

New London County

Mystic Bank, 39 Main St., Old Mystic, 14000476

FLORIDA

Pinellas County

Gulfport Casino, 5500 Shore Blvd., Gulfport, 14000477

ILLINOIS

St. Clair County

United States Post Office and Courthouse, 750 Missouri Ave., East Saint Louis, 14000478

KANSAS

Cherokee County

Baxter Springs High School, (Public Schools of Kansas MPS) 1520 Cleveland Ave., Baxter Springs, 14000479

MARYLAND

Frederick County

Catoctin Mountain Park, 6602 Foxville Rd., Thurmont, 14000484

NEW MEXICO

San Miguel County

Santa Fe Trail—West San Jose Segment, Address Restricted, San Jose, 14000481

OHIO

Butler County

Central Avenue Historic District, Central Ave., Middletown, 14000480

OREGON

Multnomah County

Woodlark Building, 813–817 SW. Alder St., Portland, 14000482

WISCONSIN

Brown County

Beaten, John, Store, 620 George St., De Pere, 14000483

A request for removal has been received for the following resource:

OREGON

Yamhill County

Baxter House, 407 Church St., Dayton, 87000331

[FR Doc. 2014–17159 Filed 7–21–14; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Communications or Computing Devices, and Components Thereof, DN 3022*; the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under section 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *EDIS,*[1] and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *USITC.*[2] The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *EDIS.*[3] 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 has received a complaint and a submission pursuant to section

[1] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

[2] United States International Trade Commission (USITC): *http://edis.usitc.gov.*

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of Enterprise Systems Technologies S.a.r.l. on July 16, 2014. The complaint alleges violations of section 337 of the Tariff Act of 1930 (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 communications or computing devices, and components thereof. The complaint names as respondents Apple Inc. of Cupertino, CA; Cirrus Logic Inc. of Austin, TX; HTC Corporation of Taiwan; HTC America, Inc. of Bellevue, WA; LG Electronics Inc. of Korea; LG Electronics U.S.A., Inc. of Englewood Cliffs, NJ; LG Electronics MobileComm U.S.A., Inc. of San Diego, CA; Samsung Electronics Co., Ltd of Korea; Samsung Electronics America, Inc. of Ridgefield Park, NJ; and Samsung Telecommunications America, L.L.C of Richardson TX. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or section 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3022'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *Electronic Filing Procedures* [4]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on *EDIS*.[5]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of sections 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: July 16, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–17157 Filed 7–21–14; 8:45 am]

BILLING CODE 7020–02–P

[4] Handbook for Electronic Filing Procedures: *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf.*

[5] Electronic Document Information System (EDIS): *http://edis.usitc.gov.*

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–882]

Certain Digital Media Devices, Including Televisions, Blu-Ray Disc Players, Home Theater Systems, Tablets and Mobile Phones, Components Thereof and Associated Software; Notice of Request for Statements on the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the presiding administrative law judge (''ALJ'') has issued a Final Initial Determination on Violation of Section 337 and Recommended Determination on Remedy and Bonding in the above-captioned investigation. The Commission is soliciting comments on public interest issues raised by the recommended relief should the Commission find a violation of section 337, as amended, 19 U.S.C. § 1337. The ALJ recommended a limited exclusion order directed to the products of the remaining respondents that are combined with specific software functionality found to infringe the asserted patents. The remaining respondents include the following: Samsung Electronics Co., Ltd.; Samsung Electronics America, Inc.; Samsung Telecommunications America, LLC; LG Electronics, Inc.; LG Electronics U.S.A., Inc.; LG Electronics MobileComm U.S.A., Inc.; Toshiba Corporation; and Toshiba American Information Systems, Inc. This notice is soliciting public interest comments from the public only. Parties are to file public interest submissions pursuant to 19 C.F.R. § 210.50(a)(4).

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 708–2310. 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 *http://www.usitc.gov*. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov*. Hearing-impaired

persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: Section 337 of the Tariff Act of 1930 provides that if the Commission finds a violation it shall exclude the articles concerned from the United States:

unless, after considering the effect of such exclusion upon the public health and welfare, competition conditions in the United States economy, the production of like or directly competitive articles in the United States consumers, it finds that such articles should not be excluded from entry.

19 U.S.C. § 1337(d)(1).

The Commission is interested in further development of the record on the public interest in its investigations. Accordingly, members of the public are invited to file submissions of no more than five (5) pages, inclusive of attachments, concerning the public interest in light of the administrative law judge's Recommended Determination on Remedy and Bonding issued in this investigation on July 16, 2014. Comments should address whether issuance of an exclusion order in this investigation could affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) explain how the articles potentially subject to the order are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the potential order;

(iii) indicate the extent to which like or directly competitive articles are produced in the United States or are otherwise available in the United States, with respect to the articles potentially subject to the order;

(iv) indicate whether Complainant, Complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to an exclusion order within a commercially reasonable time; and

(v) explain how the exclusion order would impact consumers in the United States.

Written submissions must be filed no later than by close of business on August 14, 2014.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to Commission rule 210.4(f), 19 C.F.R. § 210.4(f). Submissions should refer to the investigation number (''Inv. No. 337–TA–882'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/handbook_on_electronic_filing.pdf*). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. See section 201.6 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 201.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary.

This action is taken under authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, and Part 210 of the Commission's Rules of Practice and Procedure (19 C.F.R. Part 210).

By order of the Commission.

Issued: July 17, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–17203 Filed 7–21–14; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–415 and 731–TA–933 and 934 (Second Review)]

Polyethylene Terephthalate Film, Sheet, and Strip From India and Taiwan

Determinations

On the basis of the record [1] developed in the subject five-year review, the United States International Trade Commission (Commission) determines, pursuant to section 751(c) of the Tariff Act of 1930 (19 U.S.C. 1675(c)), that revocation of the countervailing duty order on polyethylene terephthalate film, sheet, and strip (''PET film'') from India and the antidumping duty orders on PET film from India and Taiwan would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission instituted these reviews on April 1, 2013 (78 FR 19524) and determined on July 5, 2013 that it would conduct full reviews (78 FR 42105, July 15, 2013). Notice of the scheduling of the Commission's reviews 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** on January 16, 2014 (79 FR 2883). The hearing was cancelled on May 14, 2014 (79 FR 28949, May 20, 2014).

The Commission completed and filed its determinations in these reviews on June 27, 2014. The views of the Commission are contained in USITC Publication 4479 (July 2014), entitled *Polyethylene* Terephthalate Film, Sheet, and Strip from India and Taiwan: Investigation Nos. 701–TA–415 and 731–TA–933 and 934 (Second Review).

By order of the Commission.

Issued: July 16, 2014.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2014–17158 Filed 7–21–14; 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)).

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On July 16, 2014, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Minnesota in the lawsuit entitled *United States and State of Minnesota by its Minnesota Pollution Control Agency* v. *Allete, Inc. d/b/a Minnesota Power,* Civil Action No. 0:14–cv–2911–ADM–LIB.

The United States and the State of Minnesota by its Minnesota Pollution Control Agency, filed this lawsuit under the Clean Air Act. The United States' and the State's complaint seeks injunctive relief and civil penalties for violations of the New Source Review (NSR) and Title V provisions of the Clean Air Act, at the defendant's Boswell and Laskin coal-fired power

plants located, respectively, in Cohasset and Hoyt Lakes, Minnesota. The consent decree requires Minnesota Power to perform injunctive relief to reduce sulfur dioxide, nitrogen oxides, and particulate matter emissions at these plants, as well as at Minnesota Power's Taconite Harbor Energy coal-fired power plant in Schroeder, Minnesota, and at Minnesota Power's Rapids Energy coal and biomass-fired plant in Grand Rapids, Minnesota. The emission reductions will be achieved through a combination of pollution controls, unit retirements, refueling or repowering, and emission caps. The consent decree also requires Minnesota Power to spend at least $4.2 million on environmentally beneficial projects to mitigate the adverse effects of the past emissions alleged to have been illegal, and to pay a $1.4 million civil penalty. The consent decree would resolve NSR and related Title V and New Source Performance Standards (NSPS) claims for past violations at the plants.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and State of Minnesota.* v. *Allete, Inc. d/b/a Minnesota Power,* D.J. Ref. No. 90–5–2–1–09683. 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 e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, D.C. 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* 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 $26.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Karen S. Dworkin,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2014–17127 Filed 7–21–14; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Delinquent Filer Voluntary Compliance Program

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Delinquent Filer Voluntary Compliance Program,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 21, 2014.

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=201405-1210-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov*. Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov*.

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Delinquent Filer Voluntary Compliance (DFVC) Program information collection. The DFVC Program is intended to encourage, through the assessment of reduced civil penalties, delinquent plan administrators voluntarily to comply with their annual reporting obligations under Employee Retirement Income Security Act of 1974 (ERISA) Title I. The only information collection requirement included in the DFVC Program is to provide data necessary to identify the plan along with the penalty payment. ERISA section 502(c)(2) authorizes this information collection. *See* 29 U.S.C. 1132(c)(2).

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 1210–0089.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on November 29, 2013 (78 FR 71668).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure

appropriate consideration, comments should mention OMB Control Number 1210–0089. 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–EBSA.

Title of Collection: Delinquent Filer Voluntary Compliance Program.

OMB Control Number: 1210–0089.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 12,204.

Total Estimated Number of Responses: 12,204.

Total Estimated Annual Time Burden: 610 hours.

Total Estimated Annual Other Costs Burden: $742,000.

Dated: July 15, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–17107 Filed 7–21–14; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Opportunities for Youth Demonstration and Evaluation Participant Tracking System

AGENCY: Office of the Assistant Secretary for Policy, Chief Evaluation Office, Labor

ACTION: Notice.

SUMMARY: The Department of Labor (DOL), 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) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that required 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. The Department is soliciting comments concerning its proposal to collect information from program participants through a participant tracking system (PTS).

DATES: Written comments must be submitted to the office listed in the addressee section below on or before September 22, 2014.

ADDRESSES: A copy of this information collection request, 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 contacting Jonathan Simonetta, Chief Evaluation Office, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW., Washington, DC 20210.

You may submit comments by one of the following methods: *Email: ChiefEvaluationOffice@dol.gov; Mail or Courier:* Jonathan Simonetta, Chief Evaluation Office, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. 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.

FOR FURTHER INFORMATION CONTACT: Jonathan Simonetta, Chief Evaluation Office, 200 Constitution Avenue NW., Frances Perkins Bldg., Room S2312, Washington, DC 20210, by telephone at 202–693–5959 (this is not a toll-free number) or by email at *ChiefEvaluationOffice@dol.gov*.

SUPPLEMENTARY INFORMATION:

1. *Background:* The Opportunities for Youth project has three primary goals: (1) To develop and pilot promising intervention(s) to improve the employment outcomes of disconnected youth, (2) to conduct a formative evaluation of the implementation of the intervention, and (3) to design and assess an implementation analysis, and an assessment of systemic factors that are necessary to successfully implement the intervention. Disconnected youth are defined as young people between the ages of 16 and 24 who are not currently in school or employed. This is the first time DOL will focus on evaluation specifically on disconnected youth.

The proposed interventions fill gaps in services and expand on current services in two pilot sites, Boston's Mayor's Office of Jobs & Community Services (MOJCS) and Baltimore's Mayor's Office of Employment Development (MOED). In Boston, the proposed intervention fills a gap in services by providing career training for youth who have completed their GED or high school degree. In Boston, according to MOJCS, educational programs aimed at young people steer them toward a four-year college degree, while career training is geared toward adults. Boston's MOJCS currently provides programs that aim to get youth a high school degree. A career training program to serve youth who have completed their high school degree would fill an important gap in services. In Baltimore, the proposed intervention primarily expands on current services for disconnected youth who do not have a high school degree. The proposed intervention developed with Baltimore is designed to keep youth without a high school degree engaged in an academic and career training program until they receive their certification and degree and to provide financial support during that process. The proposal would expand on the current services provided for these youth in Baltimore by creating an integrated job training program for them.

Underpinning both of these proposals will be the provision of a caring adult who will help participants navigate their respective education and training programs. These caring adults will take the form of a career navigator or case manager who will meet frequently with participants as they go through their respective programs and provide consistent support to these disconnected youth as they traverse their education and training.

To gauge the efficacy of the services provided to participants in these two cities, a participant tracking system (PTS) will be developed to measure youth outcomes, program implementation, and relevant contextual (systemic) factors of every participant who enters the two respective programs. The data collection effort with this group will gather information about participants' demographic backgrounds; their education and training as they go through their respective programs; their employment and wages before, during, and after program completion; the

supports they receive; and their interactions with their assigned caring adult.

This tracking system will provide critical information to Department policymakers on whether participants are effectively receiving education and training services, as well as the dosage and length of the caring adult model services. Data collection tasks include: (1) Design and test the PTS; and (2) execute the PTS, and (3) analyze the data and report the results. The period of performance of this evaluation ends in March 2016. The overall budget for the evaluation is $3,000,000. The evaluation contractor is The Urban Institute.

2. *Desired Focus of Comments:* 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 the name of the Information Collection.

Submitted comments will also be a matter of public record for this ICR and posted on the Internet, without redaction. Comments received will also be summarized and addressed in the request submitted for Office of Management and Budget approval. DOL encourages commenters not to include personally identifiable information, confidential business data, or other sensitive statements/information in any comments.

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 information collection on those who are to respond, including 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.

3. *Current Actions:* Pursuant to the PRA implementing regulations at 5 CFR § 1320.8(d)(1), this notice requests comments on the proposed information collection request discussed above in the Background section of this notice. Interested parties are encouraged to provide comments as described in the **ADDRESSES** section above.

Agency: Office of the Assistant Secretary for Policy.

Type of Review: New Collection.

Title of Collection: Opportunities for Youth Demonstration and Evaluation Participant Tracking System.

OMB Control Number: 1290–0NEW.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents (Unduplicated): 250.

Total Estimated Number of Responses (Unduplicated): 250.

Estimated Time per Response: .25 hours.

Total Estimated Annual Time Burden: 62.5 hours.

Estimated Other Costs per Response: $0.

Total Estimated Annual Other Costs Burden: $0.

Dated: July 16, 2014.

James H. Moore, Jr.,

Deputy Assistant Secretary for Policy, Office of the Assistant Secretary for U.S. Department of Labor.

[FR Doc. 2014–17224 Filed 7–21–14; 8:45 am]

BILLING CODE 4510–23–P

DEPARTMENT OF LABOR

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Underground Construction Standard

AGENCY: Department of Labor.

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Underground Construction Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 et seq. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before August 21, 2014.

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=201406-1218-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–6881 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Underground Construction Standard information collection requirements codified in regulations 29 CFR 1926.800. The requirements apply to an Occupation Safety and Health Act (OSH Act) covered employer engaged in underground construction. The information collections the DOL seeks to extend by this ICR include: (1) Posting various warning signs and notices, (2) developing and maintaining certification inspection records for hoists, and (3) developing and maintaining records of air quality tests. OSH Act sections 6(b)(7) and 8 authorize this information collection. *See* 29 U.S.C. 655, 657.

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 1218–0067.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on July 31, 2014. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on April 7, 2014 (79 FR 19125).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0067. 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–OSHA.

Collection: Underground Construction Standard.

OMB Control Number: 1218–0067.

Affected Public: Private sector—businesses or other for-profits.

Total Estimated Number of Respondents: 361.

Total Estimated Number of Responses: 1,078,029.

Total Estimated Annual Time Burden: 66,931 hours.

Total Estimated Annual Other Costs Burden: $129,600.

Dated: July 16, 2014.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2014–17131 Filed 7–21–14; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2013–0007]

Maritime Advisory Committee for Occupational Safety and Health (MACOSH)

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice of MACOSH Meeting.

SUMMARY: This **Federal Register** notice announces meetings of the full Committee and the workgroups on August 19 and 20, 2014 in Washington, DC.

DATES: *MACOSH meeting:* MACOSH will meet from 9 a.m. until approximately 5 p.m. on August 19 and 20, 2014.

Submission of comments, requests to speak, and requests for special accommodation: Submit comments, requests to speak at the full Committee meeting, and requests for special accommodations for these meetings (postmarked, sent, or transmitted) by August 1, 2014.

ADDRESSES: The Committee and workgroups will meet at the U.S. Department of Labor, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210, in Conference Rooms C–5521 Room 4 and C–5515 Room 2. Meeting attendees must use the visitor's entrance located at 3rd & C Streets NW.

Submission of written statements and requests to speak: Submit comments and requests to speak at the MACOSH meetings, identified by the docket number for this **Federal Register** notice (Docket No. OSHA 2013–0007), by one of the following methods:

Electronically: 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 comments, including attachments, are not longer than 10 pages, commenters may fax them to the OSHA Docket Office at (202) 693–1648.

Regular mail, express mail, hand (courier) delivery, and messenger service: When using this method, submit a copy of comments and attachments to the OSHA Docket Office, Docket No. OSHA–2013–0007, U.S. Department of Labor, Occupational Safety and Health Administration, Room N–2625, 200 Constitution Avenue NW., Washington, DC 20210. The Docket Office accepts deliveries (express mail, hand (courier) delivery, and messenger service) during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m. to 4:45 p.m., e.t.

Requests for special accommodations: Submit requests for special accommodations for MACOSH and its workgroup meetings by hard copy, telephone, or email to: Ms. Gretta Jameson, OSHA, Office of Communications, Room N–3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *Jameson.GrettaH@dol.gov.*

Instructions: All submissions must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2013–0007). Because of security-related procedures, submissions by regular mail may result in a significant delay in receipt. Please contact the OSHA Docket Office for information about security procedures for making submissions by express mail, hand (courier) delivery, and messenger service.

OSHA will place comments and requests to speak, including personal information, in the public docket which may be available online. Therefore, OSHA cautions interested parties about submitting personal information such as Social Security numbers and birthdates.

Docket: To read or download documents in the public docket for this MACOSH meeting, go to *http://www.regulations.gov.* All documents in the public docket are listed in the index; however, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions are available for inspection and, when permitted, copying at the OSHA Docket Office at the above address. For information on using *http://www.regulations.gov* to make submissions or to access the docket, click on the ''Help'' tab at the top of the Home page. Contact the OSHA Docket Office for information about materials not available through that Web site and for assistance in using the Internet to locate submissions and other documents in the docket.

FOR FURTHER INFORMATION CONTACT: *For press inquiries:* Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of

Labor, Room N–3647, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–1999; email: *meilinger.frank2@dol.gov.*

For general information about MACOSH and this meeting: Mrs. Amy Wangdahl, Director, Office of Maritime and Agriculture, OSHA, U.S. Department of Labor, Room N–3609, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–2066; email: *wangdahl.amy@dol.gov.*

Copies of this **Federal Register** notice*:* Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available at OSHA's Web page at: *http://www.osha.gov.*

SUPPLEMENTARY INFORMATION: All MACOSH committee and workgroup meetings are open to the public. Interested persons may attend the full Committee and its workgroup meetings at the time and place listed above. The full Committee agenda will include: An OSHA activities update; a review of the minutes from the previous meeting; and reports from each workgroup. The workgroup agendas will include discussions on: Surface preparation and preservation in shipyards; shipboard refrigeration systems; pedestal crane safety on commercial fishing vessels; preventing chassis drivers from jostling in the cab in marine terminals; the accuracy of declared container weights; baggage handling in cruise terminal operations; a review of the 2010 International Maritime Organization annex ''Guidance on Providing Safe Working Conditions for Securing of Containers on Deck''; and log handling safety.

The workgroups, which include the Longshoring workgroup and the Shipyard workgroup, will meet from 9 a.m. until approximately 5 p.m. on August 19, 2014 in Conference Rooms C–5521 Room 4 and C–5515 Room 2. The full Committee will meet from 9 a.m. until approximately 5 p.m. on August 20, 2014, in Conference Room C–5521 Room 4.

Public Participation: Any individual attending the MACOSH meeting, including the workgroup meetings, at the U.S. Department of Labor, Frances Perkins Building, must use the entrance located at 3rd & C Streets NW. and pass through Building Security. Attendees must have valid government-issued photo identification to enter the building. Please contact Gretta Jameson at (202) 693–2176 (email: *jameson.grettah@dol.gov*) for additional information about building security measures for attending the MACOSH Committee and workgroup meetings. Interested parties may submit a request to make an oral presentation to MACOSH by any one of the methods listed in the **ADDRESSES** section above. The request must state the amount of time requested to speak, the interest represented (e.g., organization name), if any, and a brief outline of the presentation. The MACOSH Chair has discretion to grant requests to address the full Committee as time permits.

Interested parties also may submit written comments, including data and other information, using any one of the methods listed in the **ADDRESSES** section above. OSHA will provide all submissions to MACOSH members prior to the meeting. Individuals who need special accommodations to attend the MACOSH meeting should contact Gretta Jameson as specified above under the heading ''Requests for special accommodations'' in the **ADDRESSES** section.

Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, authorized the preparation of this notice under the authority granted by 29 U.S.C. 655, 656, 5 U.S.C. App. 2, Secretary of Labor's Order No. 1–2012 (77 FR 3912), and 29 CFR part 1912.

Signed at Washington, DC, on July 16, 2014.

David Michaels,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 2014–17178 Filed 7–21–14; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0169]

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 June 26, 2014, to July 9, 2014.

DATES: Comments must be filed by August 21, 2014. A request for a hearing must be filed by September 22, 2014.

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

- Federal Rulemaking Web site: Go to *http://www.regulations.gov* and search for Docket ID NRC–2014–0169. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.*
- Mail comments to: Cindy Bladey, Office of Administration, Mail Stop: 3WFN–06–A44M, 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: Mable Henderson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–3760, email: *Mable.Henderson@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0169 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–2014–0169.
- 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 the **SUPPLEMENTARY INFORMATION** section

- 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–2014–0169 in the subject line of your comment submission, in order to ensure that the NRC is able to make your comment submission available to the public in this docket.

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

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

II. 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 should 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. Should the Commission take 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. Should the Commission make 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 person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. 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/.* If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition; and the Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of a hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/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 requestor's/petitioner's interest. The petition must also identify the specific contentions which the requestor/petitioner seeks to have litigated at 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 requestor/petitioner shall 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 requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements 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, and have the opportunity to participate fully in the conduct of the hearing.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide 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 held 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 any amendment.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, 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 participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). 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. 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 ten 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 request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (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.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are 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 documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System 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 Meta System Help Desk is available between 8 a.m. and 8 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 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, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document 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 *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. 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.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day 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)–(iii).

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 accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: April 23, 2014, as supplemented by letter dated June 19, 2014. Publicly available versions are in ADAMS under Accession Nos. ML14113A445 and ML14170B201, respectively.

Description of amendment request: The proposed amendment would revise the technical specification (TS) surveillance requirements (SRs) associated with TS 3.8.4, ''DC Sources—Operating'' and TS 3.8.6, ''Battery Cell Parameters.''

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.

Performing the proposed changes in battery parameter surveillance testing and verification is not a precursor of any accident previously evaluated. Furthermore, these changes will help to ensure that the voltage and capacity of the batteries is such that they will provide the power assumed in calculations of design basis accident mitigation.

Therefore, DTE concludes that 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 changes do not involve any modification of the plant or how the plant is operated; they only involve surveillance testing and verification activities.

Therefore, DTE concludes that these proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Do the proposed changes involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of the fuel cladding, reactor coolant, and containment systems will not be impacted by the proposed changes.

The proposed Fermi 2 revisions of the SRs ensure the continued availability and operability of the batteries. As such, sufficient [direct current] capacity to support operation of mitigation equipment remains within the design basis.

Therefore, DTE concludes that 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: Bruce R. Maters, DTE Energy, General Counsel—Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226–1279.

NRC Branch Chief: Robert D. Carlson.

Duke Energy Progress Inc., Docket No. 50–261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of amendment request: February 10, 2014, as supplemented by letter dated April 4, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14052A065 and ML14107A339, respectively.

Description of amendment request: The amendment would revise Technical Specification (TS) 3.3.1 for the Reactor Protection System Instrumentation Turbine Trip function on Low Auto Stop Oil (ASO) Pressure to a Turbine Trip function on Low Electro-Hydraulic (EH) Fluid Oil Pressure. The amendment would revise the Allowable Value and Nominal Trip Setpoint and revise the TS by applying additional testing requirements listed in Technical Specifications Task Force Traveler 493–A Revision 4, ''Clarify Application of Setpoint Methodology for Limiting Safety System Setting Functions,'' for Low EH Fluid Oil Pressure trip only.

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 reflects a design change to the turbine control system that results in the use of an increased control oil pressure system, necessitating a change to the value at which a low EH fluid oil pressure initiates a reactor trip on turbine trip. The EH oil pressure is an input to the reactor trip instrumentation in response to a turbine trip event. The value at which the low Electro-Hydraulic fluid oil initiates a reactor trip is not an accident initiator. A change in the nominal control oil pressure does not introduce any mechanisms that would increase the probability of an accident previously analyzed. The reactor trip on turbine trip function is initiated by the same protective signal as used for the ASO System trip signal. There is no change in form or function of this signal and the probability or consequences of previously analyzed accidents are not impacted.

The proposed change also adds test requirements to a TS instrument function related to those variables that have a significant safety function to ensure that instruments will function as required to initiate protective systems or actuate mitigating systems at the point assumed in the applicable setpoint calculation. Surveillance tests are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the TSs for which surveillance tests are added are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function.

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 EH fluid oil pressure decreases in response to a turbine trip. The value at which the low EH fluid oil initiates a reactor trip is not an accident initiator. The proposed TS change reflects the higher pressure that will be sensed after the pressure switches are relocated from the ASO System to the AST [Auto Stop Trip] high pressure header. Failure of the new switches would not result in a different outcome than is considered in the current design basis. Further, the change does not alter assumptions made in the safety analysis but ensures that the instruments perform as assumed in the accident analysis.

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.

The change involves a parameter that initiates an anticipatory reactor trip following a turbine trip. The safety analyses do not credit this anticipatory trip for reactor core protection. The original pressure switch configuration and the new pressure switch configuration both generate the same reactor trip signal. The difference is that the initiation of the trip will now be adjusted to a different system of higher pressure. This system function of sensing and transmitting a reactor trip signal on turbine trip remains the same. Also, the proposed change adds test requirements that will assure that (1) technical specifications instrumentation Allowable Values will be limiting settings for assessing instrument channel operability and (2) will be conservatively determined so that evaluation of instrument performance history and the as left tolerance requirements of the calibration procedures will not have an adverse effect on equipment operability. The testing methods and acceptance criteria for systems, structures, and components, specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis including the updated Final Safety Analysis Report. There is no impact to safety analysis acceptance criteria as described in the plant licensing basis because no change is made to the accident analysis assumptions.

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: Lara S. Nichols, Deputy General Counsel, Duke Energy Corporation, 550 South Tyron Street, Mail Code DEC45A, Charlotte, NC 28202.

NRC Acting Branch Chief: Lisa M. Regner.

Duke Energy Progress Inc., Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit No. 1, New Hill, North Carolina

Date of amendment request: April 24, 2014. A publicly-available version is in ADAMS under Accession No. ML14114A743.

Description of amendment request: The proposed amendment would revise Technical Specification (TS) 3/4.4.5, ''Steam Generator Tube Integrity,'' TS 6.8.4.I, ''Steam Generator Program,'' and TS 6.9.1.7, ''Steam Generator Tube Inspection Report'' to address implementation associated with the inspections and reporting requirements as described in Technical Specifications Task Force (TSTF) TSTF–510–A, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection.''

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 revises the Steam Generator (SG) Program to modify the frequency of verification of SG tube integrity and SG tube sample selection. A steam generator tube rupture (SGTR) event is one of the design basis accidents that are analyzed as part of a plant's licensing basis. The proposed SG tube inspection frequency and sample selection criteria will continue to ensure that the SG tubes are inspected such that the probability of a SGTR is not increased. The consequences of a SGTR are bounded by the conservative assumptions in the design basis accident analysis. The proposed change will not cause the consequences of a SGTR to exceed those assumptions.

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 changes to the Steam Generator Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The proposed change does not affect the design of the SGs or their method of operation. In addition, the proposed change does not impact any other plant system or component.

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 SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes also isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of a SG is maintained by ensuring the integrity of its tubes. Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change will continue to require monitoring of the physical condition of the SG tubes such that there will not be a reduction in the margin of safety compared to the current requirements.

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: Lara S. Nichols, Deputy General Counsel, Duke Energy Corporation, 550 South Tyron Street, Mail Code DEC45A, Charlotte, NC 28202.

NRC Acting Branch Chief: Lisa M. Regner.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: March 18, 2014. A publicly-available version is in ADAMS under Accession No. ML14086A389.

Description of amendment request: The amendment would adopt Technical Specification (TS) Task Force (TSTF) change traveler TSTF–535, Revision 0, ''Revise Shutdown Margin [SDM] Definition to Address Advanced Fuel Designs,'' at Columbia Generating Station. The notice of availability of TSTF–535, Revision 0, was announced in the **Federal Register** on February 26, 2013 (78 FR 13100).

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 revises the definition of SDM. SDM is not an initiator to any accident previously evaluated. Accordingly, the proposed change to the definition of SDM has no effect on the probability of any accident previously evaluated. SDM is an assumption in the analysis of some previously evaluated accidents and inadequate SDM could lead to an increase in consequences for those accidents. However, the proposed change revises the SDM definition to ensure that the correct SDM is determined for all fuel types at all times during the fuel cycle. As a result, the proposed change does not adversely affect the consequences of any 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 revises the definition of SDM. The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operations. The change does not alter assumptions made in the safety analysis regarding SDM.

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 proposed change revises the definition of SDM. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change ensures that the SDM assumed in determining safety limits, limiting safety system settings or limiting conditions for operation is correct for all BWR fuel types at all times during the fuel cycle.

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 A. Horin, Esq., Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Energy Northwest, Docket No. 50–397, Columbia Generating Station, Benton County, Washington

Date of amendment request: March 24, 2014, as supplemented by letter dated May 8, 2014. Publicly-available versions are in ADAMS under Accession Nos. ML14098A400 and ML14141A538, respectively.

Description of amendment request: The amendment would revise Columbia Generating Station Technical Specification (TS) Table 3.3.1.1–1 to update Scram Discharge Volume (SDV) instrumentation nomenclature, add a Surveillance Requirement (SR) which was previously omitted, and add footnotes to an SR consistent with TS Task Force (TSTF) change traveler TSTF–493, Revision 4, ''Clarify Application of Setpoint Methodology for LSSS [Limiting Safety System Settings] Functions,'' Option A. The notice of availability of the models for plant-specific adoption of TSTF–493, Revision 4, was announced in the **Federal Register** on May 11, 2010 (75 FR 26294).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to Function 7 names are administrative in nature and ensure that the description of SDV Water Level—High instrumentation in TS matches the plant configuration. The addition of a missing channel check SR and TSTF–493 footnotes for the new Function 7.b instruments makes the TS more comprehensive by ensuring the appropriate surveillances and footnotes are applied to this instrumentation.

The replacement instruments for Function 7.b meet the high functional reliability standard of GDC 21 [General Design Criteria 21, ''Protection system reliability and testability,'' of 10 CFR Part 50, Appendix A] and all pertinent requirements of 10 CFR 50.55a(h)(2). The instrumentation modification was reviewed under 10 CFR 50.59(c)(1) and determined to not meet any of the criteria in 10 CFR 50.59(c)(2).

The addition of a channel check to Function 7.a and addition of TSTF–493 notes (d) and (e) to SR 3.3.1.1.10 for the Function 7.b instrumentation do not change accident frequency or consequences. TS requirements that govern operability or routine testing of plant instruments are not assumed to be initiators of any analyzed event because these instruments are intended to prevent, detect, or mitigate accidents. Additionally, these proposed changes will not increase the consequences of an accident previously evaluated because the proposed changes do not adversely impact structures, systems, or components. The proposed TS changes establish requirements that ensure components are operable when necessary for the prevention or mitigation of accidents or transients. Furthermore, there will be no change in the types or significant increase in the amounts of any effluents released offsite.

In summary, 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 administratively revise instrument descriptions, incorporate a new SR, and add footnotes to an existing SR do not change the parameters within which Columbia is operated.

The proposed changes do not adversely impact the manner in which the SDV Water Level—High RPS [Reactor Protection System] instrumentation will operate under normal and abnormal operating conditions. The instrumentation design changes were reviewed under 10 CFR 50.59(c)(1) and determined to not meet any of the criteria of 10 CFR 50.59(c)(2). The proposed changes will not alter the functional demands on credited equipment. No alteration in the procedures which ensure that Columbia remains within analyzed limits are proposed and no change is being made to procedures relied upon to respond to an off-normal event.

Therefore, these proposed changes provide an equivalent level of safety and will 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 to the function descriptions in TS Table 3.3.1.1–1 Functions 7.a and 7.b are considered administrative in nature, and do not impact plant safety.

Margins of safety are established in the design of components, the configuration of components to meet certain performance parameters, and in the establishment of setpoints to initiate alarms and actions. The proposed changes support a planned upgrade of the SDV instrumentation that preserves the reliability of the RPS system. The proposed changes do not adversely affect the probability of failure or availability of the affected instrumentation. The instrumentation design changes were evaluated under 10 CFR 50.59(c)(1) and determined not to meet any of the criteria of 10 CFR 50.59(c)(2).

The addition of a Channel Check SR to TS Table 3.3.1.1–1 Function 7.a and the addition of TSTF–493 notes (d) and (e) to SR 3.3.1.1.10 for the new scram discharge instrumentation in TS Table 3.3.1.1–1 Function 7.b are conservative changes that align the SRs for proper determination of operability with that of similar instrumentation.

On this basis, is concluded that the proposed changes do not result in a 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 A. Horin, Esq., Winston & Strawn, 1700 K Street NW., Washington, DC 20006–3817.

NRC Branch Chief: Michael T. Markley.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station, Plymouth County, Massachusetts

Date of amendment request: November 26, 2013. A publicly-available version is in ADAMS under Accession No. ML13346A026.

Description of amendment request: The amendment would revise Technical Specification 4.3.4, ''Heavy Loads'' limitation imposed on maximum weight that could travel over the irradiated fuel in the spent fuel pool.

Basis for proposed no significant hazards consideration determination: As required by Title 10 of the *Code of Federal Regulations* (CFR) Section 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 Reactor Building crane is being upgraded to meet the applicable single-failure-proof criteria of NUREG 0554 and NUREG 0612 for the modification of the existing non single-failure-proof crane. While loads in excess of 2,000 lbs [pounds] shall continue to be prohibited from travel over irradiated fuel assemblies in the spent fuel pool by the PNPS [Pilgrim Nuclear Power Station] Technical Specifications, a Multi-Purpose Canister (MPC) lid will be permitted to travel over irradiated fuel assemblies in a transfer cask, using a single-failure-proof handling system as described in NUREG–0800 Section 9.1.5 Paragraph llI.4.C, to enable the conduct of dry cask storage loading and unloading operations. Specifically, this will enable the MPC lid and its associated lifting apparatus to travel over irradiated fuel assemblies in a MPC. The probability of dropping this load onto an irradiated fuel assembly in the canister is reduced as a result of the reliability of the single-failure-proof handling system.

The proposed change does not affect the consequences of any accidents previously evaluated in the PNPS UFSAR [Updated Final Safety Analysis Report]. The change involves the travel of heavy loads over irradiated fuel assemblies in a transfer cask using a single-failure-proof handling system. Under these circumstances, no new load drop accidents are postulated and no changes to the probabilities or consequences of accidents previously evaluated are involved.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Section 10.3 of the PNPS UFSAR evaluates fuel storage and handling operations. Section 14 of the PNPS UFSAR discusses the analysis of design basis fuel handling accidents involving drop of an irradiated assembly resulting in multiple fuel rod failures and consequent release of radioactivity. The change involves the travel of heavy loads over irradiated fuel assemblies in a transfer cask using a single-failure-proof handling system. Under these circumstances, no new or different load drop accidents are postulated to occur and there are no changes in any of the load drop accidents previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The revised Technical Specification changes do not involve a reduction in any margin of safety. Technical Specification 4.3.4 currently prohibits travel of heavy loads in excess of 2,000 lbs over irradiated fuel assemblies in the spent fuel pool. The proposed change will continue to restrict travel of heavy loads in excess of 2,000 lbs over irradiated fuel assemblies in the spent fuel pool, with the exception of the MPC lid over irradiated fuel assemblies in the canister to enable dry cask storage operations. This exception is only permitted when the heavy load is handled using a single-failure-proof handling system. Due to the reliability of this upgraded handling system that complies with the guidance of NUREG–0800 Section 9.1.5 for a single-failure-proof handling system, a load drop accident is not considered a credible event. Under these circumstances, no

new load drop accidents are postulated and no reductions in margins of safety are involved.

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: Ms. Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Benjamin G. Beasley

Entergy Nuclear Vermont Yankee, LLC and Entergy Nuclear Operations, Inc., Docket No. 50–271, Vermont Yankee Nuclear Power Station, Vernon, Vermont

Date of amendment request: March 24, 2014. A publicly available version is in ADAMS under Accession No. ML14085A257.

Description of amendment request: The proposed amendment would revise the site emergency plan for the permanently defueled condition to reflect changes in the on-shift staffing and Emergency Response Organization staffing.

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 to the SEP [Site Emergency Plan] do not impact the function of plant structures, systems, or components (SSCs). The proposed changes do not affect accident initiators or precursors, nor does it alter design assumptions. The proposed changes do not prevent the ability of the on-shift staff and ERO [Emergency Response Organization] to perform their intended functions to mitigate the consequences of any accident or event that will be credible in the permanently defueled condition. The proposed changes only remove positions that will no longer be credited in the SEP in the permanently defueled condition.

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 proposed changes reduce the number of on-shift and ERO positions commensurate with the hazards associated with a permanently shutdown and defueled facility. The proposed changes do not involve installation of new equipment or modification of existing equipment, so that no new equipment failure modes are introduced. Also, the proposed changes do not result in a change to the way that the equipment or facility is operated so that no new accident initiators are created.

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 amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (i.e., fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed changes are associated with the SEP staffing and do not impact operation of the plant or its response to transients or accidents. The change does not affect the Technical Specifications. The proposed changes do not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes. Safety analysis acceptance criteria are not affected by the proposed changes. The revised SEP will continue to provide the necessary response staff with the proposed changes.

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: Ms. Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 400 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Douglas A. Broaddus.

Exelon Generation Company (EGC), LLC, Docket Nos. STN 50–456 and STN 50–457, Braidwood Station, Units 1 and 2, Will County, Illinois, Docket Nos. STN 50–454 and STN 50–455, Byron Station, Unit Nos. 1 and 2, Ogle County, Illinois

Date of amendment request: April 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14111A257.

Description of amendment request: The proposed amendment would revise required action notes in the Braidwood and Byron TS 3.3.1 and TS 3.3.2 to reflect the specific functions in TS 3.3.1 and TS 3.3.2 that have bypass test capability installed and the specific functions that do not have bypass test capability installed. The current wording is no longer applicable because the installation and implementation of the bypass test instrumentation modifications for certain functions have been completed.

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 administrative in nature as it revises previously approved specific TS [Technical Specifications] Required Actions Notes that are no longer applicable following plant modification installation and implementation to reflect the applicable RTS [Reactor Trip System] and ESFAS [Engineered Safety Feature Actuation System] Functions with installed bypass test capability.

The proposed change does not impact any accident initiators, analyzed events, or assumed mitigation of accident or transient events modeled in the safety analyses. The proposed change does not alter the design assumptions, conditions, or configuration of the facility, nor does it affect the structural and functional integrity of the RTS and ESFAS. The proposed change does not alter or prevent the ability of any structures, systems, and components from performing their intended design function to mitigate the consequences of an initiating event within the applicable acceptance criteria.

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 revise previously approved specific TS Required Actions Notes that are no longer applicable to specific RTS and ESFAS Functions with installed bypass test capability is administrative in nature. The proposed change does not result in a change to any design function or the manner in which the RTS and ESFAS operates to provide plant protection. The RTS and ESFAS will continue to have the same setpoints after the proposed change is implemented. In addition, this change does not install or modify any plant equipment. Therefore, no new failure modes are being created nor does the change result in the creation of any changes to the existing accident scenarios or do they create any new or different accident scenarios. The types of accidents defined in the UFSAR [updated final safety analysis report] continue to represent the credible spectrum of events to be analyzed which determine safe plant operation.

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.

No safety analyses are changed or modified as a result of the proposed change to revise previously approved specific TS Required Actions Notes that are no longer applicable to RTS and ESFAS Functions with installed bypass test capability. The proposed change does not alter the manner in which the safety limits, limiting safety system settings, or limiting conditions for operation are determined. Margins associated with the current applicable safety analyses acceptance criteria are unaffected. The current safety analyses remain bounding since their conclusions are not affected by this change and the plant will continue to operate in a manner consistent with the safety analyses. The safety systems credited in the safety analyses will continue to be available to perform their mitigation functions.

Therefore, the proposed change does not result in a significant reduction in the margin of safety.

Based on the above evaluation, EGC concludes that the proposed amendments do not involve a significant hazards consideration under the standards set forth in 10 CFR 50.92, paragraph (c), and, accordingly, a finding of no significant hazards consideration is justified.

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 requested amendments involve no significant hazards consideration.

Attorney for licensee: Mr. Bradley J. Fewell, Associate General Counsel, Exelon Nuclear, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: Travis L. Tate.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: October 31, 2013. A publicly-available version is in the ADAMS System under Accession No. ML13308A387.

Description of amendments request: The amendments would modify the Technical Specification requirements regarding steam generator tube inspections and reporting as described in Technical Specification Task Force 510–A, Revision 2, ''Revision to Steam Generator Program Inspection Frequencies and Tube Sample Selection.''

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. Involve a significant increase in the probability or consequences of an accident previously evaluated; or

No.

The proposed change revises the Steam Generator (SG) Program to modify the frequency of verification of SG tube integrity and SG tube sample selection. A steam generator tube rupture event (SGTR) is one of the design basis accidents that are analyzed as part of a plant's licensing basis. The proposed SG tube inspection frequency and sample selection criteria will continue to ensure that the SG tubes are inspected such that the probability of a SGTR is not increased. The consequences of a SGTR are bounded by the conservative assumptions in the design basis accident analysis. The proposed change will not cause the consequences of a SGTR to exceed these assumptions.

Therefore, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different type of accident from any accident previously evaluated; or

No.

The proposed changes to the SG Program will not introduce any adverse changes to the plant design basis or postulated accidents resulting from potential tube degradation. The proposed change does not affect the design of the SGs or their method of operation. In addition, the proposed change does not impact any other plant system or component.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

No.

The SG tubes in pressurized water reactors are an integral part of the reactor coolant pressure boundary and, as such, are relied upon to maintain the primary system's pressure and inventory. As part of the reactor coolant pressure boundary, the SG tubes are unique in that they are also relied upon as a heat transfer surface between the primary and secondary systems such that residual heat can be removed from the primary system. In addition, the SG tubes also isolate the radioactive fission products in the primary coolant from the secondary system. In summary, the safety function of a SG is maintained by ensuring the integrity of its tubes.

Steam generator tube integrity is a function of the design, environment, and the physical condition of the tube. The proposed change does not affect tube design or operating environment. The proposed change will continue to require monitoring of the physical condition of the SG tubes such that there will not be a reduction in the margin of safety compared to the current requirements.

Therefore, the proposed amendment would 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 amendments request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Exelon Generation, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Benjamin G. Beasley

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: November 13, 2013. A publicly-available version is in the ADAMS System under Accession No. ML13318A892.

Description of amendments request: The amendments would modify the Technical Specification requirements to adopt the changes described in Technical Specification Task Force 426–A, Revision 5, ''Revise or Add Actions to Preclude Entry into LCO 3.0.3—RITSTF Initiatives 6b and 6c.''

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. Involve a significant increase in the probability or consequences of an accident previously evaluated; or

No.

The proposed change provides a short Completion Time to restore an inoperable system for conditions under which the existing Technical Specifications require a plant shutdown to begin within one hour in accordance with Limiting Condition for Operation 3.0.3. Entering into Technical Specification Actions is not an initiator of any accident previously evaluated. As a result, the probability of an accident previously evaluated is not significantly increased. The consequences of any accident previously evaluated that may occur during the proposed Completion Times are no different from the consequences of the same accident during the existing one hour allowance. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, operation of the facility in accordance with the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different type of accident from any accident previously evaluated; or

No.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

No.

The proposed change increases the time the plant may operate without the ability to perform an assumed safety function. The analyses in WCAP–16125–NP–A, ''Justification for Risk-Informed Modifications to Selected Technical Specifications for Conditions Leading to Exigent Plant Shutdown,'' Revision 2, August 2010, demonstrated that there is an acceptably small increase in risk due to a limited period of continued operation in these conditions and that this risk is balanced by avoiding the risks associated with a plant shutdown. As a result, the change to the margin of safety provided by requiring a plant shutdown within one hour is not significant.

Therefore, the proposed amendment would 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 amendments request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Exelon Generation, 200 Exelon Way, Kennett Square, PA 19348

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: January 13, 2014. A publicly-available version is in the ADAMS under Accession No. ML14015A138.

Description of amendments request: The amendments would add a Technical Specification (TS) for the atmospheric dump valves (ADVs).

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 addition of a new TS to address the operability of the ADVs does not alter the assumed initiators to any analyzed event. The probability of an accident previously evaluated will not be increased by this proposed change. This proposed change will not affect radiological dose consequence analyses. The radiological dose consequence analyses assume a certain release of radioactive material through the ADVs following a steam generator tube rupture (SGTR), which is not affected by the addition of the ADVs to the TS. The addition of a Surveillance Requirement for the ADVs will continue to ensure that the ADVs can perform their specified function. The consequences of an accident previously evaluated will not be increased by this proposed change.

Therefore, operation of the facility in accordance with the proposed TS for the ADVs will 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 addition of a new TS to address the operability of the ADVs has been evaluated to determine the effect of adding the new TS to the operation of the plant. This change does not involve any alteration in the plant configuration (no new or different type of equipment will be installed) or make changes in the methods governing normal plant operation. The change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, operation of the facility in accordance with the proposed addition of a new TS to address the operability of the ADVs would 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.

The margin of safety is related to the ability of the ADV to release enough steam to cool the Reactor Coolant System down and be isolated when required to limit the radioactive release from a SGTR. The inclusion of the ADVs in the TS will provide limited time for continued operation without both ADVs available. This ensures that the margin of safety is maintained by ensuring that the ADV can meet the assumptions for its operation specified in the SGTR analysis. Since the radiological consequences of a SGTR are not affected

by the addition of the proposed TS, the margin of safety is not changed significantly.

Therefore, the proposed addition of a new TS to address the operability of the ADVs 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendments request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Exelon Generation, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: February 13, 2014. A publicly-available version is in the ADAMS under Accession No. ML14050A374.

Description of amendments request: The amendments would modify the as-found lift tolerances in the surveillance requirement for the pressurizer safety valves (PSVs).

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?

No.

The proposed change, modifying the as-found and as-left lift settings in the Surveillance Requirement of the PSVs, does not change the design function or operation of the PSVs and it does not change the way the PSVs are maintained, tested, or inspected. The PSVs are not accident initiators; they operate in response to the pressurization of the Reactor Coolant System (RCS). They limit the pressure of the RCS to less than the allowable American Society of Mechanical Engineers Boiler and Pressure Vessel, Section III Code during an accident or transient. Analyses were performed of peak pressure events, which are evaluated against the RCS limit. Action of the PSVs is required to mitigate the consequences of these events. The change in the setpoint tolerance and a change in one valve's nominal setpoint were explicitly considered in the analysis of these events. The RCS pressure remained below the required limits with these changes considered. Therefore, this change does not impact the ability of the PSVs to perform their safety function during evaluated accidents.

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?

No.

The proposed change, modifying the as-found and as-left lift settings in the Surveillance Requirement of the PSVs, does not change the PSVs design function to maintain RCS pressure below the RCS pressure Safety Limit of 2750 psia [pounds per square inch absolute] during design basis accidents nor does it affect the PSVs ability to perform this design function. The proposed change does not require any modification to the plant (other than the setpoint change) or change equipment operation or testing. It also does not create any credible new failure mechanisms, malfunctions, or accident initiators that would cause an accident not previously considered.

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?

No.

The proposed change, modifying the as-found and as-left lift settings in the Surveillance Requirement of the PSVs, does not involve a significant reduction in the margin of safety in maintaining RCS pressure below Safety Limits of 2750 psia during design basis accidents. The analyses conducted in support of this proposed change evaluated the ability of the PSVs to maintain an adequate safety margin assuming the change in setpoint tolerances and a change in one valve's nominal setpoint. The analysis determined that the response of the PSVs would maintain an adequate safety margin to the reactor coolant Safety Limit of 2750 psia.

Therefore the proposed change does not involve a significant reduction in the margin of safety of maintaining RCS pressure the below RCS pressure Safety Limit.

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 amendments request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Exelon Generation, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Benjamin G. Beasley.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: May 1, 2014. A publicly-available version is in the ADAMS under Accession No. ML14125A015.

Description of amendments request: The amendments would modify the Technical Specifications (TSs) by relocating specific surveillance frequencies to a licensee-controlled program with the implementation of Nuclear Energy Institute 04–10, ''Risk Informed Method for Control of Surveillance Frequencies.''

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. Involve a significant increase in the probability or consequences of an accident previously evaluated; or

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements to licensee control under a new Surveillance Frequency Control Program. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the Technical Specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different type of accident from any accident previously evaluated; or

Response: No.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical

alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

Therefore, this change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Involve a significant reduction in a margin of safety.

Response: No.

The design, operation, testing methods, and acceptance criteria for systems, structures and components specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the updated final safety analysis report and the bases to the TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, Calvert Cliffs will perform a probabilistic risk evaluation using the guidance contained in NRC approved NEI 04–10, Revision 1 in accordance with the TS Surveillance Frequency Control Program. Nuclear Energy Institute 04–10, Revision 1 methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide 1.177.

Therefore, this 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 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment's request involves no significant hazards consideration.

Attorney for licensee: J. Bradley Fewell, Exelon Generation, 200 Exelon Way, Kennett Square, PA 19348.

NRC Branch Chief: Benjamin G. Beasley.

Florida Power and Light Company (FPL), 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: February 20, 2014. Available in ADAMS under Accession No. ML14070A087.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) by relocating specific surveillance frequency requirements to a licensee-controlled program with implementation of Nuclear Energy Institute (NEI) 04–10, ''Risk Informed Technical Specification Initiative 5b, Risk Informed Method for Control of Surveillance Frequencies'' (ADAMS Accession No. ML071360456). The licensee stated that the NEI 04–10 methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies, consistent with Regulatory Guide 1.177, ''An Approach for Plant-Specific Risk-Informed Decision-Making: Technical Specifications'' (ADAMS Accession No. ML003740176). The licensee stated that the changes are consistent with NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specifications change TSTF–425, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk Informed Technical Specifications Task Force] Initiative 5b,'' Revision 3 (ADAMS Accession No. ML090850642). The **Federal Register** notice published on July 6, 2009 (74 FR 31996), announced the availability of TSTF–425, Revision 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is presented as follows:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements to licensee control under a new Surveillance Frequency Control Program. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the Technical Specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be [sic] capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does 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.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis assumptions and current plant operating practice.

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 design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, FPL will perform a probabilistic risk evaluation using the guidance contained in NRC-approved NEI 04–10, Revision 1 in accordance with the TS Surveillance Frequency Control Program. NEI 04–10, Revision 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide (RG) 1.177.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff 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: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700

Universe Blvd. MS LAW/JB, Juno Beach, Florida 33408–0420.

NRC Acting Branch Chief: Lisa M. Regner.

Florida Power and Light Company (FPL), Docket Nos. 50–250 and 50–251, Turkey Point Nuclear Generating Unit Nos. 3 and 4, Miami-Dade County, Florida

Date of amendment request: April 9, 2014. Available in ADAMS under Accession No. ML14105A042.

Description of amendment request: The amendment would revise the Technical Specifications (TSs) by relocating specific surveillance frequency requirements to a licensee-controlled program with implementation of Nuclear Energy Institute (NEI) 04–10, ''Risk Informed Technical Specification Initiative 5b, Risk Informed Method for Control of Surveillance Frequencies'' (ADAMS Accession No. ML071360456). The licensee stated that the NEI 04–10 methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies, consistent with Regulatory Guide 1.177, ''An Approach for Plant-Specific Risk-Informed Decision-Making: Technical Specifications'' (ADAMS Accession No. ML003740176). The licensee stated that the changes are consistent with NRC-approved Technical Specification Task Force (TSTF) Standard Technical Specifications change TSTF–425, ''Relocate Surveillance Frequencies to Licensee Control—RITSTF [Risk Informed Technical Specifications Task Force] Initiative 5b,'' Revision 3 (ADAMS Accession No. ML090850642). The **Federal Register** notice published on July 6, 2009 (74 FR 31996), announced the availability of TSTF–425, Revision 3.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee provided its analysis of the issue of no significant hazards consideration, which is presented as follows:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change relocates the specified frequencies for periodic surveillance requirements to licensee control under a new Surveillance Frequency Control Program. Surveillance frequencies are not an initiator to any accident previously evaluated. As a result, the probability of any accident previously evaluated is not significantly increased. The systems and components required by the Technical Specifications for which the surveillance frequencies are relocated are still required to be operable, meet the acceptance criteria for the surveillance requirements, and be [sic] capable of performing any mitigation function assumed in the accident analysis. As a result, the consequences of any accident previously evaluated are not significantly increased.

Therefore, the proposed change does 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 relocate the surveillance frequencies for Surveillance Requirements that have a set periodicity from the TS to a licensee controlled Surveillance Frequency Control Program. This change does not alter any existing surveillance frequencies. Within the constraints of the Program, the licensee will be able to change the periodicity of these surveillance requirements. Relocating the surveillance frequencies does not impact the ability of structures, systems or components (SSCs) from performing there [sic] design functions, and thus, does not create the possibility of a new or different kind of accident from any previously evaluated.

No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements. The changes do not alter assumptions made in the safety analysis assumptions and current plant operating practice.

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 design, operation, testing methods, and acceptance criteria for structures, systems, and components (SSCs) specified in applicable codes and standards (or alternatives approved for use by the NRC) will continue to be met as described in the plant licensing basis (including the final safety analysis report and bases to TS), since these are not affected by changes to the surveillance frequencies. Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis. To evaluate a change in the relocated surveillance frequency, FPL will perform a probabilistic risk evaluation using the guidance contained in NRC-approved NEI 04–10, Revision 1 in accordance with the TS Surveillance Frequency Control Program. NEI 04–10, Revision 1, methodology provides reasonable acceptance guidelines and methods for evaluating the risk increase of proposed changes to surveillance frequencies consistent with Regulatory Guide (RG) 1.177, An Approach for Plant-Specific Risk-Informed Decision-Making: Technical Specifications.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff 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: William S. Blair, Managing Attorney—Nuclear, Florida Power & Light Company, 700 Universe Blvd. MS LAW/JB, Juno Beach, Florida 33408–0420.

NRC Acting Branch Chief: Lisa M. Regner.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama

Date of amendment request: June 3, 2014. A publicly available version is in ADAMS under Accession No. ML14154A136.

Description of amendment request: The amendments would revise the Technical Specification Limiting Condition for Operation 3.3.1 and Surveillance Requirement 3.2.4.2 regarding the reactor trip system instrumentation.

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 accident initiators or precursors nor alter the design assumptions, conditions, or configuration of the facility or the

manner in which the plant is operated and maintained. The proposed changes do not alter or prevent the ability of structures, systems, and components (SSCs) from performing their intended function to mitigate the consequences of an initiating event within the assumed acceptance limits. The proposed changes do not affect the source term, containment isolation, or radiological release assumptions used in evaluating the radiological consequences of an accident previously evaluated. Further, the proposed changes do not increase the types or amounts of radioactive effluent that may be released offsite, nor significantly increase individual or cumulative occupational/public radiation exposures. The proposed changes are consistent with safety analysis assumptions and resultant consequences.

Therefore, the proposed changes do not increase 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 result in a change in the manner in which the Reactor Trip System (RTS) and engineered safety features actuation system (ESFAS) provide plant protection. The RTS and ESFAS will continue to have the same setpoints after the proposed changes are implemented. There are no design changes associated with the license amendment.

The changes do not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analysis. The proposed changes are consistent with the safety analysis assumptions and current plant operating practice.

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 changes involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The safety analysis acceptance criteria are not impacted by these changes. Redundant RTS and ESFAS trains are maintained, and diversity with regard to the signals that provide reactor trip and engineered safety features actuation is also maintained. All signals credited as primary or secondary, and all operator actions credited in the accident analyses will remain the same. The proposed changes will not result in plant operation in a configuration outside the design basis.

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: Leigh D. Perry, SVP & General Counsel of Operations and Nuclear, Southern Nuclear Operating Company, 40 Iverness Center Parkway, Birmingham, AL 35201.

NRC Branch Chief: Robert J. Pascarelli.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant (HNP), Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: March 17, 2014. A publicly-available version is in ADAMS under Accession No. ML14076A141.

Description of amendment request: The proposed amendments would modify Technical Specification (TS) definition of Shutdown Margin (SDM) to require calculation of the SDM at a reactor moderator temperature of 68 °F or a higher temperature that represents the most reactive state throughout the operating cycle. This change is needed to address new Boiling Water Reactor (BWR) fuel designs which may be more reactive at shutdown temperatures above 68 °F.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), an analysis of the issue of no significant hazards consideration is presented below:

SNC has evaluated whether or not a significant hazards consideration is involved with the proposed amendment(s) by focusing on the three standards set forth in 10 CFR 50.92, Issuance of amendment, as discussed 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 revises the definition of SDM. SDM is not an initiator to any accident previously evaluated. Accordingly, the proposed change to the definition of SDM has no effect on the probability of any accident previously evaluated. SDM is an assumption in the analysis of some previously evaluated accidents and inadequate SDM could lead to an increase in consequences for those accidents. However, the proposed change revises the SDM definition to ensure that the correct SDM is determined for all fuel types at all times during the fuel cycle. As a result, the proposed change does not adversely affect the consequences of any 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 revises the definition of SDM. The change does not involve a physical alteration of the plant (i.e., no new or different type of equipment will be installed) or a change in the methods governing normal plant operations. The change does not alter assumptions made in the safety analysis regarding SDM.

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 proposed change revises the definition of SDM. The proposed change does not alter the manner in which safety limits, limiting safety system settings or limiting conditions for operation are determined. The proposed change ensures that the SDM assumed in determining safety limits, limiting safety system settings or limiting conditions for operation is correct for all BWR fuel types at all times during the fuel cycle.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

Based on the above, SNC concludes that the proposed change presents no significant hazards consideration under the standards set forth in 10 CFR 50.92

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: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037.

NRC Branch Chief: Robert Pascarelli.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 And 50–281 Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of amendment request: April 11, 2014. A publicly-available version is in ADAMS under Accession No. ML14112A073.

Description of amendment request: The proposed license amendment requests the changes to the Technical Specification (TS) TS 4.2, ''Augmented Inspections,'' and TS 4.15, ''Augmented Inservice Inspection Program for High Energy Lines Outside of Containment,'' by relocating to the Surry Technical Requirements Manual (TRM). In addition, TS 6.4.U, ''Augmented Inspections and Examinations,'' will be added to the Administrative Controls Section 6.4, ''Unit Operating Procedures and Programs.'' The proposed relocation of the TS 4.2 and TS 4.15 requirements to the TRM is appropriate since these requirements do not satisfy the categories and criteria of 10 CFR 50.36(c) for inclusion in the TS. Along with the relocation of the TS 4.2 and TS 4.15 requirements to the TRM, the Bases for TS 4.2 and TS 4.15 are also being relocated to the TRM.

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 relocates Technical Specification (TS) 4.2, ''Augmented Inspections,'' TS 4.15, ''Augmented Inservice Inspection Program for High Energy Lines Outside of Containment,'' and the associated TS Bases to the Surry Technical Requirements Manual (TRM). In addition, TS 6.4.U, ''Augmented Inspections and Examinations,'' will be added to the Surry TS. The proposed relocation of the TS 4.2 and TS 4.15 requirements to the TRM is appropriate since these requirements do not satisfy the categories and criteria of 10CFR50.36(c), which specifies what items qualify for inclusion in the TS.

Specifically, the TS 4.2 augmented inspections of the low head safety injection piping located in the valve pit, the reactor coolant pump flywheel, the low pressure turbine rotor blades, sensitized stainless steel, and TS 4.15 augmented inspections of the welds in the main steam and main feedwater lines in the main steam valve house of each unit will be relocated to the TRM. The augmented inspections, which are performed in addition to required ASME Code Section Xl inspections/examinations, will continue to be performed as required by the TRM.

The plant systems and components to which the augmented inspections apply will not be operated in a different manner. The proposed relocation of the augmented inspections does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled.

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 does not involve any physical alteration of plant equipment. As such, no new or different types of equipment will be installed, and the basic operation of installed plant systems and components, to which the augmented inspections apply, is unchanged.

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.

The proposed change will not reduce a margin of safety because the relocation of the augmented inspections to the TRM has no impact on any safety analysis assumptions, as indicated by the fact that the requirements do not meet the 10CFR50.36(c) criteria for inclusion in the TS. In addition, the augmented inspections will be moved to the TRM without change and will continue to be performed as required by the TRM.

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 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Resources Services, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: Robert Pascarelli.

ZionSolutions LLC (ZS), Docket Nos. 50–295 and 50–304, Zion Nuclear Power Station (ZNPS), Units 1 and 2, Lake County, Illinois

Date of amendment request: May 27, 2014. A publicly-available version is in ADAMS under Accession No. ML14148A295.

Description of amendment request: The license amendment request proposes changes to ZNPS Defueled Station Emergency Plan (DSEP) in accordance with 10 CFR 50.54(q). ZS proposes removal of the various emergency actions related to the former spent fuel pool, the transfer of responsibility for implementing the Emergency Plan to the Independent Spent Fuel Storage Installation (ISFSI) Shift Supervisor, a revised emergency plan organization, abandonment of the Control Room consistent with the current state of decommissioning, transition to NEI 99–01 Revision 6 and reformatting consistent with current industry practice.

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 change involve a significant increase in the probability or consequences of an accident previously evaluated?

No. ZS has, in effect, a U.S. Nuclear Regulatory Commission-approved (NRC) emergency plan. The remaining ZNPS accident (Radioactive Waste Handling Accident) and the credible accidents involving the ISFSI and the Modular, Advanced Generation, Nuclear All-purpose Storage (MAGNASTOR) system have been analyzed and determined that none result in doses to the public beyond the owner controlled area boundary that would exceed the U.S. Environmental Protection Agency's (EPA) Protective Action Guides (PAGs). These analyses have not changed. With spent fuel relocated to the ISFSI, the Spent Fuel Pool previously analyzed events (Loss of Spent Fuel Pool Cooling,

Loss of Spent Fuel Pool Inventory, and Fuel Handling Accident in the Fuel Building) are no longer credible.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

(2) Does the change create the possibility of a new or different kind of accident from any accident previously evaluated?

No. ZS has, in effect, an NRC-approved emergency plan. The remaining ZNPS accident (Radioactive Waste Handling Accident) and the credible accidents involving the ISFSI and MAGNASTOR system have been analyzed and determined that none result in doses to the public beyond the owner controlled area boundary that would exceed the EPA's PAGs. These analyses have not changed. With spent fuel relocated to the ISFSI, the Spent Fuel Pool previously analyzed events (Loss of Spent Fuel Pool Cooling, Loss of Spent Fuel Pool Inventory, and Fuel Handling Accident in the Fuel Building) are no longer credible. Accidents associated with the ISFSI are addressed in the MAGNASTOR Final Safety Analysis Report.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

(3) Does the change involve a significant reduction in a margin of safety?

No. Margin of safety is related to the ability of the fission product barriers (fuel cladding, reactor coolant system, and primary containment) to perform their design functions during and following postulated accidents. ZS has, in effect, an NRC-approved emergency plan. The remaining ZNPS accident (Radioactive Waste Handling Accident) and the credible accidents involving the ISFSI and MAGNASTOR system have been analyzed and determined that none result in doses to the public beyond the owner controlled area boundary that would exceed the EPA's PAGs These analyses have not changed. With spent fuel relocated to the ISFSI, the Spent Fuel Pool previously analyzed events (Loss of Spent Fuel Pool Cooling, Loss of Spent Fuel Pool Inventory, and Fuel Handling Accident in the Fuel Building) are no longer credible.

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: Russ Workman, Deputy General Counsel, EnergySolutions, 423 West 300 South, Suite 200, Salt Lake City, UT 84101.

NRC Branch Chief: Bruce Watson.

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 Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or 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.

Entergy Nuclear Operations, Inc., Docket Nos. 50–247 and 50–286, Indian Point Nuclear Generating Unit Nos. 2 and 3, Westchester County, New York

Date of amendment request: May 23, 2013, as supplemented by letter dated October 11, 2013.

Brief description of amendment(s): The amendments revise the Technical Specifications to risk-inform requirements regarding selected Required Action End States. Specifically, the changes permit an end state of Mode 4 rather than an end state of Mode 5 consistent with Technical Specification Task Force (TSTF) Traveler TSTF 432–A, Revision 1, ''Change in Technical Specifications End States WCAP–16294.''

Date of issuance: July 7, 2014.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: Unit 2–275; Unit 3–252. A publicly-available version is in ADAMS under Accession No. ML14122A303; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–26 and DPR–64: The amendment revised the Facility Operating License and the Technical Specifications.

*Date of initial notice in **Federal Register***: July 23, 2013 (78 FR 44170). The supplemental letter 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 July 7, 2014.

No significant hazards consideration comments received: No.

Entergy Operations, Inc., Docket No. 50–313, Arkansas Nuclear One, Unit No. 1, Pope County, Arkansas

Date of amendment request: June 11, 2013, as supplemented by letter dated December 11, 2013.

Brief description of amendment: The amendment revised Technical Specification 2.1.1.1, to add a provision for the determination of the maximum local fuel pin centerline temperature using the NRC reviewed and approved COPERNIC fuel performance computer code.

Date of issuance: July 9, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 249. A publicly-available version is in ADAMS under Accession No. ML14169A475; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–51: Amendment revised the

Technical Specifications and the renewed facility operating license.

Date of initial notice in ***Federal Register***: April 1, 2014 (79 FR 18331). The supplemental letter dated December 11, 2013, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the 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 July 9, 2014.

No significant hazards consideration comments received: No.

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, Claiborne County, Mississippi

Date of application for amendment: November 8, 2013.

Brief description of amendment: The amendment revised the Technical Specification (TS) definition of ''Shutdown Margin'' (SDM) to require calculation of the SDM at a reactor moderator temperature of 68 degrees Fahrenheit (°F) or a higher temperature that represents the most reactive state throughout the operating cycle. This change is needed to address new Boiling Water Reactor (BWR) fuel designs which may be more reactive at shutdown temperatures above 68 °F.

This TS change is part of the Consolidated Line Item Improvement Process (CLIIP) TS Task Force (TSTF) Traveler TSTF–535, Revision 0, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs.'' The licensee stated there are no variations or deviations from the NRC staff's model safety evaluation.

Date of issuance: June 30, 2014.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No: 198. A publicly-available version is in ADAMS under Accession No. ML14106A133; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–29: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* March 4, 2014 (79 FR 12244).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated June 30, 2014.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Nine Mile Point Nuclear Station, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of application for amendment: June 11, 2012, as supplemented by letters dated February 27, March 27, April 30, and December 9, 2013; and January 22, March 14, April 15, May 9, and May 23, 2014.

Brief description of amendment: The amendment authorizes the transition of the Nine Mile Point Nuclear Station, Unit 1, fire protection program to a risk-informed, performance-based program based on National Fire Protection Association (NFPA) 805, in accordance with 10 CFR 50.48(c). NFPA 805 allows the use of performance-based methods such as fire modeling and risk-informed methods such as fire probabilistic risk assessment to demonstrate compliance with the nuclear safety performance criteria.

Date of issuance: June 30, 2014.

Effective date: As of its date of issuance and shall be implemented by 180 days from the date of issuance.

Amendment No.: 215. A publicly available version is in ADAMS under Accession No. ML14126A003; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–63: Amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register****:* September 11, 2012 (77 FR 55874).

The supplements dated February 27, March 27, April 30, and December 9, 2013; and January 22, March 14, April 15, May 9, and May 23, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the 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 June 30, 2014.

No significant hazards consideration comments received: No.

Amendment No.: 215. A publicly available version is in ADAMS under Accession No. ML14126A003; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–63: Amendment revised the License and Technical Specifications.

Date of initial notice in ***Federal Register****:* September 11, 2012 (77 FR 55874).

The supplements dated February 27, March 27, April 30, and December 9, 2013; and January 22, March 14, April 15, May 9, and May 23, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the 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 June 30, 2014.

No significant hazards consideration comments received: No.

Luminant Generation Company LLC, Docket Nos. 50–445 and 50–446, Comanche Peak Nuclear Power Plant, Unit Nos. 1 and 2, Somervell County, Texas

Date of amendment request: March 28, 2013, as supplemented by letters dated July 16, October 22, November 26, and December 17, 2013, and January 16, April 17, and May 1, 2014.

Brief description of amendment: The amendments revised Technical Specification (TS) 3.7.16, ''Fuel Storage Pool Boron Concentration,'' TS 3.7.17, ''Spent Fuel Assembly Storage,'' TS 4.3, ''Fuel Storage,'' and TS 5.5, ''Programs and Manuals,'' for storage of uprated fuel in Region II of the spent fuel pool. Changes to TS 3.7.16 reflect a change in the required fuel storage pool soluble boron concentration based on the results of a new criticality analysis. Changes to TS 3.7.17 include new spent fuel pool loading restrictions in terms of allowable storage patterns, and minimum burnup requirements as a function of enrichment, fuel type, and fuel reactivity category. The revised TS 4.3 section includes updates to the minimum soluble boron concentration, Region I fuel assembly spacing, specific new or partially spent fuel assembly storage restrictions in Region II consistent with TS 3.7.17, and general Region II storage restrictions consistent with TS 3.7.17. The change to TS 5.5 adds TS program 5.5.22, ''Neutron Absorber Monitoring Program.''

Date of issuance: July 1, 2014.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment Nos.: Unit 1–162; Unit 2–162. A publicly-available version is in ADAMS under Accession No. ML14160A035; documents related to these amendments are listed in the

Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–87 and NPF–89: The amendments revised the Facility Operating Licenses and Technical Specifications.

*Date of initial notice in **Federal Register**:* November 5, 2013 (78 FR 66391). The NRC staff's original proposed no significant hazards consideration determination was based on letters dated March 28, and July 16, 2013. The supplements dated October 22, November 26, and December 17, 2013, and January 16, April 17, and May 1, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the 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 July 1, 2014.

No significant hazards consideration comments received: No.

NextEra Energy Point Beach, LLC, Docket Nos. 50–266 and 50–301, Point Beach Nuclear Plant, Units 1 and 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of amendment request: January 15, 2013, as supplemented on March 1, April 18, and September 12, 2013, and March 11, 2014.

Description of amendment: The license amendment revised Technical Specifications 5.6.5, ''Reactor Coolant System (RCS) Pressure and Temperature Limits Report (PTLR),'' to allow the use of two new methodologies for determining RCS pressure and temperature limits at the Point Beach Nuclear Plant, Units 1 and 2.

Date of issuance: June 30, 2014.

Effective date: As of the date of issuance and shall be implemented with 180 days.

Amendment Nos.: 250 (Unit 1) and 254 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML14126A378; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License Nos. DPR–24 and DPR–27: The amendment revised the Renewed Facility Operating License and the Technical Specifications.

*Date of initial notice in **Federal Register**:* June 11, 2013 (78 FR 35062). The supplemental letters dated March 1, April 18, and September 12, 2013, and March 11, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the 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 June 30, 2014.

No significant hazards consideration comments received: No.

Virginia Electric and Power Company, et al., Docket Nos. 50–280 and 50–281, Surry Power Station, Units 1 and 2, Surry County, Virginia

Date of amendment requests: August 12, 2013, as supplemented by letters dated January 24, March 13, and March 25, 2014.

Brief description of amendments: The licensee requested to revise the Technical Specifications to, in effect, extend the Type A primary containment Integrated Leak Rate Test intervals to fifteen years and the Type C local leak rate test intervals to 75 months, and incorporate the regulatory positions stated in RG 1.163.

Date of issuance: July 3, 2014.

Effective date: As of its date of issuance and shall be implemented within 60 days from the date of issuance.

Amendment Nos.: Unit 1, 282; Unit 2, 282. A publicly-available version is in ADAMS under Accession No. ML14148A235; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–32 and DPR–37: The amendments revise the Renewed Facility Operating Licenses and the Technical Specifications.

*Date of initial notice in **Federal Register**:* October 29, 2013 (78 FR 64548). The supplemental letters dated January 24, March 13, and March 25, 2014, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the 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 July 3, 2014.

No significant hazards consideration comments received: No.

Union Electric Company, Docket No. 50–483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: September 26, 2013.

Brief description of amendment: The amendment revised Technical Specification Surveillance Requirement (SR) 3.7.10.1 and SR 3.7.13.1 to reduce the required run time for periodic operation of the control room pressurization system filter trains and emergency exhaust system filter trains, with heaters on, from 10 hours to 15 minutes. The amendment is consistent with plant-specific options provided in the NRC's model safety evaluation in Technical Specifications Task Force (TSTF) Traveler TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours per Month,'' as part of the consolidated line item improvement process.

Date of issuance: July 1, 2014.

Effective date: As of its date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 209. A publicly-available version is in ADAMS under Accession No. ML14175A390; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–30: The amendment revised the Operating License and Technical Specifications.

*Date of initial notice in **Federal Register**:* January 21, 2014 (79 FR 3418).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 2014.

No significant hazards consideration comments received: No.

Wolf Creek Nuclear Operating Corporation, Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: December 17, 2013.

Brief description of amendment: The amendment revised Technical Specification Surveillance Requirement (SR) 3.7.10.1 and SR 3.7.13.1 to reduce the required run time for periodic operation of the control room pressurization system filter trains and emergency exhaust system filter trains, with heaters on, from 10 hours to 15 minutes. The amendment is consistent with plant-specific options provided in the NRC's model safety evaluation in Technical Specifications Task Force (TSTF) Traveler TSTF–522, Revision 0, ''Revise Ventilation System Surveillance Requirements to Operate for 10 hours per Month,'' as part of the consolidated line item improvement process.

Date of issuance: July 1, 2014.

Effective date: As of its date of issuance and shall be implemented within 90 days of issuance.

Amendment No.: 208. A publicly-available version is in ADAMS under Accession No. ML14157A082; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–42. The amendment revised the Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* March 18, 2014 (79 FR 15151).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated July 1, 2014.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 14th day of July 2014.

For the Nuclear Regulatory Commission.

Louise Lund,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2014–17257 Filed 7–21–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 72–16; NRC–2014–0154]

Virginia Electric and Power Company; North Anna Power Station; Independent Spent Fuel Storage Installation

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment request; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated June 9, 2014, an application from Virginia Electric and Power Company (Dominion) requesting an amendment, in the form of changes to the Technical Specifications (TS) to Materials License Number SNM–2507 for the North Anna Power Station (NAPS) Independent Spent Fuel Storage Installation (ISFSI).

DATES: A request for a hearing or petition for leave to intervene must be filed by September 22, 2014.

ADDRESSES: Please refer to Docket ID NRC–2014–0154 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–2014–0154. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov*. For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- NRC's Agencywide Documents Access and Management System (ADAMS): You may obtain publicly available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html*. To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov*. The ADAMS accession number for each document referenced in this document (if that document is available in ADAMS) is provided the first time that a document is referenced.
- NRC's PDR: You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: John-Chau Nguyen, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–287–9202; email: *John-Chau.Nguyen@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The proposed changes to TS 4.2.3, ''Storage Pad'' will define the minimum allowable center-to-center spacing between individual casks on NAPS ISFSI Pad. Dominion is requesting a revision to the Technical Specifications of the TN–32 casks utilized at its NAPS ISFSI located in Louisa County, Virginia (ADAMS Accession No. ML14160A707). License No. SNM–2507 authorizes the licensee to receive, store, and transfer spent fuel from NAPS, Units 1 and 2.

An NRC administrative completeness review found the application acceptable for a technical review (ADAMS Accession No. ML14190A179). Prior to approving the amendment, the NRC will need to make the findings required by the Atomic Energy Act of 1954 as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a safety evaluation report and an environmental assessment. The environmental assessment will be the subject of a subsequent notice in the **Federal Register**.

II. Opportunity To Request a Hearing and Petition for Leave to Intervene

Within 60 days after the date of publication of this notice, any person(s) whose interest may be affected by this action may file a request for a hearing and a petition to intervene with respect to issuance of the amendment to the subject facility operating license or combined license. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR Part 2. Interested person(s) should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located in One White Flint North, Room O1–F21 (first floor), 11555 Rockville Pike, Rockville, Maryland 20852. 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/.* If a request for a hearing or petition for leave to intervene is filed within 60 days, the Commission or a presiding officer designated by the Commission or by the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition. The Secretary or the Chief Administrative Judge of the Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.309, a petition for leave to intervene shall set forth, with particularity, the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted, with particular reference to the following general requirements: (1) The name, address, and telephone number of the requestor or petitioner; (2) the nature of the requestor's/petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the requestor's/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 requestor's/petitioner's interest. The petition must also set forth the specific contentions which the requestor/petitioner seeks to have litigated at 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 requestor/petitioner shall

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 requestor/petitioner intends to rely in proving the contention at the hearing. The requestor/petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the requestor/petitioner intends to rely to establish those facts or expert opinion. The petition must include sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the requestor/petitioner to relief. A requestor/petitioner who fails to satisfy these requirements 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, and have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that person's admitted contentions, including the opportunity to present evidence and to submit a cross-examination plan for cross-examination of witnesses, consistent with NRC regulations, policies, and procedures. The Atomic Safety and Licensing Board will set the time and place for any prehearing conferences and evidentiary hearings, and the appropriate notices will be provided.

Petitions for leave to intervene must be filed no later than 60 days from the date of publication of this notice. Requests for hearing, petitions for leave to intervene, and motions for leave to file new or amended contentions that are filed after the 60-day 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)–(iii).

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 September 22, 2014. 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 for leave to intervene set forth in this section, except that under § 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. A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may also have the opportunity to participate under 10 CFR 2.315(c).

If a hearing is granted, any person who does not wish, or is not qualified, to become a party to the proceeding may, in 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 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. Persons desiring to make a limited appearance are requested to inform the Secretary of the Commission by September 22, 2014.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing, a petition for leave to intervene, 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 participating under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007). 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. 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 ten 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 request (1) a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign documents and access the E-Submittal server for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a request or petition for hearing (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.* System requirements for accessing the E-Submittal server are detailed in the NRC's ''Guidance for Electronic Submission,'' which is available on the agency's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may attempt to use other software not listed on the Web site, but should note that the NRC's E-Filing system does not support unlisted software, and the NRC Meta System Help Desk will not be able to offer assistance in using unlisted software.

If a participant is electronically submitting a document to the NRC in accordance with the E-Filing rule, the participant must file the document using the NRC's online, Web-based submission form. In order to serve documents through the Electronic Information Exchange System, users will be required to install a Web browser plug-in from the NRC's Web site. Further information on the Web-based submission form, including the installation of the Web browser plug-in, is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.*

Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit a request for hearing or petition for leave to intervene. Submissions should be in Portable Document Format (PDF) in accordance with NRC guidance available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* A filing is considered complete at the time the documents are 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 documents on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before a hearing request/petition to intervene is filed so that they can obtain access to the document via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC Meta System 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 Meta System Help Desk is available between 8 a.m. and 8 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 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, Sixteenth Floor, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing a document 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 *http://ehd1.nrc.gov/ehd/,* unless excluded pursuant to an order of the Commission, or the presiding officer. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or home phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. However, a request to intervene will require including information on local residence in order to demonstrate a proximity assertion of interest in the proceeding. 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.

Dated at Rockville, Maryland, this 14th day of July 2014.

For the Nuclear Regulatory Commission.

Timothy Lupold,

Acting Chief, Licensing Branch, Division of Spent Fuel Storage and Transportation, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2014–17242 Filed 7–21–14; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2014–0001]

Sunshine Act Meeting

DATES: Weeks of July 21, 28, August 4, 11, 18, 25, 2014.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of July 21, 2014

There are no meetings scheduled for the week of July 21, 2014.

Week of July 28, 2014—Tentative

Tuesday, July 29, 2014

9:30 a.m. Briefing on Human Capital and Equal Employment Opportunity (EEO) (Public Meeting) (Contact: Kristin Davis, 301–287–0707)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

1:00 p.m. Briefing on Project Aim 2020 (Closed—Ex. 2)

Thursday, July 31, 2014

9:00 a.m. Briefing on the Status of Lessons Learned from the Fukushima Dai-ichi Accident (Public Meeting) (Contact: Kevin Witt, 301–415–2145)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of August 4, 2014—Tentative

There are no meetings scheduled for the week of August 4, 2014.

Week of August 11, 2014—Tentative

There are no meetings scheduled for the week of August 11, 2014.

Week of August 18, 2014—Tentative

There are no meetings scheduled for the week of August 18, 2014.

Week of August 25, 2014—Tentative

There are no meetings scheduled for the week of August 25, 2014.

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The schedule for Commission meetings is subject to change on short notice. To verify the status of meetings, call Rochelle Bavol, 301–415–1651.

* * * * *

The NRC Commission Meeting Schedule can be found on the Internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (e.g. braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0727, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Office of the Secretary, Washington, DC 20555 (301–415–1969), or send an email to *Darlene.Wright@nrc.gov.*

Dated: July 17, 2014.

Rochelle C. Bavol,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2014–17255 Filed 7–18–14; 11:15 am]

BILLING CODE 7590–01–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

National Nanotechnology Coordination Office

AGENCY: Office of Science and Technology Policy.

ACTION: Notice of Public Webinar.

SUMMARY: The National Nanotechnology Coordination Office (NNCO), on behalf of the Nanoscale Science, Engineering, and Technology (NSET) Subcommittee of the Committee on Technology,

National Science and Technology Council (NSTC), will hold a public webinar on Thursday, July 31, 2014. The purpose of this webinar is to provide a forum to answer questions related to the Federal Government's ''Progress Review on the Coordinated Implementation of the National Nanotechnology Initiative (NNI) 2011 Environmental, Health, and Safety Research Strategy.'' Discussion during the webinar will focus on the research activities undertaken by NNI agencies to advance the current state of the science as highlighted in the progress review. Representative research activities as provided in the Progress Review will be discussed in the context of the 2011 NNI EHS Research Strategy's six core research areas: Nanomaterial Measurement Infrastructure, Human Exposure Assessment, Human Health, the Environment, Risk Assessment and Risk Management Methods, and Informatics and Modeling.

DATES: The public webinar will be held on Thursday, July 31, 2014, from 12:00 p.m. to 13:00 p.m.

ADDRESSES: For information about the webinar, please visit *www.nano.gov.*

Submitting Questions: Questions on the progress review document may be submitted to *webinar@nnco.nano.gov* beginning at noon (EDT) Thursday, July 24, 2014, through the close of the webinar at 13:00 p.m. on Thursday, July 31, 2014.

The Webinar: During the question-and-answer segment of the webinar, submitted questions will be considered in the order received. A moderator will identify relevant questions and pose them to the panel of NNI agency representatives. Due to time constraints, not all questions may be addressed. The moderator reserves the right to group similar questions and to skip questions, as appropriate.

FOR FURTHER INFORMATION CONTACT: Dr. Tarek Fadel, 703–292–7926, *tfadel@nnco.nano.gov.*

SUPPLEMENTARY INFORMATION: A public copy of the ''Progress Review on the Coordinated Implementation of the National Nanotechnology Initiative 2011 Environmental, Health, and Safety Research Strategy'' can be accessed at *www.nano.gov/2014EHSProgressReview.* The 2011 NNI EHS Research Strategy can be accessed at *www.nano.gov/node/681.*

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2014–17189 Filed 7–21–14; 8:45 am]

BILLING CODE 3270–F4–P

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

Critical and Strategic Materials Supply Chains

ACTION: Notice of Request for Information.

SUMMARY: The U.S. economy's requirements for raw materials have and will change over time, especially with the introduction of new products and processing technologies. Furthermore, as the global economy grows, there are increasing concerns regarding the availability and access to the raw materials that will be necessary to sustain U.S. economic growth and advance other national policies. As the criticality of materials shifts over time, studying the early warning signs and the underlying forces of potential material supply disruption can inform proactive policy development for emerging critical materials. One of the roles of the Critical and Strategic Minerals Supply Chain Subcommittee (CSMSC Subcommittee) of the National Science and Technology Council's Committee on Environment, Natural Resources, and Sustainability is to develop a methodology for identifying critical materials and monitoring changes in criticality on an ongoing basis, providing ''early warning'' to policymakers and other stakeholders. The views of U.S. industry and other stakeholders are important to inform both an understanding of current conditions and the characterization of anticipated future demand for critical materials.

DATES: Responses must be received by August 31, 2014, to be considered.

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

- *Email: criticalmaterials@ostp.gov.* Include [*Critical and Strategic Materials Supply Chains*] in the subject line of the message.
- *Fax:* (202) 456–6071, Attn: Cyrus Wadia.
- *Mail:* Attn: Cyrus Wadia, Office of Science and Technology Policy, Eisenhower Executive Office Building, 1650 Pennsylvania Ave. NW., Washington, DC 20504.

Instructions: Electronic responses must be provided as attachments to an email. It is recommended that attachments with file sizes exceeding 25MB be compressed (i.e., zipped) to ensure message delivery. Please identify your answers by responding to a specific question or topic if possible. Respondents may answer as many or as few questions as they wish. Any information obtained as a result of this RFI is intended to be used by the Government on a non-attribution basis for planning and strategy development. OSTP will review the responses in its formulation of program strategies for the identified materials of interest that are the subject of this request.

OSTP will not respond to individual submissions or publish publicly a compendium of responses, except as required by applicable law. A response to this RFI will not be viewed as a binding commitment to develop or pursue the project or ideas discussed. OSTP will not pay for information provided under this RFI. This RFI is not accepting applications for financial assistance or financial incentives. OSTP has no obligation to respond to those who submit comments, and/or give any feedback on any decision made based on the responses received.

FOR FURTHER INFORMATION CONTACT: Cyrus Wadia, (202) 456–4444, *critical materials@ostp.gov. http://www.whitehouse.gov/administration/eop/ostp.*

SUPPLEMENTARY INFORMATION:

PURPOSE: The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to demand, supply and supply chain structure, R&D, and technology transitions related to raw materials (including, but not limited to, minerals and gases) used in the U.S. economy. The Office of Science and Technology Policy (OSTP), which co-chairs the NSTC's Committee on Environment, Natural Resources, and Sustainability, is specifically interested in information on raw materials of interest to the public. Input on the current and future production of and demand for relevant materials, concerns related to raw material availability, and overall market dynamics are topics of additional relevance, as are the role of emerging technologies, trends in nationally important sectors and global shifts in product markets.

Request for Information Categories

Category 1: Demand

- What materials will be particularly important, and of concern (due to availability, price, etc.) to your technologies and/or your industry over the next 5 years?
- What is the growth in demand forecast for your technologies? What factors drive this assessment?
- At what point(s) in technology or product development or manufacturing do you select raw materials? How do you consider price? How do you

consider performance characteristics? How do you consider availability?

• What investments, if any, are you making to identify raw material input alternatives?

• Are there any emerging disruptive technologies or technology transitions (e.g., new applications or substitutes) that would dramatically change demand in the near term (5 years) or long term (15 years)?

Category 2: Exploration, Mining, and Smelting/Refining

• What barriers exist to exploration for additional resources of raw materials in the United States and globally?

• Once discovered, what barriers exist to the timely development of raw materials in the United States and globally?

• Is current North American separation, smelting, and/or refining capacity adequate to ensure reliable material supplies?

• What innovations in separation, smelting/refining technology or processes might affect U.S. or global resource supplies? What are the environmental impacts of these innovations?

• Are the mining, separation, smelting, and/or refining sites of the minerals required for your technologies adequately diversified to account for potential market failures or political risks?

• How do market size, market price, capital availability and other economic factors affect production decisions?

Category 3: Supply and Supply Chain

• What are the supply chains for the technologies identified as being important to your manufacturing processes and industry? How would you describe the significant stages of the supply chain?

• Are there vulnerabilities in the supply chain (domestic, foreign, sole source, import reliance, etc.) that lead to concerns regarding the supply of any of these materials and/or the ability to manufacture these technologies?

• How do you assess supply chain vulnerabilities and their impact?

Category 4: Market Dynamics

• How would you describe the market dynamics of your supply chains, including the overall supply of materials of interest?

• Are there any market distortions in the supply chain, such as opacity, lack of information, or trade-related distortions?

• Is there price volatility? If so, what factors drive this volatility?

Category 5: Mitigation

• What are some strategies you employ to mitigate supply chain concerns? (e.g., stockpiles, hedging, etc.)

• How do you cope with price volatility?

• Do you consider using technologies available with slightly reduced performance to avoid price and availability concerns?

Category 6: Other

• Is there additional information, not requested above, that you believe the CSMSC Subcommittee should consider in identifying emerging critical materials? If so, please provide here.

Ted Wackler,

Deputy Chief of Staff and Assistant Director.

[FR Doc. 2014–17192 Filed 7–21–14; 8:45 am]

BILLING CODE 3270–F4–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–003, OMB Control No. 3235–0009]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Regulation S–X

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') has submitted to the Office of Management and Budget (''OMB'') a request for extension of the previously approved collection of information discussed below.

Information collected and information prepared pursuant to Regulation S–X focus on the form and content of, and requirements for, financial statements filed with periodic reports and in connection with the offer and sale of securities. Investors need reasonably current financial statements to make informed investment and voting decisions.

The potential respondents include all entities that file registration statements or reports pursuant to the Securities Act of 1933 (*15 U.S.C. 77a, et seq.),* the Securities Exchange Act of 1934 (15 U.S.C. 78a, *et seq.*) or the Investment Company Act of 1940 (15 U.S.C. 80a-1, *et seq.*).

Regulation S–X specifies the form and content of financial statements when those financial statements are required to be filed by other rules and forms under the federal securities laws. Compliance burdens associated with the financial statements are assigned to the rule or form that directly requires the financial statements to be filed, not to Regulation S–X. Instead, an estimated burden of one hour traditionally has been assigned to Regulation S–X for incidental reading of the regulation. The estimated average burden hours are solely for purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of SEC rules or forms.

Recordkeeping retention periods are based on the disclosure required by various forms and rules other than Regulation S–X. In general, balance sheets for the preceding two fiscal years, income and cash flow statements for the preceding three fiscal years, and condensed quarterly financial statements must be filed with the Commission. Five year summary financial information is required to be disclosed by some larger registrants.

Filing financial statements, when required by the governing rule or form, is mandatory. Because these statements are provided for the purpose of disseminating information to the securities markets, they are not kept confidential.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

The public may view the information discussed in this notice at *www.reginfo.gov.* Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: *Shagufta_Ahmed@omb.eop.gov;* and (ii) Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F St. NE., Washington DC 20549 or send an email to: *PRA_Mailbox@sec.gov.* Comments must be submitted to OMB within 30 days of this notice.

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17185 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–182, OMB Control No. 3235–0237]

Proposed Collection; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Form N–54A

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Under the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (the ''Investment Company Act''), certain investment companies can elect to be regulated as business development companies, as defined in Section 2(a)(48) of the Investment Company Act (15 U.S.C. 80a–2(a)(48)). Under Section 54(a) of the Investment Company Act (15 U.S.C. 80a–53(a)), any company defined in Section 2(a)(48)(A) and (B) may elect to be subject to the provisions of Sections 55 through 65 of the Investment Company Act (15 U.S.C. 80a–54 to 80a–64) by filing with the Commission a notification of election, if such company has: (1) A class of equity securities registered under Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*) (''Exchange Act''); or (2) filed a registration statement pursuant to Section 12 of the Exchange Act for a class of equity securities. The Commission has adopted Form N–54A (17 CFR 274.53) as the form for notification of election to be regulated as business development companies.

The purpose of Form N–54A is to notify the Commission that the investment company making the notification elects to be subject to Sections 55 through 65 of the Investment Company Act, enabling the Commission to administer those provisions of the Investment Company Act to such companies.

The Commission estimates that on average approximately 14 business development companies file these notifications each year. Each of those business development companies need only make a single filing of Form N–54A. The Commission further estimates that this information collection imposes a burden of 0.5 hours, resulting in a total annual PRA burden of 7 hours. Based on the estimated wage rate, the total cost to the business development company industry of the hour burden for complying with Form N–54A would be approximately $2,338.

The collection of information under Form N–54A is mandatory. The information provided under the form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17184 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–148, OMB Control No. 3235–0133]

Proposed Collection; Comment Request

Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:
Rule 17a–19 and Form X–17A–19

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the existing collection of information provided for in Rule 17a–19 (17 CFR 240.17a–19) and Form X–17A–19 under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17a–19 requires every national securities exchange and registered national securities association to file a Form X–17A–19 with the Commission and the Securities Investor Protection Corporation (''SIPC'') within 5 business days of the initiation, suspension, or termination of any member and, when terminating the membership interest of any member, to notify that member of its obligation to file financial reports as required by Exchange Act Rule 17a–5(b).[1]

Commission staff anticipates that the national securities exchanges and registered national securities associations collectively will make 800 total filings annually pursuant to Rule 17a–19 and that each filing will take approximately 15 minutes. The total reporting burden is estimated to be approximately 200 total annual hours.

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

[1] 17 CFR 240.17a–5(b).

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17180 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Rule 17f–2(e), SEC File No. 270–37, OMB Control No. 3235–0031.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 17f–2(e) (17 C.F.R. 240.17f–2(e)) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17f–2(e) requires every member of a national securities exchange, broker, dealer, registered transfer agent, and registered clearing agency (''covered entities'') claiming an exemption from the fingerprinting requirements of Rule 17f–2 to make and keep current a statement entitled ''Notice Pursuant to Rule 17f–2'' (''Notice'') containing the information specified in paragraph (e)(1) to support their claim of exemption.

Rule 17f–2(e) contains no filing requirement. Instead, paragraph (e)(2) requires covered entities to keep a copy of the Notice in an easily accessible place at the organization's principal office and at the office employing the persons for whom exemptions are claimed and to make the Notice available upon request for inspection by the Commission, appropriate regulatory agency (if not the Commission) or other designated examining authority. Notices prepared pursuant to Rule 17f–2(e) must be maintained for as long as the covered entity claims an exemption from the fingerprinting requirements of Rule 17f–2. The recordkeeping requirement under Rule 17f–2(e) assists the Commission and other regulatory agencies with ensuring compliance with Rule 17f–2.

We estimate that approximately 75 respondents will incur an average burden of 30 minutes per year to comply with this rule, which represents the time it takes for a staff person at a covered entity to properly document a claimed exemption from the fingerprinting requirements of Rule 17f–2 in the required Notice and to properly retain the Notice according to the entity's record retention policies and procedures. The total annual burden for all covered entities is approximately 38 hours (75 entities × .5 hours, rounded up).

Written comments are invited on: (a) 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; (b) the accuracy of the Commission's estimates of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to: Thomas Bayer, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549, or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17182 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension: Rule 17f–2(c), SEC File No. 270–35, OMB Control No. 3235–0029.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (''PRA'') (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collection of information provided for in Rule 17f–2(c) (17 CFR 240.17f–2(c)) under the Securities Exchange Act of 1934 (''Act'') (15 U.S.C. 78a *et seq.*). The Commission plans to submit this existing collection of information to the Office of Management and Budget (''OMB'') for extension and approval.

Rule 17f–2(c) allows persons required to be fingerprinted pursuant to Section 17(f)(2) of the Act to submit their fingerprints to the Attorney General of the United States or its designee (i.e., the Federal Bureau of Investigation (''FBI'')) through a registered national securities exchange or a registered national securities association (collectively, also known as ''self–regulatory organizations'' or ''SROs'') pursuant to a fingerprint plan filed with, and declared effective by, the Commission. Fingerprint plans have been declared effective for the American, Boston, Chicago, New York, and Philadelphia stock exchanges and for the Financial Industry Regulatory Authority (''FINRA'') and the Chicago Board Options Exchange. Currently, FINRA accounts for the bulk of the fingerprint submissions.

It is estimated that 5,000 respondents submit approximately 288,000 sets of fingerprints (consisting of 198,500 electronic sets and 89,500 hard copy sets) to SROs on an annual basis. The Commission estimates that it would take approximately 15 minutes to create and submit each fingerprint card. The total reporting burden is therefore estimated to be 72,000 hours, or approximately 15 hours per respondent, annually.

In addition, the SROs charge an estimated $30.25 fee for processing fingerprint cards submitted electronically, resulting in a total annual cost to all 5,000 respondents of $6,004,600, or $1,200.92 per respondent per year. The SROs charge an estimated $44.50 fee for processing fingerprint cards submitted in hard copy, resulting in a total annual cost to all 5,000 respondents of approximately $3,982,700, or $796.54 per respondent per year. The combined annual cost to all respondents is thus $9,987,300.

Because the FBI will not accept fingerprint cards directly from submitting organizations, Commission approval of fingerprint plans from certain SROs is essential to carry out the Congressional goal to fingerprint securities industry personnel. Filing these plans for review assures users and their personnel that fingerprint cards will be handled responsibly and with due care for confidentiality.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the

information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549 or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17181 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270–185, OMB Control No. 3235–0238]

Proposed Collection; Comment Request

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736

Extension:
Form N–6F

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) the Securities and Exchange Commission (the ''Commission'') is soliciting comments on the collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

The title for the collection of information is ''Form N–6F (17 CFR 274.15), Notice of Intent to Elect to be Subject to Sections 55 through 65 of the Investment Company Act of 1940.'' The purpose of Form N–6F is to notify the Commission of a company's intent to file a notification of election to become subject to Sections 55 through 65 of the Investment Company Act of 1940 (15 U.S.C. 80a–1 *et seq.*) (''1940 Act''). Certain companies may have to make a filing with the Commission before they are ready to elect to be regulated as a business development company.[1] A company that is excluded from the definition of ''investment company'' by Section 3(c)(1) because it has fewer than one hundred shareholders and is not making a public offering of its securities may lose such an exclusion solely because it proposes to make a public offering of securities as a business development company. Such company, under certain conditions, would not lose its exclusion if it notifies the Commission on Form N–6F of its intent to make an election to be regulated as a business development company. The company only has to file a Form N–6F once.

The Commission estimates that on average approximately 15 companies file these notifications each year. Each of those companies need only make a single filing of Form N–6F. The Commission further estimates that this information collection imposes burden of 0.5 hours, resulting in a total annual PRA burden of 7.5 hours. Based on the estimated wage rate, the total cost to the industry of the hour burden for complying with Form N–6F would be approximately $2,505.

The collection of information under Form N–6F is mandatory. The information provided under the form is not kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Written comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Thomas Bayer, Chief Information Officer, Securities and Exchange Commission, C/O Remi Pavlik-Simon, 100 F Street NE., Washington, DC 20549; or send an email to: *PRA_Mailbox@sec.gov.*

Dated: July 16, 2014.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17183 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[1] A company might not be prepared to elect to be subject to Sections 55 through 65 of the 1940 Act because its capital structure or management compensation plan is not yet in compliance with the requirements of those sections.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72629; File No. SR–NYSE–2014–35]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period for the Exchange's Retail Liquidity Program Until March 31, 2015

July 16, 2014.

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 July 3, 2014, New York Stock Exchange LLC (''NYSE'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes [sic] extend the pilot period for the Exchange's Retail Liquidity Program (the ''Retail Liquidity Program'' or the ''Program''), which is currently scheduled to expire on July 31, 2014, until March 31, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the pilot period of the Retail Liquidity Program,[3] currently scheduled to expire on July 31, 2014, until March 31, 2015.

Background

In July 2012, the Commission approved the Retail Liquidity Program on a pilot basis.[4] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, Retail Liquidity Providers (''RLPs'') are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer (''PBBO''), called a Retail Price Improvement Order (''RPI''). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the Retail Liquidity Identifier, indicating that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

The Retail Liquidity Program was approved by the Commission on a pilot basis. Pursuant to NYSE Rule 107C(m), the pilot period for the Program is scheduled to end on July 31, 2014.

Proposal To Extend the Operation of the Program

The Exchange established the Retail Liquidity Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit RPIs to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[5] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[6] Through this filing, the Exchange seeks to amend NYSE Rule 107C(m) and extend the current pilot period of the Program until March 31, 2015.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] 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 extending the pilot period for the Retail Liquidity Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply extends an established pilot program for an additional eight months, thus allowing the Retail Liquidity Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative before the pilot's expiration. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after July 31, 2014.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest

[3] *See* Securities Exchange Act Release No. 70096 (August 2, 2013), 78 FR 48520 (August 8, 2013) (NYSE–2013–48).

[4] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (''RLP Approval Order'') (SR–NYSE–2011–55).

[5] *See id.* at 40681.

[6] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the undisplayed RPIs. *See* Letter from Janet M. McGinness, EVP & Corporate Secretary, NYSE Euronext to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated June 23, 2014.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

because such waiver would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. Further, the Commission notes that because the proposed rule change was filed on an immediately effective basis on July 3, 2014, the fact that the current pilot program does not expire until July 31, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative on July 31, 2014.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2014–35 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–NYSE–2014–35. 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–NYSE–2014–35 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17153 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72625; File No. SR–NYSEMKT–2014–60]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Pilot Period for the Exchange's Retail Liquidity Program Until March 31, 2015

July 16, 2014.

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 July 3, 2014, NYSE MKT LLC (''NYSE MKT'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the pilot period for the Exchange's Retail Liquidity Program (the ''Retail Liquidity Program'' or the ''Program''), which is currently scheduled to expire on July 31, 2014, until March 31, 2015. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the pilot period of the Retail Liquidity Program,[3] currently scheduled to expire on July 31, 2014, until March 31, 2015.

Background

In July 2012, the Commission approved the Retail Liquidity Program on a pilot basis.[4] The Program is designed to attract retail order flow to the Exchange, and allows such order flow to receive potential price improvement. The Program is currently limited to trades occurring at prices equal to or greater than $1.00 per share. Under the Program, Retail Liquidity Providers (''RLPs'') are able to provide potential price improvement in the form of a non-displayed order that is priced better than the Exchange's best protected bid or offer (''PBBO''), called a Retail Price Improvement Order (''RPI''). When there is an RPI in a particular security, the Exchange disseminates an indicator, known as the

[3] *See* Securities Exchange Act Release No. 70100 (August 2, 2013), 78 FR 48536 (August 8, 2013) (SR–NYSEMKT–2013–60).

[4] *See* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673 (July 10, 2012) (''RLP Approval Order'') (SR–NYSEAmex–2011–84).

Retail Liquidity Identifier, indicating that such interest exists. Retail Member Organizations (''RMOs'') can submit a Retail Order to the Exchange, which would interact, to the extent possible, with available contra-side RPIs.

The Retail Liquidity Program was approved by the Commission on a pilot basis. Pursuant to NYSE MKT Rule 107C(m)—Equities, the pilot period for the Program is scheduled to end on July 31, 2014.

Proposal To Extend the Operation of the Program

The Exchange established the Retail Liquidity Program in an attempt to attract retail order flow to the Exchange by potentially providing price improvement to such order flow. The Exchange believes that the Program promotes competition for retail order flow by allowing Exchange members to submit RPIs to interact with Retail Orders. Such competition has the ability to promote efficiency by facilitating the price discovery process and generating additional investor interest in trading securities, thereby promoting capital formation. The Exchange believes that extending the pilot is appropriate because it will allow the Exchange and the Commission additional time to analyze data regarding the Program that the Exchange has committed to provide.[5] As such, the Exchange believes that it is appropriate to extend the current operation of the Program.[6] Through this filing, the Exchange seeks to amend NYSE MKT Rule 107C(m)—Equities and extend the current pilot period of the Program until March 31, 2015.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Section 6(b)(5),[8] 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 extending the pilot period for the Retail Liquidity Program is consistent with these principles because the Program is reasonably designed to attract retail order flow to the exchange environment, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. Additionally, as previously stated, the competition promoted by the Program may facilitate the price discovery process and potentially generate additional investor interest in trading securities. The extension of the pilot period will allow the Commission and the Exchange to continue to monitor the Program for its potential effects on public price discovery, and on the broader market structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change simply extends an established pilot program for an additional eight months, thus allowing the Retail Liquidity Program to enhance competition for retail order flow and contribute to the public price discovery process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[11] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative before the pilot's expiration. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after July 31, 2014.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. Further, the Commission notes that because the proposed rule change was filed on an immediately effective basis on July 3, 2014, the fact that the current pilot program does not expire until July 31, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative on July 31, 2014.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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:

[5] *See id.* at 40681.

[6] Concurrently with this filing, the Exchange has submitted a request for an extension of the exemption under Regulation NMS Rule 612 previously granted by the Commission that permits it to accept and rank the undisplayed RPIs. *See* Letter from Janet M. McGinness, EVP & Corporate Secretary, NYSE Euronext to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, dated June 23, 2014.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–60 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–NYSEMKT–2014–60. 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–NYSEMKT–2014–60 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Kevin M. O'Neill,

Deputy Secretary.

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[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72630; File No. SR–Phlx–2014–47]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section I and Section II of the Pricing Schedule

July 16, 2014.

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 July 10, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Section I of the Pricing Schedule which pertains to Rebates and Fees for Adding and Removing Liquidity in SPY and Section II of the Pricing Schedule which pertains to Multiply Listed Options fees.[3]

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Multiply Listed Options fees includes options overlying equities, ETFs, ETNs and indexes which are multiply listed.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Section I of the Exchange's Pricing Schedule entitled ''Rebates and Fees for Adding and Removing Liquidity in SPY'' to eliminate the $0.38 Customer Complex Order Rebate for executions in SPDR S&P 500 ETF (''*SPY*''), and to amend Section II of the Exchange's Pricing Schedule entitled ''Multiply Listed Options'' to: (i) amend the Firm[4] Options Transaction Charges in Penny Pilot Options[5] and non-Penny Pilot Options for electronic simple orders in certain symbols and (ii) amend the Monthly Market Maker Cap.

Rebates and Fees for Adding and Removing Liquidity in SPY

The Exchange proposes to eliminate the Customer Complex Order Rebate for executions in SPY.[6] Currently, the Exchange does not assess a Customer either a Fee for Adding or Removing Liquidity in Complex Orders in SPY options. All market participants, other than a Customer, are assessed a $0.10 per contract Complex Order Fee for Adding Liquidity in SPY options. The Exchange also assesses Complex Order Fees for Removing Liquidity for SPY options as follows: a Specialist[7] and Market Maker[8] are assessed a $0.40 per contract Complex Order Fee for Removing Liquidity and a Firm, Broker-

[4] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation.

[5] The Penny Pilot was established in January 2007 and was last extended in May 2014. *See* Securities and Exchange Release No. 72245 (May 23, 2014), 79 FR 31164 (May 30, 2014) (SR–Phlx–2014–37).

[6] A Complex Order is any order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced at a net debit or credit based on the relative prices of the individual components, for the same account, for the purpose of executing a particular investment strategy. Furthermore, a Complex Order can also be a stock-option order, which is an order to buy or sell a stated number of units of an underlying stock or exchange-traded fund (''ETF'') coupled with the purchase or sale of options contract(s). *See* Exchange Rule 1080, Commentary .08(a)(i).

[7] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[8] A ''Market Maker'' includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (*see* Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (*see* Rule 1014(b)(ii)(B)). Directed Participants are also market makers.

Dealer[9] and Professional[10] are assessed $0.50 per contract. Complex Order Fees for Removing Liquidity, applicable to Specialists and Market Makers, are decreased by $0.02 per contract when the Specialist or Market Maker transacts against a Customer Order directed to that Specialist or Market Maker for execution. In addition, the Exchange currently pays a Customer rebate of $0.38 per electronically-delivered and executed contract in Complex Orders in SPY options, including Customer executions that occur as part of a Complex electronic auction. The Exchange is now proposing to eliminate this $0.38 per contract Customer rebate.

Options Transaction Charges

The Exchange proposes to reduce the Firm Options Transaction Charges in Penny Pilot Options and non-Penny Pilot Options for electronic simple orders in Apple Inc. (''*AAPL*''), Bank of America Corporation (''*BAC*''), iShares MSCI Emerging Markets ETF (''*EEM*''), Facebook, Inc. (''*FB*''), iShares China Large-Cap ETF (''*FXI*''), iShares Russell 2000 ETF (''*IWM*''), PowerShares QQQ Trust (''*QQQ*''), Twitter, Inc. (''*TWTR*''), iPath S&P 500 VIX Short-Term Futures ETF (''*VXX*'') and Financial Select Sector SPDR Fund (''*XLF*'') to $0.25 per contract. Currently, a Firm is assessed an electronic Options Transaction Charge for electronic simple orders in these symbols of $0.48 per contract (Penny Pilot Options) or $0.70 (non-Penny Pilot Options).[11].

The Exchange believes that offering Firms the opportunity to lower the Options Transaction Charge from $0.48 to $0.25 (for Penny Pilot) and from $0.70 to $0.25 (for non-Penny Pilot) for electronic simple orders in these symbols will encourage the transaction of these types of orders on Phlx, thereby increasing liquidity to the benefit of all market participants.

Monthly Market Maker Cap

Today, Specialists and Market Makers are subject to a ''Monthly Market Maker Cap'' of $550,000 for: (i) Electronic and floor Option Transaction Charges; (ii) QCC Transaction Fees (as defined in Exchange Rule 1080(o) and Floor QCC Orders, as defined in 1064(e)); and (iii) fees related to an order or quote that is contra to a PIXL Order or specifically responding to a PIXL auction. The trading activity of separate Specialist and Market Maker member organizations is aggregated in calculating the Monthly Market Maker Cap if there is Common Ownership between the member organizations.

All dividend, merger, short stock interest, reversal and conversion, jelly roll and box spread strategy executions (as defined in Section II) are excluded from the Monthly Market Maker Cap. In addition, Specialists or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order; and (ii) have reached the Monthly Market Maker Cap are assessed a $0.17 per contract fee in symbols other than AAPL, BAC, FB, IWM and QQQ.

The Exchange now proposes to add EEM, FXI, TWTR, VXX and XLF to the list of symbols to which this $0.17 per contract fee does not apply. The Exchange believes that assessing Specialists and Market Makers no fee in these symbols if they are on the contra-side of an electronically-delivered and executed Customer order; and have reached the Monthly Market Maker Cap will incentivize Specialists and Market Makers to offer improved bids and offers on the Exchange in these symbols.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act[12] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act[13] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which Phlx operates or controls, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Rebates and Fees for Adding and Removing Liquidity in SPY

The Exchange's proposal to eliminate the Customer Complex Order Rebate for executions in SPY is reasonable, equitable and not unfairly discriminatory because Customers, unlike other market participants, already are not assessed Fees for Adding Liquidity or Fees for Removing Liquidity with respect to execution of Complex Orders in SPY. No other market participant receives a rebate for executions of Complex Orders in SPY. The elimination of the rebate will apply to all Customers uniformly.

Options Transaction Charges

The Exchange's proposal to reduce the Firm Options Transaction Charges for simple electronic orders from $0.48 per contract (in Penny Pilot options) and $0.70 per contract (in non-Penny Pilot options) to $0.25 per contract in AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF is reasonable, equitable and not unfairly discriminatory, because it will allow the Exchange to incentivize Firms to send electronic simple orders in these symbols to the Exchange and because pricing by symbol is a common practice on many U.S. options exchanges as a means to incentive order flow to be sent to an exchange for execution.[14] The Exchange believes it is reasonable to use a pricing reduction to provide additional opportunities for members to increase their participation in the market. The Exchange's fees will be competitive with fees at other options markets. Although the Exchange will still be assessing Firms more than Customers (which do not pay the Option Transaction Charge in Penny Pilot or in non-Penny Pilot options), Customer order flow enhances liquidity on the Exchange for the benefit of all market participants and benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Although Firms will still be charged more for Penny Pilot options than Specialists and Market Makers who are charged $0.22, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[15] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings.

Finally, as proposed, Firms will be charged only $0.25 in these symbols

[9] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[10] The term ''Professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[11] AAPL, BAC, EEM, FB, FXI, IWM, QQQ, VXX and XLF are currently Penny Pilot options and TWTR is a non-Penny Pilot option. The $0.25 per contract pricing proposed herein is symbol-specific and will continue to apply to these symbols whether or not they are deleted from or added to the Penny Pilot.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4), (5).

[14] *See, e.g.,* the International Securities Exchange LLC (''ISE'') Schedule of Fees.

[15] *See* Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

which is less than the Professional and Broker-Dealer charge of $0.48 (for Penny Pilot options) or $0.70 (for non-Penny Pilot options). The Exchange believes that the proposed fee differential between Firms and Broker-Dealers is equitable and not unfairly discriminatory because it is similar to the pricing offered by another options exchange.[16] Moreover, the proposed differential does not misalign pricing, in that Firms already benefit from certain pricing advantages that Broker-Dealers do not also enjoy (for example, the Firm Monthly Fee Cap [17]). The proposed fee reduction that will apply to Firms but not to Broker-Dealers is equitable and not unfairly discriminatory for the same reasons that the Firm Monthly Fee Cap which applies to Firms and not to Broker-Dealers is equitable and not unfairly discriminatory. The fee reduction proposed herein, like the Monthly Firm Fee Cap, provides an incentive for Firms to transact order flow on the Exchange, which order flow brings increased liquidity to the Exchange for the benefit of all Exchange participants. To the extent the purpose of the proposed Firm fee reduction is achieved, all the Exchange's market participants, including Broker-Dealers, should benefit from the improved market liquidity. Further, competitive forces are influencing the price reduction in these symbols for Firm orders.

The Exchange desires to incentivize Firms that receive reduced rates at other options exchanges to select Phlx as a venue by offering competitive pricing to these market participants. Such competitive, differentiated pricing exists today on other options exchanges. The Chicago Board of Options Exchange, Incorporated (''CBOE'') assesses a reduced fee to Clearing Trading Permit Holder Proprietary [18] participants of $0.35 per contract for electronic Penny and Non-Penny Pilot options. CBOE assesses Broker-Dealers/Professionals/Non-Trading Permit Holder Market Makers a $0.45 per contact fee for electronic Penny Pilot options and a $0.60 per contract fee for electronic Non-Penny Pilot options classes.[19] CBOE has a differential as between Clearing Trading Permit Holder Proprietary participants (the equivalent of Firm on Phlx) and other non-Customer, non-Market Maker participants of $0.10 per contract in electronic Penny Pilot options and $0.25 per contract in Non-Penny Pilot options. Further, CBOE assesses Broker-Dealers/Professionals/Non-Trading Permit Holder Market Makers between $0.35—$0.44 per contract for SPX executions (a singly listed CBOE proprietary product) versus the Clearing Trading Permit Holder Proprietary (the equivalent of Firm on Phlx) who is assessed between $0.25—$0.01 per contract in SPX for a maximum differential of $0.43 per contract in a CBOE proprietary product.[20] Phlx's differential as between a Firm on the one hand and other non-Customer, non-Specialist/Market Makers on the other is not as wide as CBOE's pricing and moreover a competitive offering given current pricing differentials on other options exchange such as MIAX and CBOE.

The Exchange believes there is nothing impermissible about Phlx offering a discount solely to Firm since this is consistent with the above examples and longstanding differentials between Firm, other broker-dealers and professionals. The options exchanges have differentiated between retail customers and professional customers, broker/dealers clearing in the ''Firm'' range at The Options Clearing Corp, broker/dealers registered as market makers, away market makers, early-adopting market makers, and many others; and the Commission has permitted price differentiation based on whether an order is processed manually versus electronically. The proposal is consistent with previously accepted pricing proposals accepted by the Commission.

The Exchange believes it is equitable and not unfairly discriminatory to charge a Professional the same rate as a Broker-Dealer, as it can be argued that Professionals have the same technological and information advantages as Broker-Dealers trading for their own account,[21] and as such receive similar rates. The proposed differentiation as between Customers, Specialists and Market Makers and other Firms recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants.

Monthly Market Maker Cap

The Exchange's proposal to not assess a fee to Specialists or Market Makers that (i) are on the contra-side of an electronically-delivered and executed Customer order; and (ii) have reached the Monthly Market Maker Cap in EEM, FXI, TWTR, VXX and XLF as well as in AAPL, BAC, FB, IWM and QQQ is reasonable, equitable and not unfairly discriminatory because the Exchange desires to incentivize Specialists and Market Makers to transact more options in these symbols and bring additional liquidity to the Exchange. All market participants will benefit from the increased Customer liquidity brought to the Exchange. The Exchange today differentiates pricing by option symbols.[22] Specialists and Market Makers will continue to pay the same fee of $0.17 per contract in Penny and Non-Penny Pilot Options, when the cap is satisfied, except for the symbols noted above. Specialists and Market Makers have burdensome quoting obligations [23] to the market that do not apply to Customers, Professionals, Firms and Broker-Dealers. Specialists and Market Makers serve an important role on the Exchange with regard to order interaction and they provide liquidity in the marketplace. Additionally, Specialists and Market Makers incur costs unlike other market participants including, but not limited to, Payment for Order Flow (''PFOF'') [24] and other costs associated with market making activities, which results in a higher average cost per execution as compared to Firms, Broker-Dealers and Professionals. The proposed differentiation as between Specialists and Market Makers as compared to other market participants recognizes the differing contributions made to the trading environment on the Exchange by

[16] On the MIAX Options Exchange (''MIAX'') Fee Schedule, non-member Broker-Dealers are assessed a $0.45 per contract standard options transaction fee and a Firm is assessed a $0.25 per contract standard options transaction fee.

[17] Firms are subject to a maximum fee of $75,000 (''Monthly Firm Fee Cap''). Firm Floor Option Transaction Charges and QCC Transaction Fees, in the aggregate, for one billing month may not exceed the Monthly Firm Fee Cap per member organization when such members are trading in their own proprietary account. All dividend, merger, and short stock interest strategy executions (as defined in Section II of the Pricing Schedule) are excluded from the Monthly Firm Fee Cap. Reversal and conversion, jelly roll and box spread strategy executions (as defined in Section II) are included in the Monthly Firm Fee Cap. QCC Transaction Fees are included in the calculation of the Monthly Firm Fee Cap. *See* Section II of the Pricing Schedule.

[18] This market participant clears in the Firm range at OCC. *See* CBOE's Fees Schedule at note 11. *See also* Regulatory Circular RG13–038.

[19] *See* CBOE's Fees Schedule.

[20] *Id.*

[21] *See* Securities Exchange Act Release No. 66668 (March 28, 2012), 77 FR 20090 (April 3, 2012) (SR-Phlx-2012–35) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Equity Options Fees and Singly Listed Options Fee) at page 20091.

[22] *See* Section I of the Pricing Schedule which differentiates pricing in SPDR S&P 500 (''SPY'') options. *See also* Securities Exchange Release No. 66757 (April 6, 2012), 77 FR 22034 (April 12, 2012) (SR-Phlx-2012–45).

[23] *See* Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders''.

[24] Specialists and Market Makers, as compared to other market participants, are assessed PFOF when transacting Customer electronic orders.

these market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. The Exchange believes that offering Specialists and Market Makers the opportunity to cap fees in certain highly liquid Penny Pilot Options is equitable and not unfairly discriminatory for the reasons noted above.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange's proposal to eliminate the Customer Complex Order Rebate for executions in SPY will not impose an unnecessary or inappropriate burden on competition because all Exchange members will be treated uniformly with respect to the elimination of Customer Complex Order Rebate in SPY.

The Exchange's proposal to reduce the Firm Options Transaction Charges for simple electronic orders in Penny Pilot Options from $0.48 per contract (in Penny Pilot options) and $0.70 per contract (in non-Penny Pilot options) to $0.25 per contract in AAPL, BAC, EEM, FB, FXI, IWM, QQQ, TWTR, VXX and XLF will not impose an unnecessary or inappropriate burden on competition because the $0.25 assessed to Firms under this proposal is similar to rates offered by other options exchanges, chiefly MIAX ($0.25), Chicago Board Options Exchange ($0.35) and NYSE AMEX Options ($0.32).

Specialists and Market Makers will be offered the opportunity to pay no fees, after they have satisfied the obligations related to the Monthly Market Maker Cap, in EEM, FXI, TWTR, VXX and XLF as well as in AAPL, BAC, FB, IWM and QQQ. As noted above Specialists and Market Makers have burdensome quoting obligations to the market that do not apply to Customers, Professionals, Firms and Broker-Dealers. Specialists and Market Makers serve an important role on the Exchange with regard to order interaction and they provide liquidity in the marketplace. Additionally, Specialists and Market Makers incur costs unlike other market participants including, but not limited to, PFOF and other costs associated with market making activities, which results in a higher average cost per execution as compared to Firms, Broker-Dealers and Professionals. The proposed differentiation as between Specialists and Market Makers as compared to other market participants recognizes the differing contributions made to the trading environment on the Exchange by these market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attract Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. For these reasons noted above, the Exchange does not believe that offering Specialists and Market Makers the opportunity to cap fees in certain symbols imposes an undue burden on competition.

The Exchange operates in a highly competitive market, comprised of twelve options exchanges, in which market participants can easily and readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive or rebates to be inadequate. Accordingly, the fees that are described in the above proposal are influenced by these robust market forces and therefore must remain competitive with fees charged by other venues and therefore must continue to be reasonable and equitably allocated to those members that opt to direct orders to the Exchange rather than competing venues.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[25]

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.

[25] 15 U.S.C. 78s(b)(3)(A)(ii).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–47 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-Phlx-2014–47. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–47, and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[26]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17154 Filed 7–21–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72620; File No. SR–NASDAQ–2014–070]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify Fees for NASDAQ Basic and To Correct an Error in the Text of Rule 7023

July 16, 2014.

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 July 1, 2014, The NASDAQ Stock Market LLC (''NASDAQ'' or the ''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

NASDAQ is filing a proposed rule change to modify fees for the NASDAQ Basic data product under Rule 7047 and to correct an error in the text of Rule 7023 (governing NASDAQ Depth-of-Book data). The proposal is immediately effective and will be implemented as of July 1, 2014.

The text of the proposed rule change is below. Proposed new language is italicized; proposed deletions are in brackets.

* * * * *

7023. NASDAQ Depth-of-Book Data

(a)–(b) No change.

(c) Enterprise License Fees

(1) A Distributor that is also a broker-dealer pays a monthly fee of $25,000 for the right to provide NASDAQ TotalView and NASDAQ OpenView *for Display Usage for Internal Distribution* [to Non-Professional Subscribers for Internal Distribution], or for External Distribution to *Non-Professional* Subscribers with whom the firm has a brokerage relationship. This Enterprise License shall not apply to relevant Level 1 and NASDAQ Level 2 fees.

(2) A Distributor that is also a broker-dealer pays a monthly fee of $100,000 for the right to provide NASDAQ TotalView and NASDAQ OpenView for Display Usage [by Professional and Non-Professional Subscribers] for Internal Distribution, or for External Distribution to *both Professional and Non-Professional* Subscribers with whom the firm has a brokerage relationship. This Enterprise License shall not apply to relevant Level 1 and NASDAQ Level 2 fees.

(3) No change.

(d)–(e) No change.

* * * * *

7047. Nasdaq Basic

(a) No change.

(b) User Fees

(1)–(4) No change.

(5) As an alternative to *(b)(1) and* (b)(2), a broker-dealer may purchase an enterprise license at a rate of [$100,000]*$350,000* per month for distribution *through an electronic system approved by NASDAQ* to *an unlimited number of Professional and* Non-Professional Subscribers *with whom the broker-dealer has a brokerage relationship. A separate license would be required for each discrete electronic system used by the broker-dealer.* [The enterprise license entitles a Distributor to provide Nasdaq Basic to an unlimited number of Non-Professional Subscribers with whom the firm has a brokerage relationship.] *The enterprise license would allow distribution to the broker-dealer's employees through the approved electronic system, but would not cover distribution through any Distributor other than the broker-dealer obtaining the license and its approved system. In order to qualify for the enterprise license, the broker-dealer must also (i) distribute NASDAQ Last Sale for NASDAQ and/or NASDAQ Last Sale for NYSE/NYSE MKT via an internet-based electronic system approved by NASDAQ pursuant to Rule 7039(b)(2)(B), at a level that allows it to qualify for the fee cap provided for in Rule 7039(b), (ii) distribute NASDAQ TotalView and/or NASDAQ OpenView data under an enterprise license pursuant to Rule 7023(c)(1), and (iii) pay* [The enterprise license is in addition to] the Distributor Fee *for NASDAQ Basic* [listed in] *under paragraph* (c)(1) *or for NASDAQ Last Sale under Rule 7039(c). The broker-dealer must also report the number of Subscribers receiving NASDAQ Basic under the license to NASDAQ at least once per calendar year.*

(6) No change.

(c)–(d) No change.

* * * * *

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

NASDAQ Basic is a proprietary data product that provides best bid and offer information from the NASDAQ Market Center and last sale transaction reports from the NASDAQ Market Center and from the FINRA/NASDAQ Trade Reporting Facility (''FINRA/NASDAQ TRF''). As such, NASDAQ Basic is a ''non-core'' product that provides a subset of the ''core'' quotation and last sale data provided by securities information processors (''SIPs'') under the CQ/CT Plan and the NASDAQ UTP Plan. In this filing, NASDAQ is proposing to modify the existing enterprise license for a broker-dealer (''BD'') to provide NASDAQ Basic to Non-Professional Subscribers with whom it has a brokerage relationship so that it covers distribution through the BD's approved electronic system to both Professional and Non-Professional Subscribers with whom it has a brokerage relationship, subject to certain other conditions described below and in the proposed rule.

NASDAQ Basic contains three separate components, which may be purchased individually or in combination: (i) NASDAQ Basic for NASDAQ, which contains the best bid and offer on the NASDAQ Market Center and last sale transaction reports for NASDAQ and the FINRA/NASDAQ TRF for NASDAQ-listed stocks, (ii) NASDAQ Basic for NYSE, which contains the best bid and offer on the NASDAQ Market Center and last sale transaction reports for NASDAQ and the FINRA/NASDAQ TRF for NYSE-listed

[26] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

stocks, and (iii) NASDAQ Basic for NYSE MKT, which contains the best bid and offer on the NASDAQ Market Center and last sale transaction reports for NASDAQ and the FINRA/NASDAQ TRF for stocks listed on NYSE MKT and other listing venues whose quotes and trade reports are disseminated on Tape B.

The fee structure for NASDAQ Basic features a fee for Professional Subscribers and a reduced fee for Non-Professional Subscribers.[3] The current monthly fees for Non-Professional Subscribers are $0.50 per Subscriber for NASDAQ Basic for NASDAQ, $0.25 per Subscriber for NASDAQ Basic for NYSE, and $0.25 per Subscriber for NASDAQ Basic for NYSE MKT. The current monthly fees for Professional Subscribers are $13 per Subscriber for NASDAQ Basic for NASDAQ, $6.50 per Subscriber for NASDAQ Basic for NYSE, and $6.50 per Subscriber for NASDAQ Basic for NYSE MKT. For use cases that do not require a monthly subscription for unlimited usage, there is a Per Query option, with a fee of $0.0025 for NASDAQ Basic for NASDAQ, $0.0015 for NASDAQ Basic for NYSE, and $0.0015 for NASDAQ Basic for NYSE MKT.

Distributors[4] of NASDAQ Basic may also be assessed a monthly Distributor Fee. The fee is $1,500 per month for either internal or external distribution; however, a credit for Subscriber or Per Query fees may be applied against the Distributor Fee at the Distributor's request. A Distributor of data derived from NASDAQ Basic (but that is not distributing raw NASDAQ Basic content itself) may pay a fee of $1,500 per month (plus the applicable monthly Distributor fee) to distribute the derived data to an unlimited number of Non-Professional Subscribers. This type of Distributor will typically distribute data to a large number of downstream customers through web-based applications.

As an alternative to monthly Subscriber fees for Non-Professional Subscribers, NASDAQ currently offers an enterprise license under which a BD may distribute NASDAQ Basic to an unlimited number of Non-Professional Subscribers with whom the BD has a brokerage relationship at a rate of $100,000 per month (as well as the applicable monthly Distributor fee).[5] NASDAQ is proposing to modify the license provision to focus its availability on BD Distributors that achieve wide distribution of a variety of NASDAQ data to a range of investors, including both Non-Professional and Professional Subscribers. Under the proposed modification, the enterprise license fee will increase to $350,000 per month, but the license will allow distribution of NASDAQ Basic to an unlimited number of Professional or Non-Professional Subscribers with whom the BD has a brokerage relationship, through an electronic system approved by NASDAQ (such as a password-protected Web site for customers to access their accounts and submit orders to the BD). A separate enterprise license with a separate fee would be required for each discrete electronic system used by the broker-dealer. The enterprise license would allow Internal Distribution to the BD's employees, but only through the approved system. The license would not cover distribution through any Distributor other than the BD obtaining the license through its approved system. Thus, a BD could not use the license to eliminate fees payable with respect to the distribution of data to its customers or employees through a third-party data provider.

Because the focus of the license is to achieve the broad distribution of data to many investors by providing a volume discount, the licensee is also required to distribute NASDAQ Last Sale for NASDAQ and/or NASDAQ Last Sale for NYSE/NYSE MKT (''NLS'') via the internet pursuant to Rule 7039(b)(2)(B), at a level that allows it to qualify for the $50,000 fee cap provided for in Rule 7039(b). The NLS data feeds contain last sale activity in U.S. equities within the NASDAQ Market Center and reported to the FINRA/NASDAQ TRF. In certain instances, NLS is distributed under a per Subscriber or per query model, under which a fee is charged for each person that receives the data or for each instance in which a user accesses last sale information about a particular stock. In order to achieve broad distribution of the information to investors, NASDAQ also offers fee models for NLS for distribution via the internet or television, with fees based on the number of Web site visitors or the estimated number of households reached via television. In all instances, the fee payable for NLS is capped at $50,000 per month (plus applicable distributor fees, as discussed below). Although the information included in NLS is also included in NASDAQ Basic, the requirement for internet distribution of NLS would accomplish different transparency goals than distribution of NASDAQ Basic under the license. Specifically, while NASDAQ Basic would be distributed to BD customers via an electronic system for account access, NLS would be distributed broadly via the BD's public Web site, to allow for broad distribution of the information to current customers, potential customers, and interested members of the public and retail investment community.

The licensee would also be required to distribute NASDAQ TotalView and/or NASDAQ OpenView under an enterprise license pursuant to Rule 7023(c)(1). NASDAQ TotalView provides, for NASDAQ-listed securities, all orders and quotes from all NASDAQ members displayed in the NASDAQ Market Center as well as the aggregate size of such orders and quotes at each price level in the execution functionality of the NASDAQ Market Center. NASDAQ OpenView provides the same information as NASDAQ TotalView with respect to stocks listed on exchanges other than NASDAQ. Under the applicable enterprise license, a Distributor that is also a BD pays a monthly fee of $25,000 for the right to provide NASDAQ TotalView and NASDAQ OpenView for distribution to an unlimited number of Non-Professional Subscribers with whom the BD has a brokerage relationship.[6] Thus,

[3] A ''Non-Professional Subscriber'' is ''a natural person who is not (i) registered or qualified in any capacity with the Commission, the Commodity Futures Trading Commission, any state securities agency, any securities exchange or association, or any commodities or futures contract market or association; (ii) engaged as an ''investment adviser'' as that term is defined in Section 201(11) of the Investment Advisers Act of 1940 (whether or not registered or qualified under that Act); or (iii) employed by a bank or other organization exempt from registration under federal or state securities laws to perform functions that would require registration or qualification if such functions were performed for an organization not so exempt.'' A ''Professional Subscriber'' is ''any Subscriber other than a Non-Professional Subscriber.'' Thus, the term includes both natural persons that do not fit within the definition of Non-Professional Subscriber, as well as Subscribers that are not natural persons.

[4] The definition of the term ''Distributor'' is ''any entity that receives NASDAQ Basic data directly from NASDAQ or indirectly through another entity and then distributes it to one or more Subscribers.'' Distributors may either be ''Internal Distributors'', which are ''Distributors that receive NASDAQ Basic data and then distribute that data to one or more Subscribers within the Distributor's own entity,'' or ''External Distributors'', which are ''Distributors that receive NASDAQ Basic data and then distribute that data to one or more Subscribers outside the Distributor's own entity.''

[5] NASDAQ also offers an enterprise license for BDs to distribute to internal Professional Subscribers (*i.e.,* employees of the BD).

[6] NASDAQ is also proposing to correct several obvious errors in the text of Rule 7023. In Securities Exchange Act Release No. 66740 (April 4, 2012), 77 FR 21609 (April 10, 2012) (SR–NASDAQ–2012–042), NASDAQ reorganized the text of Rule 7023, stating that ''[s]ubsections (c)(1), (c)(2), and (c)(4) [of Rule 7023] reflect the enterprise licenses currently set forth in NASDAQ Rule (a)(1)(C) and (D).'' NASDAQ further stated that the proposed changes were ''technical and administrative changes that will not impact the fees assessed to any

Continued

similar to the NASDAQ Basic license, the applicable TotalView/OpenView license is designed to allow wide distribution of data to brokerage customers to facilitate informed trading decisions.

The licensee must also pay Distributor Fees for NASDAQ Basic, under Rule 7047(c)(1), or for NASDAQ Last Sale under Rule 7039(c). The applicable fees are $1,500 per month for each product, but the licensee is required to pay the fee only with respect to one of the products. Thus, if a prospective distributor of NASDAQ Basic under the license is already distributing NASDAQ Last Sale and paying the fee with respect to that product, it is not required to pay an additional Distributor Fee.

The existing license for distribution of NASDAQ Basic to Non-Professional Subscribers is not currently being used by any customer. Therefore, the change will neither advantage nor disadvantage current Subscribers. Based on input from the retail investment community and members, NASDAQ has determined that the lack of demand for the license may be attributable to the reluctance of BDs to distinguish among their customers in the manner required to ensure that the data is not distributed to Professional Subscribers. Accordingly, by widening the scope of the license to any Subscriber that is a brokerage customer, NASDAQ believes that the license may allow BDs to achieve wide distribution of NASDAQ Basic, NASDAQ Last Sale, and NASDAQ TotalView/OpenView without the need to distinguish Professional and Non-Professional Subscribers or to pay individual fees for any single Subscriber. Accordingly, although the modified license may reflect a price increase in comparison with the existing license, NASDAQ believes that demand for the license will increase because of the associated reduction of administrative costs and the cost certainty provided by an enterprise license. The proposed Enterprise License will, however, require firms to report the number of Subscribers receiving NASDAQ Basic a minimum of once per calendar year to provide NASDAQ with accurate information to understand the scope of distribution.

2. Statutory Basis

NASDAQ believes that the proposed rule change is consistent with the provisions of Section 6 of the Act [7] in general, and with Sections 6(b)(4) and (5) of the Act [8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among recipients of NASDAQ data and is not designed to permit unfair discrimination between them. In adopting Regulation NMS, the Commission granted self-regulatory organizations (''SROs'') and BDs increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. NASDAQ believes that its NASDAQ Basic market data product is precisely the sort of market data product that the Commission envisioned when it adopted Regulation NMS. The Commission concluded that Regulation NMS—by deregulating the market in proprietary data—would itself further the Act's goals of facilitating efficiency and competition:

> [E]fficiency is promoted when broker-dealers who do not need the data beyond the prices, sizes, market center identifications of the NBBO and consolidated last sale information are not required to receive (and pay for) such data. The Commission also believes that efficiency is promoted when broker-dealers may choose to receive (and pay for) additional market data based on their own internal analysis of the need for such data.[9]

By removing unnecessary regulatory restrictions on the ability of exchanges to sell their own data, Regulation NMS advanced the goals of the Act and the principles reflected in its legislative history. If the free market should determine whether proprietary data is sold at all, it follows that the price at which such data is sold should be set by the market as well. NASDAQ Basic exemplifies the optional nature of proprietary data, since, depending on a customer's specific goals, it may opt to purchase core SIP data or only the subset provided through NASDAQ Basic. Moreover, as discussed in more detail below, the price that NASDAQ is able to charge is constrained by the existence of substitutes in the form of SIP data and competitive products offered by other SROs.

The decision of the United States Court of Appeals for the District of Columbia Circuit in *NetCoalition v. SEC,* 615 F.3d 525 (D.C. Cir. 2010) (''*NetCoalition I*''), upheld the Commission's reliance upon competitive markets to set reasonable and equitably allocated fees for market data. ''In fact, the legislative history indicates that the Congress intended that the market system 'evolve through the interplay of competitive forces as unnecessary regulatory restrictions are removed' and that the SEC wield its regulatory power 'in those situations where competition may not be sufficient,' such as in the creation of a 'consolidated transactional reporting system.' *NetCoalition I,* at 535 (quoting H.R. Rep. No. 94–229, at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 321, 323). The court agreed with the Commission's conclusion that ''Congress intended that 'competitive forces should dictate the services and practices that constitute the U.S. national market system for trading equity securities.' '' [10]

The Court in *NetCoalition I,* while upholding the Commission's conclusion that competitive forces may be relied upon to establish the fairness of prices, nevertheless concluded that the record *in that case* did not adequately support the Commission's conclusions as to the competitive nature of the market for NYSE Arca's data product at issue in that case. As explained below in NASDAQ's Statement on Burden on Competition, however, NASDAQ believes that there is substantial evidence of competition in the marketplace for data that was not in the record in the *NetCoalition I* case, and that the Commission is entitled to rely upon such evidence in concluding fees are the product of competition, and therefore in accordance with the relevant statutory standards.[11]

Subscriber.'' Rule 7023(A)(1)(C) had formerly provided for ''an enterprise license at a rate of $25,000 for non-professional subscribers or $100,000 per month for both professional and non-professional subscribers.'' The license further stated that it applied to ''an unlimited number of internal users . . . and external uses with whom the firm has a brokerage relationship.'' Employees of a BD that receive market data in connection with their employment do not subscribe as individuals; rather the BD subscribes on their behalf, such that all such subscriptions are Professional. However, in adopting Rule 7023(c)(1) and (c)(2), which are derived from former Rule 7023(a)(1)(C), SR–NASDAQ–2012–042 construed the language ''unlimited number of internal users'' as allowing distribution to ''Non-Professional Subscribers for Internal Distribution.'' Because all Internal Distribution by a BD would, by definition, constitute Professional usage, the language is clearly erroneous and not in accordance with the stated intention of SR–NASDAQ–2014–042 to make no substantive changes. Accordingly, NASDAQ is amending Rule 7023 to eliminate the erroneous language, and make it clear that with respect to both 7023(c)(1) and (c)(2), the applicable licenses permit Internal Distribution for Display Usage (*i.e.,* display of the data on a screen or other visualization mechanism for access or use by a natural person or persons).

[7] 15 U.S.C. 78f.

[8] 15 U.S.C. 78f(b)(4), (5).

[9] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496 (June 29, 2005).

[10] *NetCoalition I,* at 535.

[11] It should also be noted that Section 916 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (''Dodd-Frank Act'') has amended paragraph (A) of Section 19(b)(3) of the Act, 15 U.S.C. 78s(b)(3), to make it clear that all exchange fees, including fees for market data, may

Moreover, NASDAQ further notes that the product at issue in this filing—a NASDAQ quotation and last sale data product that replicates a subset of the information available through ''core'' data products whose fees have been reviewed and approved by the SEC—is quite different from the NYSE Arca depth-of-book data product at issue in *NetCoalition I.* Accordingly, any findings of the court with respect to that product may not be relevant to the product at issue in this filing. As the Commission noted in approving the initial pilot for NASDAQ Basic, all of the information available in NASDAQ Basic is included in the core data feeds made available pursuant to the joint-SRO plans.[12] As the Commission further determined, ''the availability of alternatives to NASDAQ Basic significantly affect the terms on which NASDAQ can distribute this market data. In setting the fees for its NASDAQ Basic service, NASDAQ must consider the extent to which market participants would choose one or more alternatives instead of purchasing the exchange's data.'' [13] Thus, to the extent that the fees for core data have been established as reasonable under the Act, it follows that the fees for NASDAQ Basic are also reasonable, since charging unreasonably high fees would cause market participants to rely solely on core data or purchase proprietary products offered by other exchanges rather than purchasing NASDAQ Basic.

Moreover, as discussed in the order approving the initial pilot, and as further discussed below in NASDAQ's Statement on Burden on Competition, data products such as NASDAQ Basic are a means by which exchanges compete to attract order flow. To the extent that exchanges are successful in such competition, they earn trading revenues and also enhance the value of their data products by increasing the amount of data they are able to provide. Conversely, to the extent that exchanges are unsuccessful, the inputs needed to add value to data products are diminished. Accordingly, the need to compete for order flow places substantial pressure upon exchanges to keep their fees for both executions and data reasonable.

The proposed changes do not alter the reasonableness of the fees for NASDAQ Basic. Although the enterprise license will be modified to increase the applicable fee, the modified license will also broaden the range of customers to which a BD can distribute the data, to include Professional Subscribers for which the fees for individual distribution are higher. In addition, the modified fee will reduce the associated administrative cost of the license by eliminating the need for a BD to distinguish between Professionals and Non-Professionals within its customer base. NASDAQ also notes that the individual fees associated with Professional use of both NASDAQ Basic and SIP data recently increased.[14] As a result, it is also reasonable that an enterprise license to allow unlimited distribution to Professional Subscribers would also be higher than the fees for the current license.

The changed license fee also continues to reflect an equitable allocation and continues not to be unfairly discriminatory, because NASDAQ Basic is a voluntary product for which market participants can readily substitute core data feeds that provide additional quotation and last sale information not available through NASDAQ Basic. Accordingly, NASDAQ is constrained from pricing the product in a manner that would be inequitable or unfairly discriminatory. Moreover, the broadening of the license to allow distribution to both Professional and Non-Professional Subscribers reflects an equitable allocation of fees because it increases the usefulness of the license to member firms and thereby has the potential to broaden the distribution of NASDAQ Basic to customers. Similarly, the requirements for licensees also to distribute NLS and NASDAQ TotalView and/or NASDAQ OpenView are reasonable because an enterprise license is in essence a volume discount for BDs that distribute data to a wide extent. Because the goal of the license is to encourage wide distribution at a fee that is more reasonable than per Subscriber fees, NASDAQ believes that is reasonable to offer this fee reduction to members that are, in fact, achieving wide distribution of data to customers and the public. Similarly, NASDAQ believes that the requirements are consistent with an equitable allocation of fees and not unreasonably discriminatory because they limit the volume discount to those members that can both benefit from a fee cap due to their scope of distribution and that are achieving the goal of providing customers and the public with a range of market data.

The proposed changes to the text of Rule 7023 are consistent with the Act because they are intended solely to correct clearly erroneous language in the text of the rule, and therefore do not modify the fees payable by BDs that obtain subscriptions through the applicable enterprise licenses thereunder. Accordingly, the changes are reasonable, equitable, and not unfairly discriminatory because they serve to promote clarity but do not alter the rights or obligations of Subscribers.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASDAQ 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, as amended. NASDAQ's ability to price NASDAQ Basic is constrained by (1) competition among exchanges, other trading platforms, and TRFs that compete with each other in a variety of dimensions; (2) the existence of inexpensive real-time consolidated data and market-specific data and free delayed consolidated data; and (3) the inherent contestability of the market for proprietary data.

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary to the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with each other for listings, trades, and market data itself, providing virtually limitless opportunities for entrepreneurs who wish to produce and distribute their own market data. This proprietary data is produced by each individual exchange, as well as other entities, in a vigorously competitive market. Similarly, with respect to the TRF data component of NASDAQ Basic, allowing exchanges to operate TRFs has permitted them to earn revenues by providing technology and data in support of the non-exchange segment of the market. This revenue opportunity has also resulted in fierce competition between the two current TRF operators, with both TRFs charging extremely low trade reporting fees and rebating the majority of the revenues they receive from core market data to the parties reporting trades.

Transaction executions and proprietary data products are complementary in that market data is

be filed by exchanges on an immediately effective basis. *See also NetCoalition v. SEC,* 715 F.3d 342 (D.C. Cir. 2013) (''*NetCoalition II*'') (finding no jurisdiction to review Commission's non-suspension of immediately effective fee changes).

[12] Securities Exchange Act Release No. 12425 (March 16, 2009), 74 FR 12423, 12425 (March 24, 2009) (SR–NASDAQ–2008–102).

[13] *Id.* at 12425.

[14] Securities Exchange Act Release No. 71507 (February 7, 2014), 79 FR 8763 (February 13, 2014) (SR–NASDAQ–2014–011); Securities Exchange Act Release No. 70953 (November 27, 2013), 78 FR 72932 (December 4, 2014) (File No. S7–24–89).

both an input and a byproduct of the execution service. In fact, market data and trade execution are a paradigmatic example of joint products with joint costs.[15] The decision whether and on which platform to post an order will depend on the attributes of the platform where the order can be posted, including the execution fees, data quality and price, and distribution of its data products. Without trade executions, exchange data products cannot exist. Moreover, data products are valuable to many end users only insofar as they provide information that end users expect will assist them or their customers in making trading decisions.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and operating the exchange's transaction execution platform and the cost of regulating the exchange to ensure its fair operation and maintain investor confidence. The total return that a trading platform earns reflects the revenues it receives from both products and the joint costs it incurs. Moreover, the operation of the exchange is characterized by high fixed costs and low marginal costs. This cost structure is common in content and content distribution industries such as software, where developing new software typically requires a large initial investment (and continuing large investments to upgrade the software), but once the software is developed, the incremental cost of providing that software to an additional user is typically small, or even zero (*e.g.,* if the software can be downloaded over the internet after being purchased).[16] In NASDAQ's case, it is costly to build and maintain a trading platform, but the incremental cost of trading each additional share on an existing platform, or distributing an additional instance of data, is very low. Market information and executions are each produced jointly (in the sense that the activities of trading and placing orders are *the* source of the information that is distributed) and are each subject to significant scale economies. In such cases, marginal cost pricing is not feasible because if all sales were priced at the margin, NASDAQ would be unable to defray its platform costs of providing the joint products. Similarly, data products cannot make use of TRF trade reports without the raw material of the trade reports themselves, and therefore necessitate the costs of operating, regulating,[17] and maintaining a trade reporting system, costs that must be covered through the fees charged for use of the facility and sales of associated data.

An exchange's BD customers view the costs of transaction executions and of data as a unified cost of doing business with the exchange. A BD will direct orders to a particular exchange only if the expected revenues from executing trades on the exchange exceed net transaction execution costs and the cost of data that the BD chooses to buy to support its trading decisions (or those of its customers). The choice of data products is, in turn, a product of the value of the products in making profitable trading decisions. If the cost of the product exceeds its expected value, the BD will choose not to buy it. Moreover, as a BD chooses to direct fewer orders to a particular exchange, the value of the product to that BD decreases, for two reasons. First, the product will contain less information, because executions of the BD's trading activity will not be reflected in it. Second, and perhaps more important, the product will be less valuable to that BD because it does not provide information about the venue to which it is directing its orders. Data from the competing venue to which the BD is directing orders will become correspondingly more valuable.

Similarly, in the case of products such as NASDAQ Basic that may be distributed through market data vendors, the vendors provide price discipline for proprietary data products because they control a means of access to end users. Vendors impose price restraints based upon their business models. For example, vendors such as Bloomberg and Thomson Reuters that assess a surcharge on data they sell may refuse to offer proprietary products that end users will not purchase in sufficient numbers. Internet portals, such as Google, impose a discipline by providing only data that will enable them to attract ''eyeballs'' that contribute to their advertising revenue. Retail BDs, such as Charles Schwab and Fidelity, offer their customers proprietary data only if it promotes trading and generates sufficient commission revenue. Although the business models may differ, these vendors' pricing discipline is the same: they can simply refuse to purchase any proprietary data product that fails to provide sufficient value. Exchanges, TRFs, and other producers of proprietary data products must understand and respond to these varying business models and pricing disciplines in order to market proprietary data products successfully. Moreover, NASDAQ believes that products such as NASDAQ Basic can enhance order flow to NASDAQ by providing more widespread distribution of information about transactions in real time, thereby encouraging wider participation in the market by investors with access to the data through their brokerage firm or other distribution sources. Conversely, the value of such products to distributors and investors decreases if order flow falls, because the products contain less content.

Analyzing the cost of market data distribution in isolation from the cost of all of the inputs supporting the creation of market data will inevitably underestimate the cost of the data. Thus, because it is impossible to create exchange data without a fast, technologically robust, and well-regulated execution system, system costs and regulatory costs affect the price of market data. It would be equally misleading, however, to attribute all of the exchange's costs to the market data portion of an exchange's joint product. Rather, all of the exchange's costs are incurred for the unified purposes of attracting order flow, executing and/or routing orders, and generating and selling data about market activity. The total return that an exchange earns reflects the revenues it receives from the joint products and the total costs of the joint products. Similarly, the inclusion of trade reporting data in a product such as NASDAQ Basic may assist in attracting customers to the product, thereby assisting in covering the additional costs associated with operating and regulating a TRF.

Competition among trading platforms can be expected to constrain the aggregate return each platform earns from the sale of its joint products, but different platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. NASDAQ pays rebates to attract orders, charges relatively low prices for market information and charges relatively high

[15] A complete explanation of the pricing dynamics associated with joint products is presented in a study that NASDAQ originally submitted to the Commission in SR–NASDAQ–2011–010. *See* Statement of Janusz Ordover and Gustavo Bamberger at 2–17 (December 29, 2010) (available at *http://nasdaq.cchwallstreet.com/NASDAQ/pdf/nasdaq-filings/2011/SR–NASDAQ–2011–010.pdf*).

[16] *See* William J. Baumol and Daniel G. Swanson, ''The New Economy and Ubiquitous Competitive Price Discrimination: Identifying Defensible Criteria of Market Power,'' *Antitrust Law Journal,* Vol. 70, No. 3 (2003).

[17] It should be noted that the costs of operating the FINRA/NASDAQ TRF borne by NASDAQ include regulatory charges paid by NASDAQ to FINRA.

prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower liquidity rebates to attract orders, setting relatively low prices for accessing posted liquidity, and setting relatively high prices for market information. Still others may provide most data free of charge and rely exclusively on transaction fees to recover their costs. Finally, some platforms may incentivize use by providing opportunities for equity ownership, which may allow them to charge lower direct fees for executions and data.

In this environment, there is no economic basis for regulating maximum prices for one of the joint products in an industry in which suppliers face competitive constraints with regard to the joint offering. Such regulation is unnecessary because an ''excessive'' price for one of the joint products will ultimately have to be reflected in lower prices for other products sold by the firm, or otherwise the firm will experience a loss in the volume of its sales that will be adverse to its overall profitability. In other words, an unreasonable increase in the price of data will ultimately have to be accompanied by a decrease in the cost of executions, or the volume of both data and executions will fall.

The level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including eleven SRO markets, as well as internalizing BDs and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated TRFs compete to attract internalized transaction reports. It is common for BDs to further and exploit this competition by sending their order flow and transaction reports to multiple markets, rather than providing them all to a single market. Competitive markets for order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products.

The large number of SROs, TRFs, BDs, and ATSs that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, TRF, ATS, and BD is currently permitted to produce proprietary data products, and many currently do or have announced plans to do so, including NASDAQ, NYSE, NYSE MKT, NYSE Arca, BATS, and Direct Edge.

Any ATS or BD can combine with any other ATS, BD, or multiple ATSs or BDs to produce joint proprietary data products. Additionally, order routers and market data vendors can facilitate single or multiple BDs' production of proprietary data products. The potential sources of proprietary products are virtually limitless. Notably, the potential sources of data include the BDs that submit trade reports to TRFs and that have the ability to consolidate and distribute their data without the involvement of FINRA or an exchange-operated TRF.

The fact that proprietary data from ATSs, BDs, and vendors can by-pass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products, as BATS and Arca did before registering as exchanges by publishing proprietary book data on the internet. Second, because a single order or transaction report can appear in a core data product, an SRO proprietary product, and/or a non-SRO proprietary product, the data available in proprietary products is exponentially greater than the actual number of orders and transaction reports that exist in the marketplace. Indeed, in the case of NASDAQ Basic, the data provided through that product appears both in (i) real-time core data products offered by the SIPs for a fee, and (ii) free SIP data products with a 15-minute time delay, and finds a close substitute in similar products of competing venues.

In addition to the competition and price discipline described above, the market for proprietary data products is also highly contestable because market entry is rapid, inexpensive, and profitable. The history of electronic trading is replete with examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume.

Regulation NMS, by deregulating the market for proprietary data, has increased the contestability of that market. While BDs have previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Multiple market data vendors already have the capability to aggregate data and disseminate it on a profitable scale, including Bloomberg and Thomson Reuters. In Europe, Markit aggregates and disseminates data from over 50 brokers and multilateral trading facilities.[18]

In the case of TRFs, the rapid entry of several exchanges into this space in 2006–2007 following the development and Commission approval of the TRF structure demonstrates the contestability of this aspect of the market.[19] Given the demand for trade reporting services that is itself a by-product of the fierce competition for transaction executions—characterized notably by a proliferation of ATSs and BDs offering internalization—any supra-competitive increase in the fees associated with trade reporting or TRF data would shift trade report volumes from one of the existing TRFs to the other[20] and create incentives for other TRF operators to enter the space. Alternatively, because BDs reporting to TRFs are themselves free to consolidate the market data that they report, the market for over-the-counter data itself, separate and apart from the markets for execution and trade reporting services—is fully contestable.

Moreover, consolidated data provides substantial pricing discipline for proprietary data products that are a subset of the consolidated data stream. Because consolidated data contains marketwide information, it effectively places a cap on the fees assessed for proprietary data (such as quotation and last sale data) that is simply a subset of the consolidated data. The availability provides a powerful form of pricing discipline for proprietary data products that contain data elements that are a subset of the consolidated data, by highlighting the optional nature of proprietary products.

The competitive nature of the market for non-core ''sub-set'' products such as NASDAQ Basic is borne out by the performance of the market. In May 2008, the internet portal Yahoo! began offering its Web site viewers real-time last sale data (as well as best quote data) provided by BATS. In June 2008, NASDAQ launched NLS, which was initially subject to an ''enterprise cap'' of $100,000 for customers receiving only one of the NLS products, and $150,000 for customers receiving both products. The majority of NASDAQ's sales were at

[18] *http://www.markit.com/en/products/data/boat/boat-boat-data.page.*

[19] The low cost exit of two TRFs from the market is also evidence of a contestible market, because new entrants are reluctant to enter a market where exit may involve substantial shut-down costs.

[20] It should be noted that the FINRA/NYSE TRF has, in recent weeks, received reports for over 8% of all over-the-counter volume in NMS stocks.

the capped level. In early 2009, BATS expanded its offering of free data to include depth-of-book data. Also in early 2009, NYSE Arca announced the launch of a competitive last sale product with an enterprise price of $30,000 per month. In response, NASDAQ combined the enterprise cap for the NLS products and reduced the cap to $50,000 (*i.e.,* a reduction of $100,000 per month). Similarly, the enterprise license being offered for NASDAQ Basic through this proposed rule change reflects a means by which the overall cost of the product is limited in accordance with the existence of competitive alternatives, including both core and proprietary data.

In this environment, a super-competitive increase in the fees charged for either transactions or data has the potential to impair revenues from both products. ''No one disputes that competition for order flow is 'fierce'.'' *NetCoalition I* at 539. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs with order flow, since they may readily reduce costs by directing orders toward the lowest-cost trading venues. A BD that shifted its order flow from one platform to another in response to order execution price differentials would both reduce the value of that platform's market data and reduce its own need to consume data from the disfavored platform. If a platform increases its market data fees, the change will affect the overall cost of doing business with the platform, and affected BDs will assess whether they can lower their trading costs by directing orders elsewhere and thereby lessening the need for the more expensive data. Similarly, increases in the cost of NASDAQ Basic would impair the willingness of distributors to take a product for which there are numerous alternatives, impacting NASDAQ Basic data revenues, the value of NASDAQ Basic as a tool for attracting order flow, and ultimately, the volume of orders routed to NASDAQ and reported to the FINRA/NASDAQ TRF and the value of its other data products.

Competition has also driven NASDAQ continually to improve its data offerings and to cater to customers' data needs. The NASDAQ Basic product itself is a product of this competition, offering a subset of core data to users that may not wish to receive or pay for all consolidated data. The existence of numerous alternatives to NASDAQ Basic, including real-time consolidated data, free delayed consolidated data, and proprietary data from other sources ensures that NASDAQ cannot set unreasonable fees, or fees that are unreasonably discriminatory, without losing business to these alternatives. Accordingly, NASDAQ believes that the acceptance of the NASDAQ Basic product in the marketplace demonstrates the consistency of these fees with applicable statutory standards. Likewise, the fee changes proposed herein will be subject to these same competitive forces. If the proposed change is deemed to result in an excessive fee, only NASDAQ will suffer, since its customers will merely migrate to competitive alternatives.

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 [21] and paragraph (f) of Rule 19b–4 thereunder.[22] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2014–070 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–2014–070. 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 Nasdaq. 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–2014–070 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17144 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72633; File No. SR–Phlx–2013–113]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Order Disapproving Proposed Rule Change To Offer a Rebate Based on Members' Aggregate Customer Volume in Multiply-Listed Options Transacted on NASDAQ OMX PHLX LLC or Its Affiliated Options Exchanges

July 16, 2014.

I. Introduction

On October 31, 2013, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule

[1] 15 U.S.C. 78s(b)(1).

19b-4 thereunder,[2] a proposed rule change to amend the Customer Rebate Program in Section B of the Exchange's Pricing Schedule to increase customer rebates available to certain market participants that transact electronically-delivered customer orders on Phlx (the ''Proposal'') or its affiliated options exchanges. Phlx designated the proposed rule change as immediately effective upon filing with the Commission pursuant to Section 19(b)(3)(A) of the Act.[3] The Commission published notice of filing of the proposed rule change in the **Federal Register** on November 19, 2013.[4]

The Commission initially received two comment letters on the Proposal.[5] On November 25, 2013, the Commission temporarily suspended and initiated proceedings to determine whether to approve or disapprove the proposed rule change.[6] In response to the Order Instituting Proceedings, the Commission received four additional comment letters on the Proposal.[7] On January 24, 2014, Phlx submitted a letter responding to the commenters and to the Order Instituting Proceedings.[8]

On April 7, 2014, the Commission sought additional comment on the proposed rule change and extended the time period for Commission action to July 17, 2014.[9] On April 18, 2014, Phlx submitted a letter responding to questions from the Commission staff.[10] In response to the request for additional comment in the Extension Notice, the Commission received two additional comment letters on the Proposal.[11] On May 9, 2014, Phlx submitted a letter responding to the request for additional comment in the Extension Notice.[12] On May 20, 2014, Phlx submitted a letter responding to the Normann Letter.[13] On May 30, 2014, Phlx submitted a letter responding to ISE's May 20, 2014 comment letter.[14] This order disapproves the proposed rule change.

II. Summary of the Proposal

Under the Phlx's existing Customer Rebate Program in its Pricing Schedule, the Exchange pays tiered rebates to members for executions of customer option orders on Phlx. The different tiers are based on a member organization's (and its affiliates under common ownership) [15] total monthly volume in electronically-delivered customer orders executed on Phlx as a percentage of the total national customer volume in multiply-listed options that are transacted monthly on Phlx. These rebates apply separately to both the execution of simple orders and complex orders on Phlx.[16]

Phlx proposed amending its Customer Rebate Program in two ways. First, the Proposal would allow a Phlx member organization to aggregate its (and its affiliates under common ownership) customer volume in multiply-listed options that is electronically delivered and executed across Phlx and its two affiliated NASDAQ OMX exchanges, The NASDAQ Options Market LLC (''NOM''), and/or NASDAQ OMX BX, Inc. (''BX Options'') (collectively, the ''NASDAQ OMX exchanges''), for purposes of determining whether it meets the volume tiers on Phlx. Second, the Proposal would increase the customer rebates offered for these transactions executed on Phlx by $0.02 per contract,[17] provided the member organization, together with any affiliate under common ownership, transacts customer volume on the NASDAQ OMX exchanges in multiply-listed options that is electronically delivered and executed equal to or greater than 2.5% of national customer volume in multiply-listed options in a month.

The Exchange believes the additional rebate would lower costs to transact business on Phlx and increase the volume of customer orders directed to and executed on Phlx, to the benefit of all market participants on Phlx.[18] According to Phlx, the aspect of the Proposal under which a member organization's eligibility for the volume tiers is determined by taking into account customer volume executed on all of the NASDAQ OMX exchanges broadens the potential availability of a higher rebate to market participants that spread volume across multiple exchanges, rather than requiring a concentration of activity on Phlx.[19] Phlx also argues that the Proposal would benefit investors and the national market system by reducing costs, increasing the incentives for exchanges to compete for order flow, and encouraging market participants to direct more liquidity to the Exchange.[20]

III. Summary of Comments

As noted above, the Commission received thirteen comment letters on the proposed rule change,[21] including five

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] *See* Securities Exchange Act Release No. 70866 (November 13, 2013), 78 FR 69472 (''Notice'').

[5] *See* letters to Elizabeth M. Murphy, Secretary, Commission from: Michael J. Simon, Secretary, International Securities Exchange, LLC (''ISE''), dated November 11, 2013 (''ISE Letter''); and William O'Brien, Chief Executive Officer, Direct Edge Holdings LLC, dated November 13, 2013 (''DirectEdge Letter'').

[6] *See* Securities Exchange Act Release No. 70940 (November 25, 2013), 78 FR 71700 (November 29, 2013) (''Order Instituting Proceedings'').

[7] *See* letters to Elizabeth M. Murphy, Secretary, Commission from: Brian O'Neill, Vice President and Senior Counsel, Miami International Securities Exchange, LLC (''MIAX''), dated November 27, 2013 (''MIAX Letter''); John C. Nagel, Managing Director and General Counsel, Citadel LLC, dated December 18, 2013 (''Citadel Letter''); Angelo Evangelou, Associate General Counsel, Chicago Board Options Exchange, Inc. (''CBOE''), dated December 20, 2013 (''CBOE Letter''); and Michael J. Simon, Secretary, ISE, dated December 20, 2013 (''ISE Letter II'').

[8] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Joan C. Conley, Senior Vice President & Corporate Secretary, Phlx, dated January 24, 2014 (''Phlx Response Letter''). In the Phlx Response Letter, Phlx included an evaluation of the Proposal by economists Drs. Robert Willig and Gustavo Bamberger (''Willig and Bamberger Statement''). On January 24, 2014, Phlx also submitted a request to make an oral presentation in the proceeding. The Commission denied Phlx's request. *See* letter from Lynn M. Powalski, Deputy Secretary, Commission, to Eugene Scalia, Partner, Gibson, Dunn & Crutcher LLP, dated June 30, 2014.

[9] *See* Securities Exchange Act Release No. 71891 (April 7, 2014), 79 FR 20287 (April 11, 2014) (''Extension Notice''). In the Extension Notice, the Commission requested comment from market participants on the potential impact the Proposal would have on, among other things, fragmentation of the options market.

[10] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Jeffrey S. Davis, Vice President & Deputy General Counsel, Phlx, dated April 18, 2014 (''Phlx Response Letter II'').

[11] *See* letters to Elizabeth M. Murphy, Secretary, Commission, from Michael J. Simon, Secretary, ISE, dated May 20, 2014 (''ISE Letter III'') and Parker M. Normann, Ph.D., Partner, Edgeworth Economics LLC, dated May 8, 2014, on behalf of the CBOE, ISE, and MIAX (''Normann Letter'').

[12] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Jeffrey S. Davis, Vice President & Deputy General Counsel, Phlx, dated May 9, 2014 (''Phlx Response Letter III'').

[13] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Joan C. Conley, Senior Vice President & Corporate Secretary, Phlx, dated May 20, 2014 (''Phlx Response Letter IV''). In Phlx Response Letter IV, Phlx included a statement by economists Drs. Robert Willig and Gustavo Bamberger in response to the Normann Letter (''Willig and Bamberger Reply'').

[14] *See* letter to Elizabeth M. Murphy, Secretary, Commission, from Joan C. Conley, Senior Vice President & Corporate Secretary, Phlx, dated May 30, 2014 (''Phlx Response Letter V'').

[15] Phlx defines common ownership as a member or member organization under 75% common ownership or control. *See* Notice, *supra* note 4, at 69472 n.3.

[16] To determine the applicable rebate, the Exchange totals customer volume in multiply-listed options (including options overlying the SPDR S&P 500) that are electronically-delivered and executed, except volume associated with electronically Qualified Contingent Cross Orders. Pursuant to the Phlx Pricing Schedule, the term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Rule 1000(b)(14)).

[17] Phlx would pay the additional $0.02 per contract rebate, above and beyond other existing customer rebates, on all eligible orders transacted on Phlx by the qualifying member organization.

[18] *See* Notice, *supra* note 4, at 69473.

[19] *See id.* at 69477.

[20] *See* Phlx Response Letter, *supra* note 8, at 4.

[21] *See supra* notes 5, 7 and 11.

supplemental submissions from Phlx responding to comment letters.[22] The Commission received seven comment letters opposing the proposed rule change,[23] and one comment letter supporting the proposed rule change.[24] Comments on the Proposal generally addressed four areas, namely whether the Proposal: (1) Is an equitable allocation of reasonable fees; (2) is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers; (3) imposes a burden on competition not necessary or appropriate in furtherance of the purposes of the Act; and (4) impacts market structure and efficiency.

A. Equitable Allocation of Reasonable Dues, Fees, and Other Charges Among Members and Issuers Using Its Facility

Several commenters who do not support the Proposal argue that it is inconsistent with the statutory language of Section 6(b)(4) of the Act, which requires that the rules of a registered national securities exchange provide for ''the equitable allocation of reasonable dues, fees, and other charges among *its* members and issuers and other persons using *its* facilities'' (emphasis added).[25] One commenter asserts that such dues, fees, and other charges are intended to be allocated only with respect to the volume on the facilities of the exchange imposing such charges, not the volume executed on another exchange.[26] This commenter believes that imposing a fee or charge based on some activity other than use of the fee-imposing exchange's own facilities would be impossible to allocate in an ''equitable'' way and could never be ''reasonable.''[27] Another commenter believes that the Act's focus on an equitable allocation of reasonable dues, fees, and other charges among *its* members using *its* facilities underscores the ArcaBook Order[28] conclusion that the Commission must analyze an exchange's rules and fees on an exchange-by-exchange basis, and argues that imposing a cross-exchange fee, by its very nature, cannot be an equitable allocation of fees for the members of just one of the exchanges.[29] This commenter believes that exchange fees tied to activity conducted on competing exchanges are impermissible regardless of whether they increase or lower the overall fees that joint exchange members may pay.[30]

The commenter that supports the Proposal believes that if an exchange is subject to significant competitive forces in setting the terms of its proposed fees, the exchange's fees are presumed to be equitable, fair, reasonable and not unfairly discriminatory.[31] This commenter states that reduced fees and rebates based on volume, in general, have been accepted by the Commission and have not been considered inequitable, despite the rebate benefits applying to one member class over another.[32] The commenter also asserts that, while the direct benefits flow to only some members, the rebate tiers will benefit all members and customer orders by providing greater liquidity on the exchange and spreading other fees across a larger number of transactions and members.[33] Furthermore, this commenter states that the Commission has approved a proposal in which rebate volume tiers are calculated based on a market participant's aggregate activity on two markets operated by the same SRO.[34] In this regard, the commenter believes that there is no distinction in differentiating between separately affiliated markets operated by the same SRO, on the one hand, and separate affiliated exchanges operated by affiliated SROs, on the other hand.[35]

Phlx also responds to the commenters opposing the Proposal by arguing that the phrase ''persons using its facilities'' in Section 6(b)(4) of the Act only refers to one category of market participant that is bound by an exchange's rules.[36] Phlx asserts that the phrase does not describe the basis on which exchange fees may be determined, or restrict the right of an exchange to offer market participants a discount that is based in part on their trading activity on an affiliated exchange.[37] Moreover, Phlx argues that the proposed rebate is consistent with Section 6(b)(4) of the Act because the proposed rebate is limited to market participants who transact business on Phlx and only applies to orders executed on Phlx.[38] Phlx also states its view that the Proposal should be considered ''presumptively reasonable'' because it provides an opportunity for market participants to receive enhanced rebates and to lower the costs passed on to investors.[39]

B. Unfair Discrimination Between Customer, Issuers, Brokers, or Dealers

Several commenters believe the Proposal is inconsistent with Section 6(b)(5) of the Act, which requires the rules of a national securities exchange to, among other things, not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers.''[40] In particular, these commenters believe that the Proposal unfairly discriminates between Phlx members because it advantages Phlx members that are also members of NOM and/or BX Options, while disadvantaging Phlx members who are otherwise similarly situated, but who do not have such memberships.[41] As a

[22] *See supra* notes 8, 10, 12, 13 and 14.

[23] *See* ISE Letter; DirectEdge Letter; MIAX Letter; CBOE Letter; ISE Letter II; ISE Letter III; and Normann Letter, *supra* notes 5, 7 and 11.

[24] *See* Citadel Letter, *supra* note 7.

[25] *See* ISE Letter II, *supra* note 7, at 4; DirectEdge Letter, *supra* note 5, at 1; MIAX Letter, *supra* note 7, at 2; and CBOE Letter, *supra* note 7, at 2–3.

[26] *See* CBOE Letter, *supra* note 7, at 2.

[27] *See id.* at 3.

[28] *See* Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770 (December 9, 2008) (SR–NYSEArca–2006–21) (Order Setting Aside Action by Delegated Authority and Approving Proposed Rule Change Relating to NYSE Arca Data), vacated and remanded sub nom by *NetCoalition v. SEC,* 615 F.3d 525 (D.C. Cir. 2010) but on other grounds (the ''ArcaBook Order'').

[29] *See* ISE Letter II, *supra* note 7, at 4.

[30] *See id.* at 5. ISE states that the Commission has always required a self-regulatory organization (''SRO'') to justify its fees by reference solely to that SRO's operation and governing documents. *See id.* at 2.

[31] *See* Citadel Letter, *supra* note 7, at 3.

[32] *See id.* at 4.

[33] *See id.* at 4.

[34] *See id.* at 7 (citing Securities Exchange Act Release No. 50787 (December 2, 2004), 69 FR 71459 (December 9, 2004) (SR–NASD–2004–170)) (approving a National Association of Securities Dealers, Inc. (''NASD'') proposed rule change, through its subsidiary The Nasdaq Stock Market (''Nasdaq''), to establish a price and rebate schedule for non-NASD members based on multiple volume-based usage tiers that takes into account the non-NASD member's combined volume activity on the Nasdaq Market Center and Nasdaq's BRUT facility). *See also* Phlx Response Letter IV, *supra* note 13, at 3. The Commission believes that the proposed rule change regarding the Brut ECN involved unique circumstances in which the Nasdaq Market Center and Brut were facilities of one SRO, a national securities association. *See* Securities Exchange Act Release No. 50311 (September 3, 2004), 69 FR 54818 (September 10, 2004) (Order Granting Application for a Temporary Conditional Exemption Pursuant To Section 36(a) of the Exchange Act by the National Association of Securities Dealers, Inc. Relating to the Acquisition of an ECN By The NASDAQ Stock Market, Inc.). The Commission also notes that the proposed rule change was a temporary conditional exemption and, after Nasdaq's acquisition of the Brut ECN, the Nasdaq Market Center, the Brut ECN, and the Nasdaq INET system were fully integrated into a single pool of liquidity. *See also* Securities Exchange Act Release No. 54155 (July 14, 2006), 71 FR 41291 (July 20, 2006) (SR–NASDAQ–2006–001) (order approving NASDAQ's proposed rule change to combine the operations of the existing Nasdaq Market Center with NASDAQ's Brut and INET facilities into one single integrated system).

[35] *See id.*

[36] *See* Phlx Response Letter, *supra* note 8, at 14.

[37] *See id.*

[38] *See id.*

[39] *See id.*

[40] *See* ISE Letter II, *supra* note 7, at 2–3; MIAX Letter, *supra* note 7, at 2; and CBOE Letter, *supra* note 7, at 3.

[41] *See* ISE Letter II, *supra* note 7, at 2–3; ISE Letter III, *supra* note 11, at 2; MIAX Letter, *supra* note 7, at 2; CBOE Letter, *supra* note 7, at 3; and Normann Letter, *supra* note 11, at 5. One commenter states that maintaining multiple exchange memberships requires significant one-time and continuing costs, which include membership and regulatory fees, and

result, several commenters believe that the Proposal could trigger relatively higher costs for the Phlx members who are not members on NOM and/or BX Options, but who otherwise have the same purchasing profile on Phlx as members who do hold such memberships.[42]

The commenter that supports the Proposal argues that the Proposal is not unfairly discriminatory, noting that the Proposal does not require a Phlx member to become a member of NOM or BX Options to meet the rebate eligibility threshold.[43] In addition, this commenter believes that most Phlx members with sufficient customer order flow to reach the eligibility threshold are already members of NOM and BX Options.[44] The commenter further believes that becoming a member of Phlx affiliate exchanges is not an unreasonably discriminatory burden in exchange for the greater ability to meet the volume threshold under the Proposal.[45]

In response to commenters opposing the Proposal, Phlx asserts that the Proposal is not unfairly discriminatory because the proposed rebate is available on equal terms to any market participant that may qualify for the rebate by executing the required volume on Phlx alone.[46] Phlx argues that members have an incentive to transact volume on Phlx alone because only qualifying customer orders executed on Phlx are entitled to the proposed rebate.[47] Phlx also argues that the Proposal cannot be unfairly discriminatory because it will extend the availability of an exchange rebate to more market participants.[48] Additionally, Phlx asserts that there are no significant barriers for market participants to participate in the proposed rebate program because market participants can easily register as members of Phlx and its affiliated exchanges.[49] Given these results, Phlx believes the Proposal would benefit not only market participants receiving the proposed rebate, but all other Phlx market participants as well.[50]

One commenter, MIAX, believes that the Proposal would cause ''disparate treatment'' between two similarly positioned market participants on Phlx.[51] MIAX offers the following example to demonstrate how it believes the Proposal would unfairly discriminate against similarly positioned market participants on Phlx: BD1 and BD2 are both the same class of market participant and execute 2% of the national customer volume on Phlx.[52] However, BD1 sends the balance of their customer order flow of 1% to MIAX while BD2 sends the balance of their customer order flow of 1% to NOM.[53] MIAX believes that an equitable allocation of reasonable fees and dues that was not unfairly discriminatory would result in charging BD1 and BD2 the exact same fees for the identical trading activity on Phlx.[54] In contrast, MIAX argues that the Proposal would result in BD1 and BD2 being charged different fees even though BD1 and BD2 are performing the same activity on Phlx.[55]

Phlx does not directly respond to MIAX's example, but asserts that the MIAX example of price differentiation between two market participants who trade the same volume on Phlx does not mean that a rebate is unfairly discriminatory because ''*all* rebates predicated on volume or some other condition differentiate between customers who meet the condition and those who do not.''[56]

Two commenters also note that the ArcaBook Order[57] provides precedent to disapprove the proposed rule change.[58] One commenter argues that the Proposal is inconsistent with the Act because, according to the ArcaBook Order, ''the Exchange Act precludes anti-competitive tying of the liquidity pools of separately registered securities exchanges even if they are under common control.''[59] Another commenter argues that Phlx misreads the ArcaBook Order to incorrectly stand for the proposition that ''as long as exchanges are subject to competitive forces, any fee is acceptable.''[60] This commenter states its view that, in the ArcaBook Order, the Commission determined that it must apply the Act's provision regarding rule and fee changes to individual exchanges, and not to exchanges as a group.[61] The commenter asserts that ''[s]ince the Commission has held that the Act requires exchanges to compete at the individual level, Phlx unfairly discriminates by favoring members that route order flow to its affiliated exchanges rather than to other exchanges that also offer differing market and fee structures.''[62] As a

connectivity and line charges. *See* ISE Letter III, *supra* note 11, at 2. This commenter states its view that requiring members to absorb these additional costs to qualify for the rebate is not reasonable and is discriminatory, as the requirement adds significant costs to the member, but benefits Phlx and its affiliates. *See id.*

[42] *See* CBOE Letter, *supra* note 7, at 3; and Normann Letter, *supra* note 11, at 5–6 (noting that a likely result of the Phlx proposal would be that ''two otherwise identical customers with identical volume on Phlx, using identical services, will pay different net fees due to differences in purchasing patterns at exchanges other than Phlx.''). *See id.* at 6. One commenter also believes that the Proposal does not comport with rebate practices that the Commission has allowed in the past as an acceptable means of seeking to attract additional order flow. *See* CBOE Letter, *supra* note 7, at 3. Specifically, this commenter states its view that the discriminatory nature of the proposed rebate could distort a brokers' best execution responsibilities and ''present a new threat to public confidence in brokerage services and market integrity'' contrary to the public interest and inconsistent with the protection of investors. *Id.* at 3–4.

[43] *See* Citadel Letter, *supra* note 7, at 5. The commenter notes that a Phlx member may meet the eligibility threshold by transacting sufficient volume on Phlx alone. *See id.*

[44] *See id.*

[45] *See id.* This commenter states that, for example, the Commission has approved fees as not unfairly discriminatory where the fee is tied to a service made available to all members on the same terms, even if only some voluntarily elect to use the service and pay the fee. *See id.*

[46] *See* Phlx Response Letter, *supra* note 8, at 5; and Phlx Response Letter V, *supra* note 14, at 2 and 6.

[47] *See* Phlx Response Letter, *supra* note 8, at 6; and Phlx Response Letter V, *supra* note 14, at 2. One commenter notes that there could be situations where customers earn rebates on Phlx due to purchases on NOM and/or BX Options because the Proposal aggregates volume from Phlx, NOM and BX Options. As a result, a customer may see its net pricing change from incremental purchases on NOM or BX Options and not on Phlx. *See* Normann Letter, *supra* note 11, at 8–9.

[48] *See* Phlx Response Letter, *supra* note 8, at 4.

[49] *See id.* at 5; and Phlx Response Letter V, *supra* note 14, at 2. Phlx asserts that most of its members are already members of its two affiliated NASDAQ OMX exchanges. *See* Phlx Response Letter V, *supra* note 14, at 2. Additionally, Phlx states that of the Phlx members that directed electronic customer orders to Phlx for execution in May 2014, 100% are members of NOM, and 88.6% are members of all of the NASDAQ OMX exchanges. *See id.*

[50] *See id.* at 4–5.

[51] *See* MIAX Letter, *supra* note 7, at 2.

[52] *See id.*

[53] *See id.*

[54] *See id.* and *see also* Norman Letter, *supra* note 11, at 6.

[55] *See* MIAX Letter, *supra* note 7, at 2. In the MIAX example, under the Proposal, BD1 would be eligible for a $0.14 rebate, while BD2 would be eligible for a $0.17 rebate for executing the identical 2% of the national customer volume on Phlx. *See id.*

[56] Phlx Response Letter, *supra* note 8, at 5. For example, Phlx points to several pricing structures that the Commission has historically approved that result in differential pricing, including, among others, volume tiers and fee caps. *See id.* at 5–6. However, two commenters respond that the services and/or products cited by Phlx refer to product types or offerings only on a single exchange. *See* Normann Letter, *supra* note 11, at 5–6; and ISE Letter III, *supra* note 11, at 7–8. *See also* ISE Letter II, *supra* note 7, at 5–6.

[57] *See* ArcaBook Order, *supra* note 28.

[58] *See* CBOE Letter, *supra* note 7, at 4–5; and ISE Letter III, *supra* note 11, at 4–7.

[59] CBOE Letter, *supra* note 7, at 5 (citing ArcaBook Order at 74790).

[60] ISE Letter II, *supra* note 7, at 4. The commenter believes that the ArcaBook Order ''deals solely with the pricing of a monopoly or unique service . . . by one exchange of its own market data,'' which is distinguishable from the context of the proposed rebate. *Id.* at 5.

[61] *See* ISE Letter III, *supra* note 11, at 6.

[62] ISE Letter II, *supra* note 7, at 3. This commenter also asserts that the Proposal would create confusion for investors because Phlx's fee schedule would not fully encompass the costs of trading on

Continued

result, this commenter argues that, while Phlx can attempt to attract order flow by adjusting the market structure and fees on Phlx, Phlx cannot base its fees on factors related to other markets.[63]

Phlx disagrees with commenters who assert that the ArcaBook Order demonstrates that exchanges cannot cooperate with each other on fees.[64] Phlx states that the ArcaBook Order ''*presupposes* that affiliated exchanges will at times act jointly and that they will not violate the requirements of the Exchange Act by doing so.'' [65] Phlx argues that because market participants on Phlx will benefit from the proposed rebate by achieving lower costs and because more liquidity will be directed to the Exchange, nothing in the ArcaBook Order calls the proposed rebate into question.[66] Furthermore, even if the Commission accepts the interpretation of the ArcaBook Order explained by commenters, Phlx believes that the Proposal meets all relevant requirements of the Act.[67] Phlx states that the Act does not forbid Phlx from preferring its own affiliated exchanges over other competing exchanges.[68] Phlx also believes that the Proposal does not unfairly discriminate against other exchanges that compete with Phlx and its affiliated exchanges for liquidity because single exchanges could match Phlx's proposed rebate or employ lower prices without establishing a new exchange to compete.[69] Phlx also argues that the Commission has previously permitted ''materially similar pricing arrangements.'' [70] However, several commenters argue that the fee precedents Phlx cites are distinguishable from the current Proposal because, among other things, those fees are not based on an affiliated group of exchanges.[71]

One commenter argues that Phlx has not provided any support that additional volume transacted at either NOM or BX Options generates efficiencies at Phlx that would justify, on efficiency grounds, the enhanced rebates.[72] Additionally, the commenter states that it would expect Phlx to include ''substantive analysis of efficiencies generated for Phlx that would warrant passing these efficiencies down to Phlx customers.'' [73] The absence of such analysis suggests to this commenter that the Proposal is ''motivated by a form of price discrimination based on preferences for purchasing volume on a particular exchange, and not on efficiency grounds.'' [74] The commenter believes that the Proposal is likely a form of price discrimination which would result in otherwise identical Phlx customers paying different relative prices for substantially the same use of Phlx's facilities.[75]

Phlx disagrees with the commenter's conclusion that the enhanced rebate is not an efficiency-based volume discount and believes that the commenter does not contend that the Proposal constitutes unfair discrimination under the Act.[76] Phlx states that the commenter's efficiency discussion is based on the ''misguided assumption that differential pricing is only justified where it results in 'efficiencies related to the customer or transaction.' '' [77] However, Phlx states that the Proposal will allow Phlx to increase its trading volume and spread its substantial fixed and common costs over more trades, which will help Phlx cover its fixed and common costs to the benefit of market participants.[78] Furthermore, Phlx states that the Commission has previously approved a number of similar forms of efficiency-based volume discounts that price discriminate, including cross-exchange pricing on equities exchanges,[79] discounted fees for proprietary trading products linked to volume in multiply-listed products, fee caps and enterprise licenses that favor heavy users of a system over other users, and differentiated pricing for data fees.[80]

C. Burden on Competition Not Necessary or Appropriate

Several commenters oppose the proposed rebate because they believe it is inconsistent with Section 6(b)(8) of the Act, which requires that the rules of a national securities exchange ''not impose any burden on competition not necessary or appropriate'' in furtherance of the Act.[81] The commenters opposing the Proposal believe that an exchange with a single market structure and fee

Phlx, because the fees are dependent on trading on different exchanges. *See id.* at 4.

[63] *See id.* at 3.

[64] Phlx asserts that the ArcaBook Order ''at most stands for the proposition that an exchange cannot justify a harm imposed on a market participant on one exchange by referring to an offsetting benefit that the market participant will receive on another exchange.'' Phlx Response Letter, *supra* note 8, at 13.

[65] *Id.* at 12; and Phlx Response Letter V, *supra* note 14, at 4. One commenter argues that this statement is irrelevant because the primary issue is whether the proposed rebate violates the Act, not whether there are theoretical situations in which such actions would not violate the Act. *See* ISE Letter III, *supra* note 11, at 6 n.18.

[66] *See* Phlx Response Letter, *supra* note 8, at 13. In response, one commenter argues that Phlx is improperly attempting to condone its discrimination by citing commercial reasons for favoring its affiliates. *See* ISE Letter III, *supra* note 11, at 6. This commenter argues that while there may be valid commercial reasons for an exchange to want to favor its own affiliated exchanges, that does not mean that such proposals are consistent with the Act. *See id.*

[67] *See* Phlx Response Letter V, *supra* note 14, at 4. One commenter states that Phlx has failed to justify the discriminatory proposal on an individual exchange basis regarding the effects of proposed rebate. *See* ISE Letter III, *supra* note 11, at 6–7.

[68] *See* Phlx Response Letter V, *supra* note 14, at 5. Phlx states that Section 6(b)(5) of the Act ''prohibits an exchange from 'unfair[ly] discriminat[ing] between *customers, issuers, brokers, or dealers'*—not other exchanges.'' *Id.*

[69] *See* Phlx Response Letter, *supra* note 8, at 7. Phlx also makes a similar argument in response to comments received on whether the Proposal would not impose any burden on competition not necessary or appropriate in furtherance of the Act. *See infra* Section III.C. Phlx also believes that there are no significant barriers to creating affiliated exchanges. *See id.* However, one commenter states that Phlx provides no support for this assertion. *See* ISE Letter III, *supra* note 11, at 3.

[70] Phlx Response Letter, *supra* note 8, at 15. *See also* Notice, *supra* note 4 at 69480.

[71] *See* CBOE Letter, *supra* note 7, at 3; ISE Letter II, *supra* note 7, at 5–6; and ISE Letter III, *supra* note 11, at 7–8. ISE Letter II lists the following exchange fee structures from the Notice: (1) The NASDAQ Stock Market LLC basing fees on combined equity and options volume; (2) the options regulatory fee (''ORF'') that some options exchanges charge; (3) listing exchanges providing discounts on listing fees for companies moving from one listed exchange to an affiliated listed exchange; and (4) exchanges treating specific products, such as options on the S&P 500 ETF, differently for volume and rebate purposes. *See* ISE Letter II, *supra* note 7, at 5–6. ISE explains that, of the four fees that Phlx cites in support of its proposed rebate, only the ORF is relevant as it relates to activity on multiple exchanges. ISE, however, believes that the ORF structure is distinguishable from the proposed rebate. Specifically, ISE states that ''the ORF structure is almost an exact opposite of the Phlx fee'' because the purpose of the ORF is ''to remove any incentive by members to avoid the fee by trading off that exchange,'' whereas the purpose of the proposed rebate is ''to encourage trading on the Phlx, the exchange collecting the fee.'' *Id.* at 6. Furthermore, ISE states that the ORF ''is not a fee based on an affiliated group of exchanges, it is not a variable fee based on the volume of transactions across exchanges, and most importantly, the choice of exchange or exchanges to which a broker-dealer sends its order flow has absolutely no effect on the level of fee the broker-dealer pays.'' ISE Letter III, *supra* note 11, at 8.

[72] *See* Normann Letter, *supra* note 11, at 7. This commenter states that ''an economic justification for quantity discounting can be based on factors such as high fixed costs, scale economies or better scheduling of order flow.'' *Id.*

[73] *Id.*

[74] *Id.* at 8.

[75] *See id.* at 9. This commenter states its view that the effect of the Proposal likely would be to pay rebates to Phlx customers based on purchases made at other exchanges. *See id.*

[76] *See* Phlx Response Letter IV, *supra* note 13, at 1. Phlx notes that the commenter ''does not offer an opinion that the [p]roposal will be harmful in any way.'' *Id.*

[77] *Id.*

[78] *See id.* at 2.

[79] *See supra* note 34.

[80] *See* Phlx Response Letter IV, *supra* note 13, at 3.

[81] *See* ISE Letter II, *supra* note 7, at 3; MIAX Letter, *supra* note 7, at 3; and CBOE Letter, *supra* note 7, at 4.

schedule cannot fairly compete against a fee structure that leverages the execution volume and fees across affiliated options exchanges.[82] One commenter asserts that the Proposal would establish a precedent that would allow existing affiliated exchange groups to leverage the execution volume across their multiple independent SROs to the detriment of options exchanges that do not have such affiliated options exchanges.[83] Another commenter argues that exchange operators with multiple exchanges will be able to operate their exchanges with a single, integrated fee structure, cross-subsidizing various offerings in a way that exchanges with only one market will not be able to match.[84]

In response, Phlx states its belief that a single-exchange operator can compete by increasing its own volume-based rebate or offering its own differentiated products, even if those services do not precisely match those offered by Phlx or any other exchange.[85] Phlx also asserts that CBOE, ISE, and NYSE each operate two options exchanges,[86] and can adopt pricing mechanisms similar to the proposed rebate.[87] Thus, Phlx argues that, even if one of the current single-exchange operators were unable to match the proposed discount, Phlx would still face competition from five other exchange operators and eight other exchanges, including three exchange operators that themselves operate multiple exchanges.[88] As a result, Phlx argues that the price competition from the Proposal would benefit consumers and would itself outweigh any purported harm to competing exchanges that could result from the proposed rebate.[89]

Phlx also argues that single market exchanges can compete with the Proposal by registering multiple exchanges and offering competing multi-exchange fees.[90] However, one commenter argues that the overall cost of initiating operation of an exchange ''runs into the multiple millions of dollars.'' [91] Furthermore, this commenter states that the cost and timing of such registrations impose ''unacceptable competitive impediments.''[92]

The commenter that supports the Proposal believes that the Proposal would not place any undue burden on competition.[93] This commenter reasons that the Proposal should be presumed to be pro-competitive because the proposed rebate lowers fees and forces competing exchanges to ''innovate to maintain customers and market share.'' [94] The commenter notes that ''not all exchanges have affiliated exchanges through which they could structure a program similar to the [p]roposal.'' [95] The commenter further states its belief that not having an affiliated exchange ''does not constitute an undue burden on competition, but rather a potential for its enhancement.'' [96]

Phlx argues that the Proposal does not constitute anti-competitive tying because Phlx member organizations are not required to use NOM or BX Options to receive the enhanced rebate.[97] One commenter argues that the antitrust ''tying'' arguments by Phlx are irrelevant to provide a basis for approval of the Proposal because tying would be dispositive in this context only if there was a combination in the pricing of a competitive product and a monopoly product, which is not present in the Proposal.[98] In response, Phlx states that the Commission routinely cites and discusses antitrust cases in support of its orders approving proposed rule changes.[99] For example, Phlx points to the ArcaBook Order, where the Commission cited to an economic analysis of monopolies and pricing.[100]

In its response, Phlx argues that the Proposal is simply a price cut and there is no evidence that low prices harm competition.[101] Phlx asserts that the Proposal will benefit all Phlx market participants, including those who do not obtain the proposed rebates, through increased customer liquidity and tighter spreads.[102] In addition, Phlx believes that market participants and investors will benefit under the Proposal because it is designed to attract Directed Orders (*i.e.,* customer orders directed to particular market makers for execution).[103] Phlx also states that members who choose to qualify for the enhanced rebates by maintaining volume on NOM or BX Options (as opposed to shifting their volume to Phlx, as would be required to qualify for a Phlx-only rebate) will have the flexibility to route their orders to NOM or BX Options without reducing the rebates that they accrue on Phlx.[104] Additionally, Phlx explains that the Proposal offers several benefits beyond those available from a Phlx-only rebate, most notably, a significant price cut to members, additional volume, and increased flexibility for market

[82] *See id.* Two commenters argue that the Proposal is an undue burden on competition among market participants on Phlx because Phlx members that do not have the capacity to be members of multiple options exchanges will be unable to leverage additional customer trading volume on a Phlx affiliate exchange to lower their fees. *See* CBOE Letter, *supra* note 7, at 4; and MIAX Letter, *supra* note 7, at 3.

[83] *See* MIAX Letter, *supra* note 7, at 3.

[84] *See* ISE Letter III, *supra* note 11, at 9.

[85] *See* Phlx Response Letter II, *supra* note 10, at 9–10. Phlx asserts, for example, that CBOE offers larger rebates for trades for proprietary options contracts to members who meet certain volume thresholds for multiply-listed options contracts. *See id.* at 10. Phlx states that it cannot offer a similar pricing Proposal, since it does not execute trades for CBOE's proprietary contracts. *See id.*

[86] The Commission notes that CBOE, ISE, and NYSE do not themselves operate two exchanges, but are each part of separate affiliated groups of exchanges operating under common holding companies. The Commission assumes that Phlx is arguing that the parent holding companies could offer pricing mechanisms similar to the pricing mechanism in the Proposal.

[87] *See* Phlx Response Letter II, *supra* note 10, at 10.

[88] *See* Phlx Response Letter, *supra* note 8, at 10. Phlx states that seven exchanges have commenced operation since 2003, and all have been able to increase their market share due to the competitive nature of the options exchange marketplace. *See* Phlx Response Letter II, *supra* note 10, at 2. Phlx asserts that exchanges have proven viable even at a small scale. *See id.*

[89] *See* Phlx Response Letter, *supra* note 8, at 10–11.

[90] *See* Notice, *supra* note 4, at 69482.

[91] ISE Letter II, *supra* note 7, at 3. This commenter also states that allowing an exchange to combine trading volume with competitors removes incentives for that exchange to broaden its offerings to attract more order flow, which leads to ''greater Balkanization of the exchange community.'' ISE Letter II, *supra* note 7, at 4.

[92] ISE Letter III, *supra* note 11, at 11. In response, Phlx states the fact that ISE recently registered a new exchange demonstrates that the barriers to entry are not prohibitively high. *See* Phlx Response Letter V, *supra* note 14, at 4.

[93] *See* Citadel Letter, *supra* note 7, at 5.

[94] *Id.* at 5.

[95] *Id.* at 6.

[96] *Id.* at 6.

[97] *See* Notice, *supra* note 4, at 69476–77.

[98] *See* ISE Letter II, *supra* note 7, at 5. ISE notes that ''[i]n basing fees on trading volume on multiple venues, Phlx argues that it will not be illegally tying services because there is no requirement that the 'purchaser' buy any two products together.'' *Id.*

[99] *See* Phlx Response Letter V, *supra* note 14, at 2.

[100] *See id.* at 3.

[101] *See* Phlx Response Letter, *supra* note 8, at 7–8. Phlx anticipates that the Proposal will increase its trading volume, decrease the transaction fee revenue per contract, and improve its competitive position. *See* Phlx Response Letter II, *supra* note 10, at 4.

[102] *See id.* at 5; Phlx Response Letter III, *supra* note 12, at 1–2; Phlx Response Letter IV, *supra* note 13, at 2; and Phlx Response Letter V, *supra* note 14, at 4–5. One commenter asserts that firms that do not also trade on NOM or BX Options may lose order flow to larger firms that consolidate order flow to meet the rebate thresholds. *See* ISE Letter III, *supra* note 11, at 10. In response, Phlx states that this possibility exists today under any rebate program based on volume tiers. *See* Phlx Response Letter V, *supra* note 14, at 6.

[103] *See* Phlx Response Letter II, *supra* note 10, at 5. According to Phlx, under Phlx trading rules, a particular market maker (the ''Directed Participant'') can execute as much as 40% of the Directed Order. *See id.* In practice, however, Phlx states that Directed Participants only execute around 9% of Directed Orders on average. *See id.* Phlx states that the remainder of the order is executed by other market participants. *See id.*

[104] *See id.* at 6 and 9; and Phlx Response Letter IV, *supra* note 13, at 2.

participants.[105] Moreover, Phlx believes that employing bundled pricing in this manner can induce new trading and prompt members to shift volume from competing exchanges.[106]

D. Impact on Options Market Structure

In its response to the request for additional comment in the Extension Notice, Phlx states that it does not believe the Proposal will have a material effect on the structure of the options or equities markets or lead to a change in the total number of options exchanges.[107] Phlx believes that its competitors can respond to the Proposal in several ways, including by offering better pricing on a single exchange, which would reduce the incentive for exchanges or new entities to create additional options exchanges.[108] Phlx also believes that the decision to open a new exchange is influenced by other factors, primarily by whether ''opening a new exchange will allow them to offer a new market model that will provide a different value proposition to market participants than is available through their existing exchanges.'' [109] Phlx notes that in the past five years, as the number of exchanges have increased, the revenue per contract of CBOE, NASDAQ and NYSE has decreased or remained relatively flat, which suggests that trading costs do not necessarily increase when additional markets open.[110] Furthermore, Phlx believes that the enhanced rebate will not create a sufficient incentive to prompt existing exchanges or exchange groups to consolidate due to the significant transaction costs involved.[111] Phlx argues that the decision whether to consolidate entities is driven by considerations other than those raised by the Proposal, including whether consolidation would help exchanges better serve the interest of market participants.[112]

Moreover, Phlx believes that the Proposal should not be held to violate the Act merely because it creates an incentive for another market operator to open a new exchange.[113] Phlx notes that the Commission has expressed concern in the past that a multiplicity of trading venues could lead to fragmentation if market participants are unable to interact with order flow on each exchange to ensure that they are obtaining the best available price.[114] However, Phlx does not believe the Commission has ever expressed an opinion that the possibility of future order fragmentation is a sufficient reason to discourage the creation of new exchanges.[115]

Finally, Phlx argues that the Commission's concern over the expansion of the number of exchanges presupposes that the Proposal will be successful and encourage other exchanges to respond by offering similar enhanced rebates to investors.[116] Phlx believes that the Proposal should not be disapproved based on the presumption that investors will respond favorably to it and encourage other exchanges to offer additional market-based incentives.[117] Phlx reiterates its view that because the Proposal enhances competition and offers a price cut to Phlx members, it is presumptively valid under the Act and ''[t]here would need to be significant countervailing evidence supporting any conclusion that the [p]roposal conflicts with the purposes underlying the Act.'' [118] Phlx believes that no such evidence exists in the Proposal and the Commission therefore should ''permit market forces to determine both the optimal number of exchanges and the manner in which exchanges offer and respond to pro-competitive price discounts.'' [119]

One commenter responded to the request for additional comment in the Extension Notice arguing that the Proposal will lead to an increase in the number of exchange registrations resulting in unnecessary market fragmentation.[120] The commenter believes that the options market structure currently reflects an appropriate balance between competition and fragmentation.[121] The commenter believes that if the Proposal is approved, single exchange operators will view exchange registration as a defensive measure against exchange operators with multiple markets, rather than register exchanges to offer value to the market.[122] This commenter concludes that exchange operators will register multiple exchanges just to match competitive offerings, ''rather than providing any real benefit to the market,'' leading to increased fragmentation without any corresponding benefit.[123]

Furthermore, two commenters raised concern about the potential impact of the Proposal on a market-wide basis. One commenter believes that the Proposal imposes obstacles to the development of a national market system for securities and that ignoring the precedent in the ArcaBook Order would require a major change to the underlying assumptions regarding a national market system, a change that could have significant unintended consequences.[124] This commenter states

[105] *See* Phlx Response Letter II, *supra* note 10, at 8; and Phlx Response Letter IV, *supra* note 13, at 2.

[106] *See* Phlx Response Letter II, *supra* note 10, at 6. Phlx has not made projections as to the amount of volume that might shift as a result of the Proposal or the effect that the Proposal would have on overall options industry volume. *See id.* at 7. However, Phlx expects that ''the [p]roposal could lead to an increase in total options exchange industry volume, but the belief is pricing alone will not have a material impact on industry volume.'' *Id.*

[107] *See* Phlx Response Letter III, *supra* note 12, at 2, 4 and 6. Thus, Phlx believes the Proposal should not generate any costs or benefits associated with a change in the number of exchanges. *See id.* at 7. Phlx also believes that the Proposal will not materially affect order interaction, liquidity, volatility, or execution. *See id.* at 6.

[108] *See id.* at 7. Phlx believes that its competitors can match the enhanced rebates by increasing the rebates on a single exchange or developing other strategies for offering differentiated pricing, products, or services that could appeal to market participants. *See* Phlx Response Letter III, *supra* note 12, at 4; and Phlx Response Letter V, *supra* note 14, at 3.

[109] Phlx Response Letter III, *supra* note 12, at 4–5. *See also* Phlx Response Letter V, *supra* note 14, at 4.

[110] *See id.* at 5.

[111] *See id.* at 7.

[112] *See id.*

[113] *See id.* at 2. Phlx cites to prior Commission rulemaking to argue that the ''Commission historically has praised the increase in securities exchanges in the United States as critical to enhancing competition for order flow and promoting consumer choice.'' *Id.*

[114] *See id.*

[115] *See id.*

[116] *See id.* at 3. Phlx anticipates that the Proposal will increase its trading volume, decrease transaction fee revenue per contract, and improve its competitive position. *See* Phlx Response Letter II, *supra* note 10, at 4. Furthermore, Phlx does not expect the Proposal to result in substantial total cost savings in the near term. *See id.* at 6. Phlx explains that most of its costs are fixed and are not affected by modest changes in volume. *See id.* While large increases in volume may require Phlx, NOM, or BX Options to incur significant expenses to increase capacity, Phlx does not expect the Proposal to result in volume increases sufficient to require such expenditures. *See id.*

[117] *See* Phlx Response Letter III, *supra* note 12, at 3. Phlx states that one firm would have qualified for the enhanced rebate at the time the Proposal was first implemented based on its pre-existing trading volume. *See* Phlx Response Letter II, *supra* note 10, at 2–3. Phlx also states that during the month in which the Proposal was in effect prior to the Order Instituting Proceedings, there was a modest increase in Phlx's customer volume. *See id.* at 3. In addition to the one firm that qualified for the enhanced rebate based on its pre-existing trading volume, two firms qualified for the enhanced rebate by shifting volume to NOM from rival exchanges. *See id.*

[118] Phlx Response Letter III, *supra* note 12, at 3.

[119] *Id.*

[120] *See* ISE Letter III, *supra* note 11, at 8–9.

[121] *See id.* at 8.

[122] *See id.* at 9. This commenter notes that such value could be new order types, a new fee structure, enhanced technology, or services complementary to the exchange operator's other offerings. *See id.*

[123] *Id.*

[124] *See* ISE Letter III, *supra* note 11, at 4. The commenter adds that each exchange competes for order flow through a variety of means, including execution quality, speed of execution, customer service, and fees. *See id.* Citing to the Act and the ArcaBook Order, this commenter explains its view that the national market system for options transactions has been built on the basis of

its view that the Proposal raises important questions about the foundation of the national market system and competition in the securities markets [125] and suggests that if the Commission ever determines to make such a change, it should be addressed either through Commission rulemaking or Congressional action—not through an individual exchange's rule proposal.[126] Similarly, another commenter believes that the Proposal raises significant legal and policy issues and suggests that—if a reconsideration of policy must be undertaken—such reconsideration should be conducted on a market-wide basis and not in the context of a single proposed rule change.[127]

IV. Discussion and Commission Findings

Under Section 19(b)(2)(C) of the Act, the Commission shall approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act, and the rules and regulations thereunder that are applicable to such organization.[128] The Commission shall disapprove a proposed rule change if it does not make such a finding.[129] The Commission's Rules of Practice, under Rule 700(b)(3), state that the ''burden to demonstrate that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder . . . is on the self-regulatory organization that proposed the rule change'' and that a ''mere assertion that the proposed rule change is consistent with those requirements . . . is not sufficient.'' [130]

After careful consideration, the Commission does not find that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Commission does not find that the proposed rule change is consistent with: (1) Section 6(b)(4) of the Act, which requires that the rules of a national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities;'' [131] and (2) Section 6(b)(5) of the Act, which, among other things, requires that the rules of a national securities exchange not be ''designed to permit unfair discrimination between customers, issuers, brokers, or dealers[.]'' [132] Because either of these determinations under the Act independently necessitates disapproving the Proposal, the Commission does so.

In the Order Instituting Proceedings, the Commission highlighted the statutory provisions referenced above, and noted that the Commission intended to further assess whether this additional customer rebate on Phlx, which is based on execution volume across the NASDAQ OMX exchanges, is consistent with the statutory requirements applicable to a national securities exchange under the Act.[133] The Commission invited interested persons to submit written views with respect to these concerns. The Commission received eleven comment letters in response to the Order Instituting Proceedings, of which five were from Phlx.

To evaluate whether a fee, such as Phlx's proposed rebate, is consistent with the Act, the Commission applies a ''market-based approach.'' [134] The Commission examines whether the exchange making the proposal is subject to significant competitive forces in setting the terms of its proposal, including the level of any fee.[135] If the exchange is subject to significant competitive forces in setting the terms of a proposal, the Commission will approve the proposal unless it determines that there is a substantial countervailing basis to find that the proposal nevertheless fails to meet an applicable requirement of the Act or the rules thereunder.[136] If the exchange is not subject to significant competitive forces in setting the terms of the proposal, the Commission will require the exchange to provide a substantial basis, other than competitive forces, to demonstrate that the terms of the proposal are equitable, fair, reasonable, and not unreasonably discriminatory.[137] For reasons discussed below, although we base our analysis on the assumption that Phlx is subject to significant competitive forces in setting the terms of the Proposal, there is a substantial countervailing basis to find that those terms do not meet the Act's requirements that an exchange's rules be equitable, fair, reasonable, and not unreasonably discriminatory: namely, the Proposal could result in two similarly situated Phlx members being charged different fees for transacting the same amount and type of customer option volume on the Phlx exchange.

As discussed more fully below and as explained in the ArcaBook Order, the Commission historically has reviewed whether a proposed exchange rule is consistent with the provisions of Section 6 of the Act on an exchange-by-exchange basis—that is, an exchange's proposed rule change is analyzed at the individual level of the registered securities exchange and not at the group level of exchanges.[138] With respect to the first part of a market-based approach, the Commission previously has found and continues to believe that there is significant competition for order flow in the options market at the individual exchange level.[139] This

competition between individual exchange markets, not groups of exchange markets. *See id.*

[125] *See* ISE Letter II, *supra* note 7, at 1–2.

[126] *See* ISE Letter III, *supra* note 11, at 4.

[127] *See* CBOE Letter, *supra* note 7, at 1 and 4.

[128] *See* 15 U.S.C. 78s(b)(2)(C)(i).

[129] *See* 15 U.S.C. 78s(b)(2)(C)(ii); and *see also* 17 CFR 201.700(b)(3).

[130] *See* 17 CFR 201.700(b)(3). ''The description of a proposed rule change, its purpose and operation, its effect, and a legal analysis of its consistency with applicable requirements must all be sufficiently detailed and specific to support an affirmative Commission finding. Any failure of a self-regulatory organization to provide the information elicited by Form 19b–4 may result in the Commission not having a sufficient basis to make an affirmative finding that a proposed rule change is consistent with the Exchange Act and the rules and regulations issued thereunder that are applicable to the self-regulatory organization.'' *Id.*

[131] 15 U.S.C. 78f(b)(4).

[132] 15 U.S.C. 78f(b)(5).

[133] *See* Order Instituting Proceedings, *supra* note 6, at 71701–02.

[134] *See* ArcaBook Order, *supra* note 28, at 74781–82. *See also* Securities Exchange Act Release No. 68202 (November 9, 2012), 77 FR 68856, 68858–61 (November 16, 2012) (SR–Phlx–2012–27 and SR–Phlx–2012–54) (''Phlx Fees Order'') (applying the market-based approach analysis in connection with a Phlx transaction fee proposal. The Commission found, pursuant to delegated authority, that the proposed rule changes were consistent with the requirements of the Act and rules and regulations thereunder applicable to a national securities exchange.). Notably, one commenter on this Proposal applied the Commission's market-based approach to analyzing the Proposal. *See* Citadel Letter, *supra* note 7, at 3.

[135] *See* ArcaBook Order, *supra* note 28, at 74781. *See also* Phlx Fees Order, *supra* note 134, at 68858.

[136] *See* ArcaBook Order, *supra* note 28, at 74781. *See also* Phlx Fees Order, *supra* note 134, at 68858.

[137] *See* ArcaBook Order, *supra* note 28, at 74781.

[138] *See id.* at 74793; and *infra* notes 143–145. Specifically, in the ArcaBook Order, the Commission stated:

Section 6 of the Exchange Act . . . prohibits a national securities exchange from adopting rules that are designed to permit unfair discrimination among its customers or that would impose an unnecessary or inappropriate burden on competition. All of these requirements are applied at the level of the individual registered securities exchange, not at the group level of exchanges that are under common control. In particular, a proposed exchange rule must stand or fall based, among other things, on the interests of customers, issuers, broker-dealers, and other persons using the facility of that exchange.

[139] *See* Securities Exchange Act Release No. 61317 (January 8, 2010), 75 FR 2915 (January 19, 2010) (SR–ISE–2009–103). The Commission found, pursuant to delegated authority, that the exchange was subject to significant competitive forces in setting the terms of its proposal, including fees, and noting that ''the Exchange has a compelling need to attract order flow to maintain its share of trading

Continued

Proposal adds complexity to the first part of a market-based approach analysis because it raises a question of whether we also should analyze competition at the group level of exchanges in addition to the individual exchange level.[140] The Commission does not believe it is necessary to resolve that issue here because, even assuming that the Exchange were subject to significant competitive forces at the group level under the first part of a market-based approach, the Commission believes that, under the second part of the market-based analysis, there is a substantial countervailing basis to find that the terms of the proposed rebate fail to meet the requirements of the Act.

Specifically, the Commission believes that providing a rebate for transactions on Phlx based on the aggregate amount of customer volume transacted across all three of the NASDAQ OMX exchanges would be inconsistent with Section 6(b)(4) of the Act [141] because it would not provide for the equitable allocation of reasonable dues, fees, and other charges among Phlx members and issuers and other persons using Phlx facilities. The Commission also believes that the Proposal would be inconsistent with Section 6(b)(5) of the Act [142] because it would permit unfair discrimination between customers, issuers, brokers, or dealers.

As outlined above, the Proposal would allow market participants to aggregate volume across Phlx, NOM, and BX Options for purposes of determining whether they meet the volume tiers on Phlx. However, the Commission historically has reviewed whether a proposed exchange rule is consistent with the provisions of Section 6 of the Act on an exchange-by-exchange basis.[143] As the Commission articulated in the ArcaBook Order, the regulatory structure of Section 6 ''limits the potential for related exchanges to act jointly[,]'' [144] and reading the statute to require the application of (and assessment of compliance with) the requirements of Section 6 of the Act on an exchange-by-exchange basis is consistent with that purpose. While the Commission recognizes that there are other plausible approaches to the interpretation of the Act, we do not believe a sufficiently compelling case has been made for the Commission to alter its historical position at this time.

Thus, as articulated by the Commission in the ArcaBook Order, the Commission has analyzed whether this proposed rule change is consistent with the Act at the level of the individual registered securities exchange—not the group level. In applying this principle, it is notable that the Proposal could result in the Exchange charging different fees to Phlx members that are similarly situated and transact the same amount and type (electronically delivered) of customer volume on the Phlx exchange. For example, a Phlx member who transacts 2.3% of national customer volume in multiply-listed options in a month on Phlx would not qualify for the additional rebate. However, another Phlx member who also transacts 2.3% of national customer volume in multiply-listed options in a month on Phlx and who transacts an additional 0.5% of national customer volume in multiply-listed options in a month on NOM would qualify for the rebate. Further, given the second Phlx member's customer volume transacted on NOM, this second Phlx member need only transact 2.0% of national customer volume in multiply-listed options in that month on Phlx to qualify for the enhanced rebate.[145]

Thus, under the Proposal, a Phlx member that transacts less national customer volume in multiply-listed options in a month on Phlx than other members would qualify for the additional proposed rebate while those other Phlx members with higher national customer volume percentages on Phlx—the exchange proposing the rebate—would not qualify. The Commission does not believe that the arguments put forth by Phlx provide a basis consistent with the Act as to why this disparity is equitable or not unfairly discriminatory when analyzing the treatment of Phlx members using the Phlx exchange.

Phlx argues that the Proposal provides for the equitable allocations of fees because the proposed rebate is limited to market participants who transact business on Phlx and only applies to orders actually executed on the Phlx exchange.[146] But this ignores the effect of the proposed rebate on those market participants. Because the Proposal is based in part on the activity of Phlx members outside the Phlx exchange, the Proposal could result in the Exchange charging different fees to members that are similarly situated and execute the same amount and type of customer orders on the Phlx exchange. Further, Phlx has not shown that, when analyzed at the level of the individual exchange, such differential treatment is equitable.

Phlx believes that the resulting lower costs will incentivize market participants to increase the amount of customer orders sent to the Exchange, thereby enhancing the quality of its markets by narrowing quote spreads and further increasing customer volume to Phlx.[147] The Commission does not believe that any of the potential benefits of the Proposal cure its inequitable effect because, when analyzing the activity of members on the Phlx exchange alone, the Proposal could result in two Phlx members that are similarly situated and transact the same amount and type of customer volume on Phlx being charged different fees.

Finally, Phlx argues that the proposed rebate is structured as a volume-based discount and is similar to the existing rebate tiers in Section B of the Pricing Schedule, which the Commission has previously accepted.[148] But the

volume, imposing pressure on the Exchange to act reasonably in establishing fees for these data offerings.'' *Id.* at 2917. With respect to this Proposal, commenters and the Exchange have both provided representations and data regarding the existence of competition for order flow among options exchanges. *See* Notice, *supra* note 4, at 69474; Phlx Response Letter, *supra* note 8, at 10 and 12; Phlx Response Letter II, *supra* note 10, at 2; Citadel Letter, *supra* note 7, at 3 (stating that ''it is clear that Phlx and all options exchanges are subject to significant competitive forces in setting their fees'' and ''the Commission recently found that there is significant competition for order flow in the options markets''); and ISE Letter II, *supra* note 7, at 3 (stating that ''every exchange operates in a competitive environment, seeking to maximize the order flow on that exchange''). In particular, the Exchange has stated that the trading of options is a highly competitive environment and the ability to attract order flow is driven largely by price competition. *See* Notice, *supra* note 4, at 69474; Phlx Response Letter, *supra* note 8, at 12; and Phlx Response Letter II, *supra* note 10, at 2. The Exchange also stated that member firms control the order flow that options markets compete to attract, and that exchange members, rather than the exchanges, drive competition. *See* Notice, *supra* note 4, at 69474.

[140] *See* Notice, *supra* note 4, at 69481–82.

[141] 15 U.S.C. 78f(b)(4).

[142] 15 U.S.C. 78f(b)(5).

[143] *See* ArcaBook Order, *supra* note 28, at 74793.

[144] *Id.*

[145] Several commenters also raised this concern and argued that it renders the Proposal inequitable. *See, e.g.,* Normann Letter, *supra* note 11, at 6–9; and MIAX Letter, *supra* note 7, at 2. *See also* CBOE Letter, *supra* note 7, at 3 (noting that ''imposition of a fee or charge by an exchange based on some activity other than use of the fee-imposing exchange's own facilities necessarily would be impossible to allocate in an 'equitable' way and could never be 'reasonable.' ''); and ISE Letter II, *supra* note 7, at 2–3.

[146] Phlx Response Letter, *supra* note 8, at 14; and Section III.A, *supra.* In addition, Phlx argues that the proposed rebate should be considered ''presumptively reasonable'' because it would reduce transaction costs of doing business on the Exchange, which the Exchange believes would ultimately reduce the costs passed on to investors. *See* Phlx Response Letter, *supra* note 8, at 14. *See also* Notice, *supra* note 4 at 69477. The Commission notes that it is not making a finding as to whether the proposed rebate is reasonable because the Commission finds that the Proposal is inconsistent with the Act on other grounds. *See supra* notes 138–143 and accompanying text.

[147] *See* Notice, *supra* note 4, at 69482.

[148] *See* Phlx Response Letter, *supra* note 8, at 15; and Notice, *supra* note 4 at 69480.

Commission believes that the Proposal is distinguishable from the volume-based tiers and discounts that currently exist on Phlx and other registered securities exchanges. Current volume based discounts are based on the volume transacted on the registered securities exchange charging the fee and not volume transacted on a separate registered securities exchange. Thus, under current volume-based discounts, two similarly situated members executing the same amount and type of transaction volume on a registered securities exchange should be charged the same transaction fee (or given the same transaction rebate).[149]

Given the principle articulated by the Commission in its ArcaBook Order, and based on the record, the Commission therefore does not believe that the proposed fee structure, which as commenters noted, would allow the Exchange to charge different fees to Phlx members that are similarly situated and transact the same amount and type of customer volume on Phlx, is consistent with Section 6(b)(4) of the Act which, requires that the rules of a registered national securities exchange ''provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.''

Phlx also argues that the Proposal is not unfairly discriminatory under Section 6(b)(5) of the Act, asserting that because any market participant could qualify for the proposed rebate by transacting the required amount of customer volume on Phlx alone and thus market participants are not required to become members of NASDAQ OMX exchanges to qualify for the proposed rebate.[150] The Commission believes that this argument fails to address, when analyzing the activity of members on the Phlx exchange alone, the result of two Phlx members that are similarly situated and transact the same amount and type of customer volume on Phlx but could be charged different fees.[151]

Phlx argues that market participants can easily register as members of Phlx and its affiliated exchanges at minimal cost, which will expand the pool of market participants who can receive the rebate.[152] Phlx also argues that the Proposal would reduce fees and benefit market participants by way of reduced transaction costs.[153] In addition, the Exchange argues that the Proposal would enhance efficient trading activity by allowing market participants to route customer orders to other NASDAQ OMX exchanges and count transactions as a result of those orders towards the proposed rebate on Phlx.[154] The Exchange believes that this efficiency would improve execution quality while at the same time potentially lowering the cost for their customers.[155] But the Commission does not believe that any of the potential benefits of the Proposal put forth by Phlx—such as to expand the rebate to more market participants resulting in lower costs to market participants without compromising their execution obligations, and improved market quality through increased liquidity to the Exchange [156]—cures its unfair discriminatory effects on Phlx-only members, who could be charged a higher fee for the same volume on Phlx than Phlx members that have multiple NASDAQ OMX exchange memberships. Thus, the Commission does not believe that Phlx has provided a sufficient basis to support the assertion that the potential discrimination among Phlx members resulting from the Proposal would not be unfair. Consequently, the Commission does not believe that the proposed fee structure is consistent with Section 6(b)(5) of the Act which, among other things, requires that the rules of a registered national securities exchange be ''not designed to permit unfair discrimination between customers, issuers, brokers, or dealers[.]''

In analyzing this Proposal and in making its determination to disapprove the rule change, the Commission has considered whether the action will promote efficiency, competition, and capital formation.[157] As part of this consideration, the Commission has considered comments regarding efficiency and competition, including literature cited in those comments, and how any effects on competition or efficiency could affect capital formation. For example, some commenters assert that the Proposal does not provide efficiency gains on Phlx,[158] while Phlx contends that some market participants who transact customer orders on Phlx could experience efficiency gains from improved execution choices.[159] Phlx contends the following effects may result from the Proposal: More efficient allocation of order flow between Phlx and its affiliated exchanges; [160] more efficient use of the services associated with the substantial fixed, sunk costs shared among the three exchanges in the Nasdaq OMX group; [161] more efficient price discrimination; [162] increased trading volume on Phlx; [163] and, in principle, a potential increase in total options exchange industry volume.[164] The Commission notes that these efficiency gains, if realized, could potentially promote capital formation.

Additionally, commenters assert that the Proposal would lead to adverse effects on competition by placing burdens on competing exchanges [165] that may face loss of business to Phlx and on competing market participants that are not entitled to the proposed

[149] *See, e.g.,* the existing Phlx Pricing Schedule B, Customer Rebate Program. In the Notice, Phlx also discusses other examples of differences in fees and rebates for exchange services. *See* Notice, *supra* note 4, at 69477–80. The Proposal is similarly distinguishable from those examples because only under the Proposal could two similarly situated market participants who transact the same amount of the same type of volume on Phlx be charged differing levels of transaction fees by that exchange.

[150] *See* Phlx Response Letter, *supra* note 8, at 4–7; and Phlx Response Letter V, *supra* note 14, at 2. *See also supra* Section III.B.

[151] *See infra* note 156.

[152] *See* Phlx Response Letter, *supra* note 8, at 4–5.

[153] *See* Notice, *supra* note 4, at 69473.

[154] *See* Phlx Response Letter II, *supra* note 10, at 6 and 9; and Phlx Response Letter IV, *supra* note 13, at 2.

[155] *See* Phlx Response Letter II, *supra* note 10, at 6 and 9; and Phlx Response Letter IV, *supra* note 13, at 2.

[156] The Proposal potentially could lead to order flow shifting away from the Phlx exchange to other options exchanges because a member could still qualify for the rebate by aggregating the amount of customer volume that it transacts across one or more of the exchanges in the NASDAQ OMX exchange group. According to the Exchange, during the month the proposed rebate was in effect on Phlx, customer volume on Phlx experienced a modest increase; however, two of the three firms that qualified for the proposed rebate did so by shifting customer volume from rival exchanges to NOM. *See* Phlx Response Letter II, *supra* note 10, at 3–4. Phlx data shows that Phlx Member A's customer volume on NOM increased from 0.59% on October 1, 2013 to 1.67% on November 1, 2013 and Phlx Member C's customer volume on NOM increased from 0.58% on October 1, 2013 to 1.44% on November 1, 2013. *See id.*

[157] Whenever pursuant to the Act the Commission is engaged in rulemaking or the review of a rule of a self-regulatory organization, and is required to consider or determine whether an action is necessary or appropriate in the public interest, the Commission shall also consider, in addition to the protection of investors, whether the action will promote efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[158] *See* ISE Letter III, *supra* note 11, at 8–9; Normann Letter, *supra* note 11, at 7.

[159] *See* Phlx Response Letter, *supra* note 8, at 4.

[160] *See id.;* and Willig and Bamberger Statement, *supra* note 8, at 19. *See also* Citadel Letter, *supra* note 7, at 2–3, 7.

[161] *See* Willig and Bamberger Reply, *supra* note 13, at 4.

[162] *See* Willig and Bamberger Statement, *supra* note 8, at 15–20; Willig and Bamberger Reply, *supra* note 13, at 4.

[163] *See* Willig and Bamberger Statement, *supra* note 8, at 26; and Phlx Response Letter IV, *supra* note 13, at 2.

[164] *See* Phlx Response Letter II, *supra* note 10, at 7.

[165] *See* ISE Letter III, *supra* note 11, at 3, MIAX Letter, *supra* note 7, at 3; and CBOE Letter, *supra* note 7, at 4.

rebate.[166] Phlx contends that the Proposal would have a beneficial effect on competition by providing competitors with incentives to match the proposed rebate—by developing their own pricing strategies or increasing the quality of their execution services, thereby creating a more efficient, less costly national market system.[167] Phlx anticipates such enhanced competition, with or without the launch of new exchanges, while a commenter asserts that barriers to the creation of new exchanges could affect the competitive response and that the Proposal will lead to the inefficient proliferation of new exchanges.[168]

The Commission has considered whether the action will promote efficiency, competition, and capital formation, but, as discussed above, the Commission does not find that the Proposal is consistent with Sections 6(b)(4) and 6(b)(5) of the Act.

V. Conclusion

For the foregoing reasons, the Commission does not find that the proposed rule change is consistent with the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with Sections 6(b)(4) and 6(b)(5) of the Act.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–Phlx–2013–113) be, and hereby is, disapproved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[169]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17156 Filed 7–21–14; 8:45 am]

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[166] *See* CBOE Letter, *supra* note 7, at 4; MIAX Letter, *supra* note 7, at 3.

[167] *See* Phlx Response Letter, *supra* note 8, at 2.

[168] *See* ISE Letter III, *supra* note 11, at 3, 8–9.

[169] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72628; File No. SR–NYSE–2014–34]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its Supplemental Liquidity Providers Pilot Currently Scheduled To Expire on July 31, 2014, Until the Earlier of the Securities and Exchange Commission's Approval To Make Such Pilot Permanent or December 31, 2014

July 16, 2014.

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 July 3, 2014, New York Stock Exchange LLC (''NYSE'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its Supplemental Liquidity Providers Pilot (''SLP Pilot'' or ''Pilot'') (*see* Rule 107B), currently scheduled to expire on July 31, 2014, until the earlier of the Securities and Exchange Commission's (''Commission'') approval to make such Pilot permanent or December 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its SLP Pilot,[3] currently scheduled to expire on July 31, 2014, until the earlier of Commission approval to make such Pilot permanent or December 31, 2014.

Background[4]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model referred to as the ''New Market Model'' (''NMM Pilot'').[5] The SLP Pilot was launched in coordination with the NMM Pilot (*see* Rule 107B).

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated

[3] *See* Securities Exchange Act Release No. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108) (establishing the SLP Pilot). *See also* Securities Exchange Act Release Nos. 59869 (May 6, 2009), 74 FR 22796 (May 14, 2009) (SR–NYSE–2009–46) (extending the operation of the SLP Pilot to October 1, 2009); 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending the operation of the NMM and the SLP Pilots to November 30, 2009); 61075 (November 30, 2009), 74 FR 64112 (December 7, 2009) (SR–NYSE–2009–119) (extending the operation of the SLP Pilot to March 30, 2010); 61840 (April 5, 2010), 75 FR 18563 (April 12, 2010) (SR–NYSE–2010–28) (extending the operation of the SLP Pilot to September 30, 2010); 62813 (September 1, 2010), 75 FR 54686 (September 8, 2010) (SR–NYSE–2010–62) (extending the operation of the SLP Pilot to January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending the operation of the SLP Pilot to August 1, 2011); 64762 (June 28, 2011), 76 FR 39145 (July 5, 2011) (SR–NYSE–2011–30) (extending the operation of the SLP Pilot to January 31, 2012); 66045 (December 23, 2011), 76 FR 82342 (December 30, 2011) (SR–NYSE–2011–66) (extending the operation of the SLP Pilot to July 31, 2012); 67493 (July 25, 2012), 77 FR 45388 (July 31, 2012) (SR–NYSE–2012–27) (extending the operation of the SLP Pilot to January 31, 2013); 68560 (January 2, 2013), 78 FR 1280 (January 8, 2013) (SR–NYSE–2012–76) (extending the operation of the SLP Pilot to July 31, 2013); 69819 (June 21, 2013), 78 FR 38764 (June 27, 2013) (SR–NYSE–2013–44) (extending the operation of the SLP Pilot to January 31, 2014); and 71362 (January 21, 2014), 79 FR 4371 (January 27, 2014) (SR–NYSE–2014–03) (extending the operation of the SLP Pilot to July 31, 2014).

[4] The information contained herein is a summary of the ''New Market Model'' Pilot and the SLP Pilot. *See supra* note 4 for a fuller description of those pilots.

[5] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

Market Maker or ''DMM.''[6] Separately, the NYSE established the SLP Pilot, which established SLPs as a new class of market participants to supplement the liquidity provided by DMMs.[7]

The SLP Pilot is scheduled to end operation on July 31, 2014 or such earlier time as the Commission may determine to make the rules permanent. The Exchange is currently preparing a rule filing seeking permission to make the SLP Pilot permanent, but does not expect that filing to be completed and approved by the Commission before July 31, 2014.[8]

Proposal To Extend the Operation of the SLP Pilot

The NYSE established the SLP Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers, including the DMMs, and add new competitive market participants. The Exchange believes that the SLP Pilot, in coordination with the NMM Pilot, allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the SLP Pilot (Rule 107B) should be made permanent.

Through this filing the Exchange seeks to extend the current operation of the SLP Pilot until December 31, 2014, in order to allow the Exchange to formally submit a filing to the Commission to convert the SLP Pilot rule to a permanent rule.[9]

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that member organizations 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,[10] in general, and furthers the objectives of Section 6(b)(5) of the Act,[11] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because it seeks to extend a pilot program that has already been approved by the Commission. The Exchange believes the proposed rule change is designed to facilitate transactions in securities and to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because the SLP Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the SLP Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the SLP Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process. Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For 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,[12] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the SLP Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange. The Exchange will continue to monitor the efficacy of the program during the proposed extended pilot period.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other U.S. equity exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[13] and Rule 19b–4(f)(6) thereunder.[14] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

[6] *See* NYSE Rule 103.

[7] *See* NYSE Rule 107B. The Exchange amended the monthly volume requirements to an average daily volume (''ADV'') that is a specified percentage of NYSE consolidated ADV. *See* Securities Exchange Act Release No. 67759 (August 30, 2012), 77 FR 54939 (September 6, 2012) (SR–NYSE–2012–38).

[8] The NMM Pilot was scheduled to expire on July 31, 2014. On July 3, 2014, the Exchange filed to extend the NMM Pilot until December 31, 2014. *See* SR–NYSE–2014–33. *See also* Securities Exchange Act Release Nos. 71345 (January 17, 2014), 79 FR 4221 (January 24, 2014) (SR–NYSE–2014–01) (extending operation of the NMM Pilot to July 31, 2014); 69813 (June 20, 2013), 78 FR 38753 (June 27, 2013) (SR–NYSE–2013–43) (extending the operation of the NMM Pilot to January 31, 2014); 68558 (January 2, 2013), 78 FR 1288 (January 8, 2013) (SR–NYSE–2012–75) (extending the operation of the NMM Pilot to July 31, 2013); 67494 (July 25, 2012), 77 FR 45408 (July 31, 2012) (SR–NYSE–2012–26) (extending the operation of the NMM Pilot to January 31, 2013); 66046 (December 23, 2011), 76 FR 82340 (December 30, 2011) (SR–NYSE–2011–65) (extending the operation of the NMM Pilot to July 31, 2012); 64761 (June 28, 2011) 76 FR 39147 (July 5, 2011) (SR–NYSE–2011–29) (extending the operation of the NMM Pilot to January 31, 2012); 63618 (December 29, 2010) 76 FR 617 (January 5, 2011) (SR–NYSE–2010–85) (extending the operation of the NMM Pilot to August 1, 2011); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending the operation of the NMM Pilot to January 31, 2011); 61724 (March 17, 2010), 75 FR 14221 (SR–NYSE–2010–25) (extending the operation of the NMM Pilot to September 30, 2010); and 61031 (November 19, 2009), 74 FR 62368 (SR–NYSE–2009–113) (extending the operation of the NMM Pilot to March 30, 2010).

[9] The NYSE MKT LLC SLP Pilot (NYSE MKT Rule 107B—Equities) is also being extended until December 31, 2014 or until the Commission approves it as permanent (*See* SR–NYSEMKT–2014–58).

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(5).

[12] 15 U.S.C. 78f(b)(8).

[13] 15 U.S.C. 78s(b)(3)(A)(iii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [15] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[16] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative before the pilot's expiration. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after July 31, 2014.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. Further, the Commission notes that because the proposed rule change was filed on an immediately effective basis on July 3, 2014, the fact that the current pilot program does not expire until July 31, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative on July 31, 2014.[17]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2014–34 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2014–34. 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–NYSE–2014–34 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Kevin M. O'Neill,

Deputy Secretary.

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[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6)(iii).

[17] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72626; File No. SR–FINRA–2014–006]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing of Amendment No. 1 to Proposed Rule Change Relating to Per Share Estimated Valuations for Unlisted DPP and REIT Securities

July 16, 2014.

I. Introduction

On January 31, 2014, Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend provisions in the FINRA rulebook addressing per share estimated valuations for unlisted direct participation program (''DPP'') and real estate investment trust (''REIT'') securities. The proposed rule change was published for comment in the **Federal Register** on February 19, 2014.[3] The Commission received eighteen (18) comment letters in response to the Notice of Filing.[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 71545 (Feb. 12, 2014), 79 FR 9535 (Feb. 19, 2014) (Notice of Filing of Proposed Rule Change Relating to Per Share Estimated Valuations for Unlisted DPP and REIT Securities) (''Notice of Filing''). The comment period closed on March 12, 2014.

[4] Letters to Elizabeth Murphy, Secretary, SEC, from Mark Goldberg, Chairman, Investment Program Association, dated February 5, 2014; David Bellaire, Executive Vice President and General Counsel, Financial Services Institute, dated February 5, 2014; Mark Kosanke, President, Real Estate Investment Securities Association, dated February 11, 2014; Steven Wechsler, President and CEO, National Association of Real Estate Investment Trusts, dated February 14, 2014; Kirk Montgomery, Head of Regulatory Affairs, CNL Financial Group, LLC, dated March 12, 2014; Dechert LLP, dated March 12, 2014; Jeff Johnson, CEO, Dividend Capital Diversified Property Fund Inc., dated February 28, 2014; David Bellaire, Executive Vice President and General Counsel, Financial Services Institute, dated March 12, 2014; Mark Goldberg, Chairman, Investment Program Association, dated March 12, 2014; Michael Crimmins, CEO and Managing Director, KBS Capital Markets Group, dated February 28, 2014; Steve Morrison, Senior Vice President and Associate Counsel, LPL Financial, dated March 12, 2014; Steven Wechsler, President and CEO, National Association of Real Estate Investment Trusts, dated March 12, 2014; Martel Day, Principal, NLR Advisory Services, LLC, dated March 12, 2014; Scott Ilgerfritz, Immediate Past-President, Public Investors Arbitration Bar Association, dated March 11, 2014; Mark Kosanke,

On March 14, 2014, FINRA extended the time period in which the Commission must 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 May 20, 2014.

On May 20, 2014, the Commission issued an order instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[5] to determine whether to approve or disapprove the proposed rule change. The order was published for comment in the **Federal Register** on May 27, 2014.[6] The Commission received five (5) comment letters in response to the order.[7]

On July 11, 2014, FINRA filed a letter responding to comments and Amendment No. 1 to the proposed rule change.[8] The text of Amendment No. 1 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. Amendment No. 1 is described in Item II below, which has been substantially prepared by FINRA. The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Amendment

As further described in the Notice of Filing, FINRA is proposing to amend (1) NASD Rule 2340 (Customer Account Statements) to modify the requirements relating to the inclusion of a per share estimated value for unlisted DPP and REIT securities on a customer account statement; and (2) FINRA Rule 2310 (Direct Participation Programs) to modify the requirements applicable to members' participation in a public offering of unlisted DPP or REIT securities.

In response to comments received by the Commission, FINRA is proposing to amend the proposed rule change as follows:

1. FINRA is revising proposed NASD Rule 2340(c) to require general securities members to include in customer account statements a per share estimated value for a DPP or REIT security developed in a manner reasonably designed to ensure that the per share estimated value is reliable. Thus, FINRA is eliminating the voluntary or ''not priced'' option originally proposed. Moreover, FINRA is revising proposed NASD Rule 2340(c)(1) to state that the per share estimated value will be deemed to have been developed in a manner reasonably designed to ensure that it is reliable if the member uses one of the two specified methodologies.

2. FINRA is eliminating the ''no reason to believe that the per share estimated value is unreliable'' standard from the general provision in proposed NASD Rule 2340(c). As revised, proposed NASD Rule 2340(c) would require disclosure of valuations and proposed NASD Rule 2340(c)(1) would deem valuations calculated under the two defined methodologies to have been developed in a manner reasonably designed to ensure that they are reliable. As a result, FINRA believes the ''no reason to believe that the per share estimated value is unreliable'' standard in the general provision in proposed NASD Rule 2340(c) is not necessary.

3. FINRA is removing the ''over distribution'' deduction from the per share estimated value in the ''net investment'' methodology in proposed NASD Rule 2340(c)(1)(A)(ii) and replacing it with enhanced disclosure of ''over distribution'' on customer account statements. As revised, proposed NASD Rule 2340(c)(2)(A) would require account statements that include a ''net investment'' per share estimated value for a DPP or REIT security to disclose, if applicable, prominently and in proximity to disclosure of distributions and the per share estimated value the following: ''IMPORTANT—Part of your distribution includes a return of capital. Any distribution that represents a return of capital reduces the estimated per share value shown on your account statement.''

4. FINRA is revising the ''net investment'' methodology in proposed NASD Rule 2340(c)(1)(A) to make clear that firms may use the maximum offering percentage when the issuer provides a range of amounts available for investment unless the member has reason to believe that such percentage is unreliable, in which case the member must use the minimum offering percentage.

5. FINRA is modifying the ''net investment'' methodology in proposed NASD Rule 2340(c)(1)(A) to lengthen the time period in which members may use the ''net investment'' methodology. The proposed rule change, as amended, would allow ''net investment'' values to be included on customer account statements at any time before 150 days following the second anniversary of breaking escrow. FINRA is making a parallel change to proposed FINRA Rule 2310(b)(5)(B)(i).

6. FINRA is modifying proposed FINRA Rule 2310(b)(5)(B) to clarify issuer disclosure requirements, including the elimination of the requirement to identify the service used to obtain a valuation, and require more frequent valuations. As revised, proposed FINRA Rule 2310(b)(5)(D)(i) would require that the per share estimated value be based on valuations of the assets and liabilities of the DPP or REIT performed at least annually by, or with the material assistance or confirmation of, a third-party valuation expert or service.

7. FINRA is modifying proposed FINRA Rule 2310(b)(5) to specifically except DPPs that are subject to the Investment Company Act of 1940 (''1940 Act'') from the requirements under the rule in recognition that business development companies that fall under the definition of DPP are subject to an existing regulatory framework under the 1940 Act for determining and publishing net asset value on a regular basis. In addition, FINRA is revising proposed NASD Rule 2340(c)(1)(B) to state, in the case of DPPs subject to the 1940 Act, the appraised value methodology under Rule 2340(c)(1)(B) shall be consistent with the valuation requirements of the 1940 Act and the rules thereunder.

8. FINRA is extending the effective date of the proposed rule change to no earlier than 18 months following Commission approval. FINRA believes this extended timeframe will give industry participants time to make adjustments to product structures and any necessary operational changes.

FINRA is also proposing the following changes:

President, Real Estate Investment Securities Association, dated March 12, 2014; Thomas Price, Managing Director, Securities Industry and Financial Markets Association, dated March 12, 2014; David Hirschmann, President and CEO, U.S. Chamber of Commerce, Center for Capital Markets Competitiveness, dated March 12, 2014; and Jacob Frydman, Chairman and CEO, United Realty Trust Incorporated, dated March 12, 2014. Comment letters are available at *www.sec.gov.*

[5] 15 U.S.C. 78s(b)(2)(B).

[6] Exchange Act Release No. 72193 (May 20, 2014), 79 FR 30217 (May 27, 2014) (Order Instituting Proceedings to Determine Whether to Approve or Disapprove a Proposed Rule Change Relating to Per Share Estimated Valuations for Unlisted DPP and REIT Securities). The comment period closed on June 26, 2014.

[7] Letters to Elizabeth Murphy, Secretary, SEC, from David Bellaire, Executive Vice President and General Counsel, dated June 26, 2014; Thomas Price, Managing Director, Securities Industry and Financial Markets Association, dated June 26, 2014; Mark Kosanke, President, Real Estate Investment Securities Association, dated June 26, 2014; Jason Doss, President, Public Investors Arbitration Bar Association, dated June 25, 2014; and Kenneth Mills, dated June 24, 2014. Comment letters are available at *www.sec.gov.*

[8] Letter to Kevin O'Neill, Deputy Secretary, SEC, from Matthew Vitek, Associate General Counsel, FINRA, dated July 11, 2014 (''Response Letter''). FINRA's Response Letter is available at *www.sec.gov.*

1. FINRA is proposing to change the title of NASD Rule 2340(c) from ''Unlisted DPP/REIT Securities'' to ''DPP and Unlisted REIT Securities'' to more accurately reflect the types of securities that are subject to the rule. FINRA also is changing the title of proposed NASD Rule 2340(c)(1)(B) from ''independent valuation'' to ''appraised value'' to more accurately reflect the per share estimated value methodology.

2. FINRA is revising the ''net investment'' methodology in proposed NASD Rule 2340(c)(1)(A)(i) to clarify that ''another equivalent disclosure'' means ''another equivalent disclosure that reflects the estimated percentage deduction from the aggregate dollar amount of securities registered for sale to the public of sales commissions, dealer manager fees, and estimated issuer offering and organization expenses.''

3. FINRA is modifying the ''appraised value'' methodology to clarify in proposed NASD Rule 2340(c)(1)(B) that the member may include a per share estimated value reflecting an appraised valuation disclosed in the Issuer Report based on the valuations of the assets and liabilities of the DPP or REIT performed at least annually by, or with the material assistance or confirmation of, a third-party valuation expert or service and derived from a methodology that conforms to standard industry practice.

4. FINRA is eliminating the required disclosures in proposed NASD Rule 2340(c)(2)(A)(i) regarding characteristics of the per share estimated value and proposed NASD Rule 2340(c)(2)(B) on the ''not priced'' option. FINRA believes that streamlined disclosure will be more effective than also requiring an account statement to describe per share estimated value, its source, and the method by which it was developed, as would have been required under the originally proposed NASD Rule 2340(c)(2)(A)(i). In addition, FINRA believes the disclosures in proposed NASD Rule 2340(c)(2)(B) are no longer necessary because the revised proposal requires a general securities member to include in a customer account statement a per share estimated value of a DPP or REIT security.

5. FINRA is modifying proposed FINRA Rule 2310(b)(5) to state that a member shall not participate in a public offering of the securities of a DPP that is not subject to the requirements of the 1940 Act or of a REIT unless they meet the requirements under the rule. In addition, FINRA is revising proposed FINRA Rule 2310(b)(5)(A) to clarify that the issuer of the DPP or REIT must agree to disclose a per share estimated value of the DPP or REIT security, developed in a manner reasonably designed to ensure it is reliable, in the DPP or REIT periodic reports filed pursuant to Section 13(a) or 15(d) of the Exchange Act.

6. FINRA is clarifying in proposed FINRA Rule 2310(b)(5)(D)(iii) that the valuation must be accompanied by a written opinion or report by the issuer, delivered at least annually to the broker-dealer, that explains the scope of the review, the methodology used to develop the valuation or valuations, and the basis for the value or values reported.

7. FINRA is making a technical change to delete FINRA Rule 5110(f)(2)(L) instead of the originally proposed deletion of FINRA Rule 5110(f)(2)(M) because FINRA renumbered the subparagraphs of FINRA Rule 5110(f)(2) after the filing of the proposed rule change.[9]

III. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change, as amended by Amendment No. 1, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2014–006 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–2014–006. 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 FINRA. 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–2014–006 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17150 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Exchange Act Release No. 72114 (May 7, 2014), 79 FR 27355 (May 13, 2014) (Order Approving a Proposed Rule Change; SR–FINRA–2014–004).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72623; File No. SR–NYSEMKT–2014–58]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its Supplemental Liquidity Providers Pilot Currently Scheduled To Expire on July 31, 2014, Until the Earlier of the Securities and Exchange Commission's Approval To Make Such Pilot Permanent or December 31, 2014

July 16, 2014.

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 July 3, 2014, NYSE MKT LLC (''NYSE MKT'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its Supplemental Liquidity Providers Pilot (''SLP Pilot'' or ''Pilot'') (*see* Rule 107B—Equities), currently scheduled to expire on July 31, 2014, until the earlier of the Securities and Exchange Commission's (''Commission'') approval to make such Pilot permanent or December 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its SLP Pilot,[3] currently scheduled to expire on July 31, 2014, until the earlier of Commission approval to make such Pilot permanent or December 31, 2014.

Background [4]

In October 2008, the New York Stock Exchange LLC (''NYSE'') implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the NYSE. These changes were all elements of the NYSE's and the Exchange's enhanced market model referred to as the ''New Market Model'' (''NMM Pilot'').[5] The NYSE SLP Pilot was launched in coordination with the NMM Pilot (*see* NYSE Rule 107B).

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or ''DMM.'' [6] Separately, the NYSE established the SLP Pilot, which established SLPs as a new class of market participants to supplement the liquidity provided by DMMs.[7]

The NYSE adopted NYSE Rule 107B governing SLPs as a six-month pilot program commencing in November 2008. This NYSE pilot has been extended several times, most recently to July 31, 2014.[8] The NYSE is in the process of requesting an extension of their SLP Pilot until December 31, 2014 or until the Commission approves the pilot as permanent.[9] The extension of the NYSE SLP Pilot until December 31, 2014 runs parallel with the extension of the NMM Pilot until December 31, 2014, or until the Commission approves the NMM Pilot as permanent.

Proposal To Extend the Operation of the NYSE MKT SLP Pilot

The Exchange established the SLP Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers, including the DMMs, and add new competitive market participants. NYSE MKT Rule 107B—Equities is based on NYSE Rule 107B. NYSE MKT Rule 107B—Equities was filed with the Commission on December 30, 2009, as a ''me too'' filing for immediate effectiveness as a pilot program.[10] The Exchange's SLP Pilot is scheduled to end operation on July 31, 2014 or such earlier time as the Commission may determine to make the rules permanent.

The Exchange believes that the SLP Pilot, in coordination with the NMM Pilot and the NYSE SLP Pilot, allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the SLP Pilot (NYSE MKT Rule 107B—Equities) should be made permanent.

Through this filing the Exchange seeks to extend the current operation of the SLP Pilot until December 31, 2014, in order to allow the Exchange to formally submit a filing to the Commission to convert the SLP Pilot rule to a permanent rule. The Exchange is currently preparing a rule filing seeking permission to make the Exchange's SLP Pilot permanent, but does not expect that filing to be

[3] *See* Securities Exchange Act Release No. 61308 (January 7, 2010), 75 FR 2573 (January 15, 2010) (SR–NYSEAmex-2009–98) (establishing the NYSE Amex Equities SLP Pilot). *See also* Securities Exchange Act Release Nos. 61841 (April 5, 2010), 75 FR 18560 (April 12, 2010) (SR–NYSEAmex-2010–33) (extending the operation of the SLP Pilot to September 30, 2010); 62814 (September 1, 2010), 75 FR 54671 (September 8, 2010) (SR–NYSEAmex-2010–88) (extending the operation of the SLP Pilot to January 31, 2011); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex-2010–123) (extending the operation of the SLP Pilot to August 1, 2011); 64772 (June 29, 2011), 76 FR 39455 (July 6, 2011) (SR–NYSEAmex-2011–44) (extending the operation of the SLP Pilot to January 31, 2012); 66041 (December 23, 2011), 76 FR 82328 (December 30, 2011) (SR–NYSEAmex-2011–103) (extending the operation of the SLP Pilot to July 31, 2012); 67496 (July 25, 2012), 77 FR 45390 (July 31, 2012) (SR–NYSEMKT–2012–22) (extending the operation of the SLP Pilot to January 31, 2013); 68557 (January 2, 2013), 78 FR 1284 (January 8, 2013) (SR–NYSEMKT–2012–85) (extending the operation of the SLP Pilot to July 31, 2013); 69820 (June 21, 2013), 78 FR 38748 (June 27, 2013) (SR–NYSEMKT–2013–52) (extending the operation of the SLP Pilot to January 31, 2014); and 71361 (January 21, 2014), 79 FR 4364 (January 27, 2014) (SR–NYSEMKT–2014–03) (extending the operation of the SLP Pilot to July 31, 2014).

[4] The information contained herein is a summary of the ''New Market Model'' Pilot and the SLP Pilot. *See supra* note 4 and *infra* note 6 for a fuller description of those pilots.

[5] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46).

[6] *See* NYSE Rule 103.

[7] *See* NYSE Rule 107B and NYSE MKT Rule 107B—Equities. NYSE amended the monthly volume requirements to an average daily volume (''ADV'') that is a specified percentage of NYSE consolidated ADV. *See* Securities Exchange Act Release No. 67759 (August 30, 2012), 77 FR 54939 (September 6, 2012) (SR–NYSE–2012–38).

[8] *See* Securities Exchange Act Release Nos. 58877 (October 29, 2008), 73 FR 65904 (November 5, 2008) (SR–NYSE–2008–108) (adopting SLP Pilot program); 59869 (May 6, 2009), 74 FR 22796 (May 14, 2009) (SR–NYSE–2009–46) (extending SLP Pilot program until October 1, 2009); 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending SLP Pilot program until November 30, 2009); 61075 (November 30, 2009), 74 FR 64112 (December 7, 2009) (SR–NYSE–2009–119) (extending SLP Pilot program until March 30, 2010); 61840 (April 5, 2010), 75 FR 18563 (April 12, 2010) (SR–NYSE–2010–28) (extending the SLP Pilot until September 30, 2010); 62813 (September 1, 2010), 75 FR 54686 (September 8, 2010) (SR–NYSE–2010–62) (extending the SLP Pilot until January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending the operation of the SLP Pilot to August 1, 2011); 64762 (June 28, 2011), 76 FR 39145 (July 5, 2011) (SR–NYSE–2011–30) (extending the operation of the SLP Pilot to January 31, 2012); 66045 (December 23, 2011), 76 FR 82342 (December 30, 2011) (SR–NYSE–2011–66) (extending the operation of the SLP Pilot to July 31, 2012); 67493 (July 25, 2012), 77 FR 45388 (July 31, 2012) (SR–NYSE–2012–27) (extending the operation of the SLP Pilot to January 31, 2013); 68560 (January 2, 2013), 78 FR 1280 (January 8, 2013) (SR–NYSE–2012–76) (extending the operation of the SLP Pilot to July 31, 2013); 69819 (June 21, 2013), 78 FR 38764 (June 27, 2013) (SR–NYSE–2013–44) (extending the operation of the SLP Pilot to January 31, 2014); and 71362 (January 21, 2014), 79 FR 4371 (January 27, 2014) (SR–NYSE–2014–03) (extending the operation of the SLP Pilot to July 31, 2014).

[9] *See* SR–NYSE–2014–34.

[10] *See* Securities Exchange Act Release No. 61308 (January 7, 2010), 75 FR 2573 (January 15, 2010) (SR–NYSEAmex-2009–98).

completed and approved by the Commission before July 31, 2014.[11]

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that member organizations 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,[12] in general, and furthers the objectives of Section 6(b)(5) of the Act,[13] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because it seeks to extend a pilot program that has already been approved by the Commission. The Exchange believes the proposed rule change is designed to facilitate transactions in securities and to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because the SLP Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the SLP Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the SLP Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process. Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For 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,[14] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the SLP Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange. The Exchange will continue to monitor the efficacy of the program during the proposed extended pilot period.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other U.S. equity exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[17] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[18] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative before the pilot's expiration. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after July 31, 2014.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. Further, the Commission notes that because the proposed rule change was filed on an immediately effective basis on July 3, 2014, the fact that the current pilot program does not expire until July 31, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative on July 31, 2014.[19]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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:

[11] The NMM Pilot was scheduled to expire on July 31, 2014 as well. On July 3, 2014, the Exchange filed to extend the NMM Pilot until December 31, 2014. *See* SR–NYSEMKT–2014–57.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(8).

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[17] 17 CFR 240.19b–4(f)(6).

[18] 17 CFR 240.19b–4(f)(6)(iii).

[19] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–58 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–NYSEMKT–2014–58. 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–NYSEMKT–2014–58 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17147 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72624; File No. SR–NYSEMKT–2014–59]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending NYSE MKT Rule 500—Equities To Extend the Operation of the Pilot Program That Allows ''UTP Securities'' To Be Traded on the Exchange Pursuant to a Grant of Unlisted Trading Privileges Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or December 31, 2014

July 16, 2014.

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 July 3, 2014, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The 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 NYSE MKT Rule 500—Equities to extend the operation of the pilot program that allows ''UTP Securities'' to be traded on the Exchange pursuant to a grant of unlisted trading privileges. The pilot program is currently scheduled to expire on July 31, 2014; the Exchange proposes to extend it until the earlier of Securities and Exchange Commission (''Commission'') approval to make such pilot permanent or December 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, on the Commission's Web site at *www.sec.gov,* 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 MKT Rule 500—Equities to extend the operation of the pilot program that allows ''UTP Securities'' to be traded on the Exchange pursuant to a grant of unlisted trading privileges.[4] The pilot program is currently scheduled to expire on July 31, 2014; the Exchange proposes to extend it until the earlier of Commission approval to make such pilot permanent or December 31, 2014.

NYSE MKT Rules 500–525—Equities, as a pilot program, govern the trading of any ''UTP Securities'' on the Exchange pursuant to unlisted trading privileges (''UTP Pilot Program'').[5] The Exchange hereby seeks to extend the operation of the UTP Pilot Program, currently scheduled to expire on July 31, 2014, until the earlier of Commission approval to make such pilot permanent or December 31, 2014.

The UTP Pilot Program includes any security, other than a security that is listed on the Exchange, that (i) is designated as an ''eligible security''

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] ''UTP Securities'' is included within the definition of ''security'' as that term is used in the NYSE MKT Equities Rules. *See* NYSE MKT Rule 3—Equities. In accordance with this definition, UTP Securities are admitted to dealings on the Exchange on an ''issued,'' ''when issued,'' or ''when distributed'' basis. *See* NYSE MKT Rule 501—Equities.

[5] *See* Securities Exchange Act Release No. 62479 (July 9, 2010), 75 FR 41264 (July 15, 2010) (SR–NYSEAmex–2010–31). *See also* Securities Exchange Act Release Nos. 62857 (September 7, 2010), 75 FR 55837 (September 14, 2010) (SR–NYSEAmex–2010–89); 63601 (December 22, 2010), 75 FR 82117 (December 29, 2010) (SR–NYSEAmex–2010–124); 64746 (June 24, 2011), 76 FR 38446 (June 30, 2011) (SR–NYSEAmex–2011–45); 66040 (December 23, 2011), 76 FR 82324 (December 30, 2011) (SR–NYSEAmex–2011–104); 67497 (July 25, 2012), 77 FR 45404 (July 31, 2012) (SR–NYSEMKT–2012–25); 68561 (January 2, 2013), 78 FR 1290 (January 8, 2013) (SR–NYSEMKT–2012–86); 69814 (June 20, 2013), 78 FR 38762 (June 27, 2013) (SR–NYSEMKT–2013–53); and 71363 (January 21, 2014), 79 FR 4373 (January 27, 2014) (SR–NYSEMKT–2014–01). The UTP Pilot Program was originally limited to securities listed on the Nasdaq Stock Market LLC (''Nasdaq Securities''), but the Exchange recently expanded the UTP Pilot Program beyond Nasdaq Securities. *See* Securities Exchange Act Release No. 71952 (April 16, 2014), 79 FR 22558 (April 22, 2014) (SR–NYSEMKT–2014–32).

pursuant to the ''UTP Plan,''[6] (ii) has been admitted to dealings on the Exchange pursuant to a grant of unlisted trading privileges in accordance with Section 12(f) of the Act,[7] and (iii) if it is an ''Exchange Traded Product'' (''ETP'') that does not have any component security that is listed or traded on the Exchange or the New York Stock Exchange LLC (''NYSE''); provided, however, that the Invesco PowerShares QQQ™ (the ''QQQ''™) may be admitted to dealings on the Exchange pursuant to a grant of unlisted trading privileges although one or more component securities of the QQQ may be listed or traded on the Exchange or the NYSE, subject to the conditions of Rule 504(b)(5)—Equities.

The Exchange notes that its New Market Model Pilot (''NMM Pilot''), which, among other things, eliminated the function of specialists on the Exchange and created a new category of market participant, the Designated Market Maker (''DMM''),[8] is also scheduled to end on July 31, 2014.[9] The timing of the operation of the UTP Pilot Program was designed to correspond to that of the NMM Pilot. In approving the UTP Pilot Program, the Commission acknowledged that the rules relating to DMM benefits and duties in trading Nasdaq Securities on the Exchange pursuant to the UTP Pilot Program are consistent with the Act[10] and noted the similarity to the NMM Pilot, particularly with respect to DMM obligations and benefits[11]—the Exchange considers the same to be true with respect to all UTP Securities, including for ETPs that are included in the UTP Pilot Program. Furthermore, the UTP Pilot Program rules pertaining to the assignment of securities to DMMs are substantially similar to the rules implemented through the NMM Pilot.[12] The Exchange has similarly filed to extend the operation of the NMM Pilot until the earlier of Commission approval to make the NMM Pilot permanent or December 31, 2014.[13]

Extension of the UTP Pilot Program in tandem with the NMM Pilot, both from July 31, 2014 until the earlier of Commission approval to make such pilots permanent or December 31, 2014, will provide for the uninterrupted trading of UTP Securities on the Exchange on an unlisted trading privileges basis and thus continue to encourage the additional utilization of, and interaction with, the Exchange, and provide market participants with improved price discovery, increased liquidity, more competitive quotes and greater price improvement for UTP Securities.

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that member organizations would have in complying with the proposed change.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange. In particular, the Exchange believes that its proposal to extend the UTP Pilot Program is consistent with (i) Section 6(b) of the Act,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] 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; (ii) Section 11A(a)(1) of the Act,[16] in that it seeks to ensure the economically efficient execution of securities transactions and fair competition among brokers and dealers and among exchange markets; and (iii) Section 12(f) of the Act,[17] which governs the trading of securities pursuant to unlisted trading privileges consistent with the maintenance of fair and orderly markets, the protection of investors and the public interest, and the impact of extending the existing markets for such securities.

Specifically, the Exchange believes that extending the UTP Pilot Program would provide for the uninterrupted trading of UTP Securities on the Exchange on an unlisted trading privileges basis and thus continue to encourage the additional utilization of, and interaction with, the Exchange, thereby providing market participants with additional price discovery, increased liquidity, more competitive quotes and potentially greater price improvement for UTP Securities. Additionally, under the UTP Pilot Program, UTP Securities trade on the Exchange pursuant to rules governing the trading of Exchange-Listed securities that previously have been approved by the Commission. Accordingly, this proposed rule change would permit the Exchange to extend the effectiveness of the UTP Pilot Program in tandem with the NMM Pilot, which the Exchange has similarly proposed to extend until the earlier of Commission approval to make such pilot permanent or December 31, 2014.[18]

Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For 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,[19] the Exchange believes that the

[6] With respect to Nasdaq Securities, the term ''UTP Plan'' means the Joint Self-Regulatory Organization Plan Governing the Collection, Consolidation and Dissemination of Quotation and Transaction Information for Nasdaq-listed Securities Traded on Exchanges on an Unlisted Trading Privilege Basis, as amended from time to time, filed with and approved by the Commission. *See* Securities Exchange Act Release No. 70953 (November 27, 2013), 78 FR 72932 (December 4, 2013) (File No. S7–24–89). The Exchange's predecessor, the American Stock Exchange LLC, joined the UTP Plan in 2001. *See* Securities Exchange Act Release No. 55647 (April 19, 2007), 72 FR 20891 (April 26, 2007) (File No. S7–24–89). In March 2009, the Exchange changed its name to NYSE Amex LLC, and, in May 2012, the Exchange subsequently changed its name to NYSE MKT LLC. *See* Securities Exchange Act Release Nos. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009) (SR–NYSEALTR–2009–24) and 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex–2012–32). With respect to all other UTP Securities, the term ''UTP Plan'' means the Consolidated Tape Association Plan for the Dissemination of Last Sale Prices of Transactions in Eligible Securities, as amended from time to time, filed with and approved by the Commission. *See* Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799 (May 20, 1974) (declaring the CTA Plan effective). *See also* Securities Exchange Release No. 70794 (October 31, 2013), 78 FR 66789 (November 6, 2013) (SR–CTA–2013–05).

[7] 15 U.S.C. 78l.

[8] *See* NYSE MKT Rule 103—Equities.

[9] *See* Securities Exchange Act Release No. 60758 (October 1, 2009), 74 FR 51639 (October 7, 2009) (SR–NYSEAmex–2009–65). *See also* Securities Exchange Act Release Nos. 61030 (November 19, 2009), 74 FR 62365 (November 27, 2009) (SR–NYSEAmex–2009–83); 61725 (March 17, 2010), 75 FR 14223 (March 24, 2010) (SR–NYSEAmex–2010–28); 62820 (September 1, 2010), 75 FR 54935 (September 9, 2010) (SR–NYSEAmex–2010–86); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex–2010–123); 64773 (June 29, 2011), 76 FR 39453 (July 6, 2011) (SR–NYSEAmex–2011–43); 66042 (December 23, 2011), 76 FR 82326 (December 30, 2011) (SR–NYSEAmex–2011–102); 67495 (July 25, 2012), 77 FR 45406 (July 31, 2012) (SR–NYSEMKT–2012–21); 68559 (January 2, 2013), 78 FR 1286 (January 8, 2013) (SR–NYSEMKT–2012–84); 69812 (June 20, 2013), 78 FR 38766 (June 27, 2013) (SR–NYSEMKT–2013–51); and 71342 (January 17, 2014), 79 FR 4197 (January 24, 2014) (SR–NYSEMKT–2014–02).

[10] 15 U.S.C. 78.

[11] *See* SR–NYSEAmex–2010–31, *supra* note 5, at 41271.

[12] *Id.*

[13] *See* SR–NYSEMKT–2014–57.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78k–1(a)(1).

[17] 15 U.S.C. 78l(f).

[18] *See supra* note13.

[19] 15 U.S.C. 78f(b)(8).

proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the UTP Pilot Program will promote competition in the trading of UTP Securities and thereby provide market participants with opportunities for improved price discovery, increased liquidity, more competitive quotes, and greater price improvement.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other U.S. equity exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [20] and Rule 19b–4(f)(6) thereunder.[21] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [22] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[23] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after July 31, 2014.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. Further, the Commission notes that because the proposed rule change was filed on an immediately effective basis on July 3, 2014, the fact that the current pilot program does not expire until July 31, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative July 31, 2014.[24]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–59 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–NYSEMKT–2014–59. 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 publicly available. All submissions should refer to File Number SR–NYSEMKT–2014–59 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17148 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[20] 15 U.S.C. 78s(b)(3)(A)(iii).

[21] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 240.19b–4(f)(6)(iii).

[24] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72627; File No. SR–NYSE–2014–33]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot, Currently Scheduled To Expire on July 31, 2014, Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or December 31, 2014

July 16, 2014.

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 July 3, 2014, New York Stock Exchange LLC (''NYSE'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its New Market Model Pilot, currently scheduled to expire on July 31, 2014, until the earlier of Securities and Exchange Commission (''Commission'') approval to make such pilot permanent or December 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its New Market Model Pilot (''NMM Pilot''),[3] currently scheduled to expire on July 31, 2014, until the earlier of Commission approval to make such pilot permanent or December 31, 2014.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE MKT LLC.[4]

Background [5]

In October 2008, the NYSE implemented significant changes to its market rules, execution technology and the rights and obligations of its market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model. Certain of the enhanced market model changes were implemented through a pilot program.

As part of the NMM Pilot, NYSE eliminated the function of specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[6] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement [7] in their assigned securities and no longer have a negative obligation. DMMs are also no longer agents for public customer orders.[8]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule (''CCS'').[9] CCS provides the Display Book® [10] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer (''BBO''). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares among market participants having trading interest at a price point upon execution of incoming orders. The modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot, orders or portions thereof that establish priority [11] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on several occasions in order to prepare a rule filing seeking permission to make the above described changes permanent.[12] The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before July 31, 2014.

[3] *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46). *See also* Securities Exchange Act Release Nos. 60756 (October 1, 2009), 74 FR 51628 (October 7, 2009) (SR–NYSE–2009–100) (extending Pilot to November 30, 2009); 61031 (November 19, 2009), 74 FR 62368 (November 27, 2009) (SR–NYSE–2009–113) (extending Pilot to March 30, 2010); 61724 (March 17, 2010), 75 FR 14221 (March 24, 2010) (SR–NYSE–2010–25) (extending Pilot to September 30, 2010); 62819 (September 1, 2010), 75 FR 54937 (September 9, 2010) (SR–NYSE–2010–61) (extending Pilot to January 31, 2011); 63616 (December 29, 2010), 76 FR 612 (January 5, 2011) (SR–NYSE–2010–86) (extending Pilot to August 1, 2011); 64761 (June 28, 2011), 76 FR 39147 (July 5, 2011) (SR–NYSE–2011–29) (extending Pilot to January 31, 2012); 66046 (December 23, 2011), 76 FR 82340 (December 30, 2011) (SR–NYSE–2011–65) (extending Pilot to July 31, 2012); 67494 (July 25, 2012), 77 FR 45408 (July 31, 2012) (SR–NYSE–2012–26) (extending Pilot to January 31, 2013); 68558 (January 2, 2013), 78 FR 1288 (January 8, 2013) (SR–NYSE–2012–75) (extending Pilot to July 31, 2013); 69813 (June 20, 2013), 78 FR 38753 (June 27, 2013) (SR–NYSE–2013–43) (extending Pilot to January 31, 2014) and 71345 (January 17, 2014), 79 FR 4221 (January 24, 2014) (SR–NYSE–2014–01) (extending Pilot to July 31, 2014).

[4] *See* SR–NYSEMKT–2014–57.

[5] The information contained herein is a summary of the NMM Pilot. *See supra* note 4 for a fuller description.

[6] *See* NYSE Rule 103.

[7] *See* NYSE Rule 104.

[8] *See* NYSE Rule 60; *see also* NYSE Rules 104 and 1000.

[9] *See* NYSE Rule 1000.

[10] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[11] *See* NYSE Rule 72(a)(ii).

[12] *See supra* note 4.

Proposal To Extend the Operation of the NMM Pilot

The NYSE established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until December 31, 2014, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that member organizations 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,[13] in general, and furthers the objectives of Section 6(b)(5) of the Act,[14] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because it seeks to extend a pilot program that has already been approved by the Commission. The Exchange believes the proposed rule change is designed to facilitate transactions in securities and to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process. Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition. For 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,[15] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the NMM Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange. The Exchange will continue to monitor the efficacy of the program during the proposed extended pilot period.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other U.S. equity exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[16] and Rule 19b–4(f)(6) thereunder.[17] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[18] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative before the pilot's expiration. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after July 31, 2014.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. Further, the Commission notes that because the proposed rule change was filed on an immediately effective basis on July 3, 2014, the fact that the current pilot program does not expire until July 31, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the

[13] 15 U.S.C. 78f(b).

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78f(b)(8).

[16] 15 U.S.C. 78s(b)(3)(A)(iii).

[17] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

proposed rule change to be operative on July 31, 2014.[20]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2014–33 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2014–33. 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–NYSE–2014–33 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17151 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[20] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72622; File No. SR–NYSEMKT–2014–57]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Extending the Operation of Its New Market Model Pilot, Currently Scheduled To Expire on July 31, 2014, Until the Earlier of Securities and Exchange Commission Approval To Make Such Pilot Permanent or December 31, 2014

July 16, 2014.

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 July 3, 2014, NYSE MKT LLC (''NYSE MKT'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to extend the operation of its New Market Model Pilot, currently scheduled to expire on July 31, 2014, until the earlier of Securities and Exchange Commission (''Commission'') approval to make such pilot permanent or December 31, 2014. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to extend the operation of its New Market Model Pilot (''NMM Pilot'') that was adopted pursuant to its merger with the New York Stock Exchange LLC (''NYSE'').[3] The NMM Pilot was approved to operate until October 1, 2009. The Exchange filed to extend the operation of the Pilot to November 30, 2009, March 30, 2010, September 30, 2010, January 31, 2011, August 1, 2011, January 31, 2012, July 31, 2012, January 31, 2013, July 31, 2013, January 31, 2014 and July 31, 2014, respectively.[4] The Exchange now

[3] NYSE Euronext acquired The Amex Membership Corporation (''AMC'') pursuant to an Agreement and Plan of Merger, dated January 17, 2008 (the ''Merger''). In connection with the Merger, the Exchange's predecessor, the American Stock Exchange LLC (''Amex''), a subsidiary of AMC, became a subsidiary of NYSE Euronext called NYSE Alternext US LLC. *See* Securities Exchange Act Release No. 58673 (September 29, 2008), 73 FR 57707 (October 3, 2008) (SR–NYSE–2008–60 and SR-Amex-2008–62) (approving the Merger). Subsequently, NYSE Alternext US LLC was renamed NYSE Amex LLC, which was then renamed NYSE MKT LLC and continues to operate as a national securities exchange registered under Section 6 of the Securities Exchange Act of 1934, as amended (the ''Act''). *See* Securities Exchange Act Release Nos. 59575 (March 13, 2009), 74 FR 11803 (March 19, 2009) (SR–NYSEALTR–2009–24) and 67037 (May 21, 2012), 77 FR 31415 (May 25, 2012) (SR–NYSEAmex-2012–32).

[4] *See* Securities Exchange Act Release No. 60758 (October 1, 2009), 74 FR 51639 (October 7, 2009) (SR–NYSEAmex-2009–65). *See also* Securities Exchange Act Release Nos. 61030 (November 19, 2009), 74 FR 62365 (November 27, 2009) (SR–NYSEAmex-2009–83) (extending Pilot to March 30, 2010); 61725 (March 17, 2010), 75 FR 14223 (March 24, 2010) (SR–NYSEAmex-2010–28) (extending Pilot to September 30, 2010); 62820 (September 1, 2010), 75 FR 54935 (September 9, 2010) (SR–NYSEAmex-2010–86) (extending Pilot to January 31, 2011); 63615 (December 29, 2010), 76 FR 611 (January 5, 2011) (SR–NYSEAmex-2010–123) (extending Pilot to August 1, 2011); 64773 (June 29, 2011), 76 FR 39453 (July 6, 2011) (SR–NYSEAmex-2011–43) (extending Pilot to January 31, 2012); 66042 (December 23, 2011), 76 FR 82326 (December

seeks to extend the operation of the NMM Pilot, currently scheduled to expire on July 31, 2014, until the earlier of Commission approval to make such pilot permanent or December 31, 2014.

The Exchange notes that parallel changes are proposed to be made to the rules of NYSE.[5]

Background [6]

In December 2008, the Exchange implemented significant changes to its equities market rules, execution technology and the rights and obligations of its equities market participants all of which were designed to improve execution quality on the Exchange. These changes are all elements of the Exchange's enhanced market model that it implemented through the NMM Pilot.

As part of the NMM Pilot, the Exchange eliminated the function of equity specialists on the Exchange creating a new category of market participant, the Designated Market Maker or DMM.[7] The DMMs, like specialists, have affirmative obligations to make an orderly market, including continuous quoting requirements and obligations to re-enter the market when reaching across to execute against trading interest. Unlike specialists, DMMs have a minimum quoting requirement [8] in their assigned securities and no longer have a negative obligation. DMMs are also no longer agents for public customer orders.[9]

In addition, the Exchange implemented a system change that allowed DMMs to create a schedule of additional non-displayed liquidity at various price points where the DMM is willing to interact with interest and provide price improvement to orders in the Exchange's system. This schedule is known as the DMM Capital Commitment Schedule (''CCS'').[10] CCS provides the Display Book® [11] with the amount of shares that the DMM is willing to trade at price points outside, at and inside the Exchange Best Bid or Best Offer (''BBO''). CCS interest is separate and distinct from other DMM interest in that it serves as the interest of last resort.

The NMM Pilot further modified the logic for allocating executed shares among market participants having trading interest at a price point upon execution of incoming orders. The modified logic rewards displayed orders that establish the Exchange's BBO. During the operation of the NMM Pilot, orders or portions thereof that establish priority [12] retain that priority until the portion of the order that established priority is exhausted. Where no one order has established priority, shares are distributed among all market participants on parity.

The NMM Pilot was originally scheduled to end operation on October 1, 2009, or such earlier time as the Commission may determine to make the rules permanent. The Exchange filed to extend the operation of the Pilot on several occasions [13] in order to prepare a rule filing seeking permission to make the above described changes permanent. The Exchange is currently still preparing such formal submission but does not expect that filing to be completed and approved by the Commission before July 31, 2014.

Proposal To Extend the Operation of the NMM Pilot

The Exchange established the NMM Pilot to provide incentives for quoting, to enhance competition among the existing group of liquidity providers and to add a new competitive market participant. The Exchange believes that the NMM Pilot allows the Exchange to provide its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. As such, the Exchange believes that the rules governing the NMM Pilot should be made permanent. Through this filing the Exchange seeks to extend the current operation of the NMM Pilot until December 31, 2014, in order to allow the Exchange time to formally submit a filing to the Commission to convert the pilot rules to permanent rules.

The proposed change is not otherwise intended to address any other issues and the Exchange is not aware of any problems that member organizations 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,[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, to protect investors and the public interest and because it is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes the proposed rule change is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade because it seeks to extend a pilot program that has already been approved by the Commission. The Exchange believes the proposed rule change is designed to facilitate transactions in securities and to remove impediments to, and perfect the mechanisms of, a free and open market and a national market system because the NMM Pilot provides its market participants with a trading venue that utilizes an enhanced market structure to encourage the addition of liquidity, facilitate the trading of larger orders more efficiently and operates to reward aggressive liquidity providers. Moreover, requesting an extension of the NMM Pilot will permit adequate time for: (i) The Exchange to prepare and submit a filing to make the rules governing the NMM Pilot permanent; (ii) public notice and comment; and (iii) completion of the 19b–4 approval process. Finally, the Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding

30, 2011) (SR–NYSEAmex-2011–102) (extending Pilot to July 31, 2012); 67495 (July 25, 2012), 77 FR 45406 (July 31, 2012) (SR–NYSEMKT–2012–21) (extending the Pilot to January 31, 2013); 68559 (January 2, 2013), 78 FR 1286 (January 8, 2013) (SR–NYSEMKT–2012–84) (extending Pilot to July 31, 2013); 69812 (June 20, 2013), 78 FR 38766 (June 27, 2013) (SR–NYSEMKT–2013–51) (extending Pilot to January 31, 2014) and 71342 (January 17, 2014), 79 FR 4197 (January 24, 2014) (SR–NYSEMKT–2014–02) (extending Pilot to July 31, 2014).

[5] *See* SR–NYSE–2014–33.

[6] The information contained herein is a summary of the NMM Pilot. *See* Securities Exchange Act Release No. 58845 (October 24, 2008), 73 FR 64379 (October 29, 2008) (SR–NYSE–2008–46) for a fuller description.

[7] *See* NYSE MKT Rule 103—Equities.

[8] *See* NYSE MKT Rule 104—Equities.

[9] *See* NYSE MKT Rule 60—Equities; *see also* NYSE MKT Rules 104—Equities and 1000—Equities.

[10] *See* NYSE MKT Rule 1000—Equities.

[11] The Display Book system is an order management and execution facility. The Display Book system receives and displays orders to the DMMs, contains the order information, and provides a mechanism to execute and report transactions and publish the results to the Consolidated Tape. The Display Book system is connected to a number of other Exchange systems for the purposes of comparison, surveillance, and reporting information to customers and other market data and national market systems.

[12] *See* NYSE MKT Rule 72(a)(ii)—Equities.

[13] *See supra* note 5.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

the burden on competition. 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,[16] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes that extending the operation of the NMM Pilot will enhance competition among liquidity providers and thereby improve execution quality on the Exchange. The Exchange will continue to monitor the efficacy of the program during the proposed extended pilot period.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues. In such an environment, the Exchange must continually review, and consider adjusting the services it offers and the requirements it imposes to remain competitive with other U.S. equity exchanges. For the reasons described above, the Exchange believes that the proposed rule change reflects this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[17] and Rule 19b–4(f)(6) thereunder.[18] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[19] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[20] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative before the pilot's expiration. The Exchange stated that an immediate operative date is necessary in order to immediately implement the proposed rule change so that member organizations could continue to benefit from the pilot program without interruption after July 31, 2014.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because such waiver would allow the pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from the temporary interruption in the pilot program. Further, the Commission notes that because the proposed rule change was filed on an immediately effective basis on July 3, 2014, the fact that the current pilot program does not expire until July 31, 2014 will afford interested parties the opportunity to comment on the proposal before the Exchange requires it to become operative. For this reason, the Commission designates the proposed rule change to be operative on July 31, 2014.[21]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEMKT–2014–57 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–NYSEMKT–2014–57. 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–NYSEMKT–2014–57 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17146 Filed 7–21–14; 8:45 am]

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[16] 15 U.S.C. 78f(b)(8).

[17] 15 U.S.C. 78s(b)(3)(A)(iii).

[18] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[19] 17 CFR 240.19b–4(f)(6).

[20] 17 CFR 240.19b–4(f)(6)(iii).

[21] For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72632; File No. SR–NYSE–2014–36]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Proposing To Merge New York Block Exchange LLC into NYSE and, Effective as of the Consummation of the Merger, Delete the Text of the Limited Liability Company Agreement of New York Block Exchange LLC

July 16, 2014.

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 July 9, 2014, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the 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 merge New York Block Exchange LLC (the ''Company'') into NYSE (the ''Merger'') and, effective as of the consummation of the Merger, delete the text of the Limited Liability Company Agreement (the ''LLC Agreement'') of the Company. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C.78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to merge the Company into NYSE and, effective as of the consummation of the Merger, delete the text of the LLC Agreement.

Background

On January 22, 2009, the Securities and Exchange Commission (the ''Commission'') approved on a pilot basis the governance structure proposed by the Exchange with respect to the New York Block Exchange (''NYBX''), an electronic trading facility of the Exchange for NYSE-listed securities that was established by means of the Company, as a joint venture between the Exchange and BIDS Holdings L.P. (''BIDS Holdings'').[3] The Company owned and operated NYBX. The governance structure that was approved was reflected in the LLC Agreement, which was filed as a proposed rule with the Commission. Under that governance structure, the Exchange and BIDS Holdings each owned a 50% economic interest in the Company. In addition, the Exchange, through its wholly owned subsidiary NYSE Market, Inc., owned less than 10% of the aggregate limited partnership interest in BIDS Holdings. BIDS Holdings is the parent company of BIDS Trading, L.P. (''BIDS Trading''), which became a member organization of the Exchange in connection with the establishment of NYBX.

The foregoing ownership arrangements would have violated NYSE Rule 2B without an exception from the Commission.[4] First, the Exchange's indirect ownership interest in BIDS Trading would violate the prohibition in Rule 2B against the Exchange maintaining an ownership interest in a member organization. Second, BIDS Trading was an affiliate of an affiliate of the Exchange,[5] which would violate the prohibition in Rule 2B against a member of the Exchange having such status. In the Approval Order, the Commission permitted an exception to these two potential violations of NYSE Rule 2B, subject to a number of limitations and conditions, one of which was set forth in Commentary .01 of Rule 2B.[6] The original 12-month pilot period expired on January 22, 2010 and was extended for four additional 12-month periods to January 22, 2014.[7]

The Exchange ceased operating NYBX on February 28, 2013 because, after years of operations, the facility did not garner enough volume to achieve critical mass and did not have strong customer support.[8] Effective the same day, NYSE deleted Rule 1600, which governed NYBX functionality.[9] Thereafter, on March 1, 2013, BIDS Trading terminated its membership with the Exchange and its affiliate NYSE MKT LLC. Once BIDS Trading was no longer a member organization of the Exchange or any of the Exchange's affiliates, the Exchange deleted Commentary .01 to NYSE Rule 2B.[10]

On June 17, 2014, the Company redeemed the membership interest of BIDS Holdings for consideration of $1.00. As a result, NYSE is now the sole member of the Company.

Proposed Rule Change

Because NYBX is no longer operating, NYSE proposes to merge the Company into NYSE in the Merger and repeal the text of the LLC Agreement in its entirety, effective as of the consummation of the Merger.

The Company is a limited liability company formed and validly existing under the laws of the State of Delaware. NYSE is a limited liability company organized and validly existing under the laws of the State of New York. The Delaware Limited Liability Company Act (the ''DLLCA'') and the New York Limited Liability Company Law (the ''NYLLCL'') each permits a limited liability company formed and existing under the DLLCA to merge with and

[3] *See* Securities Exchange Act Release No. 59281 (January 22, 2009), 74 FR 5014 (January 28, 2009) (SR–NYSE–2008–120) (the ''Approval Order'').

[4] NYSE Rule 2B provides, in relevant part, that ''[w]ithout prior SEC approval, the Exchange or any entity with which it is affiliated shall not, directly or indirectly, acquire or maintain an ownership interest in a member organization. In addition, a member organization shall not be or become an affiliate of the Exchange, or an affiliate of any affiliate of the Exchange. . . . The term affiliate shall have the meaning specified in Rule 12b–2 under the Act.''

[5] Specifically, NYBX is an affiliate of the Exchange, and BIDS Trading was an affiliate of NYBX based on their common control by BIDS Holdings. The affiliation in each case was the result of the 50% ownership interest in NYBX by each of the Exchange and BIDS Holdings.

[6] *See* Approval Order, *supra* note 3, at 5018.

[7] *See* Securities Exchange Act Release Nos. 61409 (January 22, 2010), 75 FR 4889 (January 29, 2010) (SR–NYSE–2010–04); 63545 (December 14, 2010), 75 FR 80088 (December 21, 2010) (SR–NYSE–2010–82); 66059 (December 27, 2011), 77 FR 145 (January 3, 2012) (SR–NYSE–2011–67); and 68658 (January 15, 2013), 78 FR 4524 (January 22, 2013) (SR–NYSE–2013–01).

[8] *See* Securities Exchange Act Release No. 68861 (February 7, 2013), 78 FR 10226 (February 13, 2013) (SR–NYSE–2013–12).

[9] *Id.*

[10] *See* Securities Exchange Act Release No. 69225 (March 25, 2013), 78 FR 19340 (March 29, 2013) (SR–NYSE–2013–22).

into a limited liability company organized and existing under the NYLLCL.

Following the effective date of this rule filing, the parties will execute the merger agreement. The certificates of merger will be filed in the State of Delaware and the State of New York, at which time the Company will cease to exist and NYSE will be the sole surviving company.

Article 13, Section 13.1 of the LLC Agreement requires any amendment to or repeal of the LLC Agreement to be either filed with, or filed with and approved by, the Commission under Section 19 of the Act before it is effective. Because NYBX has already ceased operating and the Exchange has already submitted two immediately effective proposed rule changes in connection therewith, and because the Company will no longer exist upon consummation of the Merger, the Exchange believes that the deletion of the text of the LLC Agreement should be immediately effective as of the consummation of the Merger.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, because it 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, helps to protect investors and the public interest. The Exchange believes that the proposal removes impediments to and perfects the mechanism of a free and open market by eliminating an obsolete governing document for a corporate entity that no longer has an operational purpose and thus will be eliminated via the Merger.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed change is not designed to address any competitive issue, but rather would eliminate an obsolete governing document for a corporate entity that no longer has an operational purpose and thus will be eliminated via the Merger.

[11] 15 U.S.C. 78f(b).

[12] 5 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [13] and Rule 19b–4(f)(6)(iii) thereunder.[14]

The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange stated that the proposed rule change will not affect investors or the public interest because NYBX already ceased operating in February 2013 and no public comments have been received about the cessation. In addition, the Exchange stated that permitting the proposed rule change will help the Exchange avoid unnecessary expenses for a corporate entity that is no longer operating. The Commission believes that the proposed rule change raises no novel issues. Moreover, the Commission believes that the proposed rule change is consistent with the protection of investors and the public interest, because it helps avoid investor confusion by eliminating an obsolete governing document for a corporation that no longer has an operational purpose and will be eliminated via the Merger. The Commission, therefore, waives the 30-day operative delay requirement and designates the proposed rule change to be operative upon filing.[15]

[13] 15 U.S.C. 78s(b)(3)(A).

[14] 17 CFR 240.19b–4(f)(6). As required under Rule 19b–4(f)(6)(iii), the Exchange provided the Commission with written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

[15] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2014–36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2014–36. 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 Section, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office. All comments received will be posted without change; the Commission does not edit personal

identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2014–36 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17179 Filed 7–21–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72631; File No. SR–NYSEArca–2014–76]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change as Modified by Amendment No. 1 and Amendment No. 2 Proposing To List and Trade Shares of the Cambria Global Momentum ETF Under NYSE Arca Equities Rule 8.600

July 16, 2014.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b4 thereunder,[3] notice is hereby given that, on July 1, 2014, 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. On July 14, the Exchange filed Amendment No. 1 to the proposed rule change.[4] On July 15, the Exchange filed Amendment No. 2 to the proposed rule change.[5] 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

1. The Exchange proposes to list and trade shares of the Cambria Global Momentum ETF under NYSE Arca Equities Rule 8.600 (''Managed Fund Shares''). The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Equities Rule 8.600, which governs the listing and trading of Managed Fund Shares[6]: Cambria Global Momentum ETF (''Fund'').[7] The Shares will be offered by the Cambria ETF Trust (the ''Trust''), a Delaware statutory trust which is registered with the Commission as an open-end management investment company.[8] Cambria Investment Management, L.P. (''Cambria'' or the ''Adviser'') will serve as the investment adviser of the Fund. SEI Investments Distribution Co. (the ''Distributor'') will be the principal underwriter and distributor of the Fund's Shares. SEI Investments Global Funds Services (''SEI'') will serve as the fund accountant and administrator of the Fund. Brown Brothers Harriman & Co. will serve as the Custodian and Transfer Agent of the Fund's assets.[9]

Commentary .06 to Rule 8.600 provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. In addition, Commentary .06 further requires that personnel who make decisions on the open-end fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the open-end fund's portfolio.[10] Commentary .06 to Rule

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] Amendment No. 1 replaced and superseded the original filing in its entirety.

[5] Amendment No. 2 replaces and supersedes Amendment No. 1 in its entirety.

[6] A Managed Fund Share is a security that represents an interest in an investment company registered under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') organized as an open-end investment company or similar entity that invests in a portfolio of securities selected by its investment adviser consistent with its investment objectives and policies. In contrast, an open-end investment company that issues Investment Company Units, listed and traded on the Exchange under NYSE Arca Equities Rule 5.2(j)(3), seeks to provide investment results that correspond generally to the price and yield performance of a specific foreign or domestic stock index, fixed income securities index or combination thereof.

[7] The Commission has previously approved listing and trading on the Exchange of a number of actively managed funds under Rule 8.600, including actively managed funds that operate as asset allocation funds or ''funds of funds,'' as described below. *See, e.g.,* Securities Exchange Act Release Nos. 71999 (April 23, 2014), 79 FR 24040 (April 29, 2014) (SR–NYSEArca–2014–19) (order approving Exchange listing and trading of four actively-managed asset allocation funds of iShares U.S. ETF Trust); Securities Exchange Act Release Nos. 57801 (May 8, 2008), 73 FR 27878 (May 14, 2008) (SR–NYSEArca–2008–31) (order approving Exchange listing and trading of twelve actively-managed funds of the WisdomTree Trust); 60460 (August 7, 2009), 74 FR 41468 (August 17, 2009) (SR–NYSEArca–2009–55) (order approving listing and trading of Dent Tactical ETF); 62502 (July 15, 2010), 75 FR 42471 (July 21, 2010) (SR–NYSEArca–2010–57) (order approving listing and trading of AdvisorShares WCM/BNY Mellon Focused Growth ADR ETF); 63076 (October 12, 2010), 75 FR 63874 (October 18, 2010) (SR–NYSEArca–2010–79) (order approving listing and trading of Cambria Global Tactical ETF).

[8] The Trust will be registered under the 1940 Act. On March 4, 2014, the Trust filed an amendment to the Trust's registration statement on Form N–1A under the Securities Act of 1933 (the ''1933 Act'') (15 U.S.C. 77a), and under the 1940 Act relating to the Fund (File Nos. 333–180879 and 811–22704) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 30340 (January 4, 2013) (''Exemptive Order''). Investments made by the Fund will comply with the conditions set forth in the Exemptive Order.

[9] This Amendment No. 2 to SR–NYSEArca–2014–76 replaces SR–NYSEArca–2014–76 as originally filed and Amendment No. 1 thereto, and supersedes such filings in their entirety.

[10] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii)

Continued

8.600 is similar to Commentary .03(a)(i) and (iii) to NYSE Arca Equities Rule 5.2(j)(3); however, Commentary .06 in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not registered as a broker-dealer or affiliated with a broker-dealer. In the event (a) the Adviser or any sub-adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or broker-dealer affiliate regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Principal Investment Policies

According to the Registration Statement, the Fund will seek to preserve and grow capital from investments in the U.S. and foreign equity, fixed income, commodity and currency markets, independent of market direction. The Fund will be considered a ''fund of funds'' that seeks to achieve its investment objective by primarily investing in other 1940 Act-registered exchange-traded funds (''ETFs'') and other exchange traded products (''ETPs'') including, but not limited to, exchange-traded notes (''ETNs''),[11] exchange traded currency trusts, and closed-end funds [12] (together, ''Underlying Vehicles'') [13] that offer diversified exposure, including inverse exposure, to global regions (including emerging markets), countries, styles (*i.e.,* market capitalization, value, growth, etc.) and sectors. Under normal market conditions,[14] the Fund will invest at least 80% of its net assets in the securities of Underlying Vehicles.

According to the Registration Statement, the Fund will seek to preserve and grow capital by producing absolute returns with reduced volatility and manageable risk and drawdowns. The Fund will invest in Underlying Vehicles spanning all the major world asset classes including equities, bonds (including high yield bonds, which are commonly referred to as ''junk bonds''), real estate, derivatives, commodities, and currencies. The Adviser will actively manage the Fund's portfolio utilizing a quantitative strategy with risk management controls in an attempt to protect capital. Through Underlying Vehicles, the Fund may have exposure to companies in any industry and of any market capitalization. Under normal market conditions, the Fund expects to invest at least 40% of its net assets, including through investments in Underlying Vehicles, in securities of issuers located in at least three different countries (including the United States).

Through Underlying Vehicles, the Fund may invest in shares of real estate investment trusts (''REITs''), which are pooled investment vehicles that invest primarily in real estate or real estate-related loans and trade on a U.S. exchange.

Other Investments

While, under normal market conditions, the Fund will invest at least 80% of its net assets in Underlying Vehicles, as described above, the Fund may invest its remaining 20% of net assets in other securities and financial instruments, other than Underlying Vehicles, including futures contracts, cash and cash equivalents, as described below.

Exchange-Traded Equity Securities. The Fund may invest in exchange-traded common stocks. The Fund also may invest in foreign securities by purchasing ''Depositary Receipts'', including American Depositary Receipts (''ADRs''), European Depositary Receipts (''EDRs'') and Global Depositary Receipts (''GDRs'') or other securities convertible into securities of issuers based in foreign countries. These securities may not necessarily be denominated in the same currency as the securities which they represent.[15]

With respect to its exchange-traded equity securities investments, the Fund will normally invest in equity securities that are listed and traded on a U.S. exchange or in markets that are members of the Intermarket Surveillance Group (''ISG'') or parties to a comprehensive surveillance sharing agreement with the Exchange. In any case, not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities will consist of equity securities whose principal market is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

Fixed Income Securities. The Fund may invest in debt and other fixed income securities, as described below. Debt and other fixed income securities include fixed and floating rate securities of any maturity. Fixed rate securities pay a specified rate of interest or dividends. Floating rate securities pay a rate that is adjusted periodically by reference to a specified index or market rate. Fixed and floating rate securities

implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[11] As described in the Registration Statement, ETFs are registered investment companies whose shares are exchange-traded and give investors a proportional interest in the pool of securities and other assets held by the ETF. ETPs are exchange-traded equity securities whose value derives from an underlying asset or portfolio of assets, which may correlate to a benchmark, such as a commodity, currency, interest rate or index. ETFs are one type of ETP. ETNs are unsecured and unsubordinated debt securities whose value derives, in part, from an underlying asset or benchmark and, in part, from the credit quality of the securities' issuer.

[12] A closed-end fund is a pooled investment vehicle that is registered under the 1940 Act and whose shares are listed and traded on a U.S. national securities exchange.

[13] For purposes of this filing, the term ''Underlying Vehicles'' includes Investment Company Units (as described in NYSE Arca Equities Rule 5.2(j)(3)); Index-Linked Securities (as described in NYSE Arca Equities Rule 5.2(j)(6)); Portfolio Depositary Receipts (as described in NYSE Arca Equities Rule 8.100); Trust Issued Receipts (as described in NYSE Arca Equities Rule 8.200); Commodity-Based Trust Shares (as described in NYSE Arca Equities Rule 8.201); Currency Trust Shares (as described in NYSE Arca Equities Rule 8.202); Commodity Index Trust Shares (as described in NYSE Arca Equities Rule 8.203); Commodity Futures Trust Shares (as described in NYSE Arca Equities Rule 8.204); Managed Fund Shares (as described in NYSE Arca Equities Rule 8.600); and closed-end funds. All Underlying Vehicles will be listed and traded in the U.S. on a national securities exchange. While the Fund may invest in inverse ETFs, the Fund will not invest in leveraged (*e.g.,* 2X, -2X, 3X or -3X) ETFs.

[14] The term ''under normal market conditions'' includes, but is not limited to, the absence of extreme volatility or trading halts in the equity markets or the financial markets generally; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption or any similar intervening circumstance.

[15] Generally, ADRs, in registered form, are denominated in U.S. dollars and are designed for use in the U.S. securities markets, GDRs, in bearer form, are issued and designed for use outside the United States, and EDRs, in bearer form, may be denominated in other currencies and are designed for use in European securities markets. ADRs are receipts typically issued by a U.S. bank or trust company evidencing ownership of the underlying securities. EDRs are European receipts evidencing a similar arrangement. GDRs are receipts typically issued by non-United States banks and trust companies that evidence ownership of either foreign or domestic securities. ADRs may be sponsored or unsponsored, but unsponsored ADRs will not exceed 10% of the Fund's net assets.

may be issued by federal, state, local, and foreign governments and related agencies, and by a wide range of private issuers. The Fund's investments in debt and other fixed income securities will be limited to those described below.

The Fund may invest in indexed bonds, which are a type of fixed income security whose principal value and/or interest rate is adjusted periodically according to a specified instrument, index, or other statistic (*e.g.,* another security, inflation index, currency, or commodity).

The Fund may invest in securities issued or guaranteed by the U.S. Government, its agencies, instrumentalities, and political subdivisions [16]; securities issued by foreign governments, their authorities, agencies, instrumentalities, and political subdivisions; securities issued by supra-national agencies [17]; corporate debt securities; master demand notes [18]; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers' acceptances; commercial paper [19] and inflation-indexed securities. The Fund may invest also in zero coupon securities, which may be issued by a wide variety of corporate and governmental issuers.

The Fund may invest in fixed income securities of any credit quality, from investment grade securities to high yield securities. Investment grade securities are securities rated in one of the four highest rating categories by at least two nationally recognized statistical rating organizations (''Rating Organizations'') rating that security, such as Standard & Poor's Ratings Services (''Standard & Poor's'') or Moody's Investors Service, Inc. (''Moody's''), or rated in one of the four highest rating categories by one Rating Organization if it is the only Rating Organization rating that security, or unrated, if deemed to be of comparable quality [20] by Cambria and traded publicly on the world market. The Fund, at the discretion of the Adviser, may retain a debt security that has been downgraded below the initial investment criteria.[21]

For securities that carry a rating assigned by a Rating Organization, Cambria will use the highest rating assigned by the Rating Organization to determine a security's credit rating. Commercial paper must be rated at least ''A–1'' or equivalent by a Rating Organization. Corporate debt obligations must be rated at least ''B–''or equivalent by a Rating Organization. For securities that are not rated by a Rating Organization, Cambria's internal credit rating will apply and be subject to equivalent rating minimums.

Futures. The Fund may invest in futures contracts on indices, currencies and commodities. The Fund will trade only futures contracts that are listed and traded on a U.S. board of trade. According to the Registration Statement, the Fund's investments in futures, will be subject to the limits on leverage imposed by the 1940 Act. Section 18(f) of the 1940 Act and related Commission guidance limit the amount of leverage that an investment company, such as the Fund, can obtain.

Cash and Cash Equivalents. The Fund may temporarily invest a portion of its assets in cash or cash equivalents pending other investments or to maintain liquid assets required in connection with some of the Fund's investments. Cash and cash equivalents include money market instruments, such as obligations issued or guaranteed by the U.S. Government, its agencies and/or instrumentalities (including government-sponsored enterprises), bankers' acceptances, bank certificates of deposit, repurchase agreements [22] and investment companies that invest primarily in such instruments (*i.e.,* money market funds). The Fund may hold funds in bank deposits in U.S. or foreign currency, including during the completion of investment programs.

Investments in Other Investment Companies. The Fund may invest in the securities of other investment companies to the extent permitted by law. The Fund may make significant investments in money market funds. In addition, the Trust intends to enter into agreements with unaffiliated ETFs that permit such unaffiliated ETFs to sell, and the Fund to purchase, the unaffiliated ETFs' shares in excess of the limits imposed by Sections 12(d)(1)(A) and (B) of the 1940 Act.

Temporary Defensive Position. To respond to adverse market, economic, political or other conditions, the Fund may invest 100% of its total assets, without limitation, in high-quality debt securities (*i.e.,* BBB or higher) and money market instruments (as described above). The Fund may be invested in these instruments for extended periods, depending on Cambria's assessment of market conditions.

Investment Restrictions

The Fund may invest in the securities of other investment companies to the extent that such an investment would be consistent with the requirements of Section 12(d)(1) of the 1940 Act, or any rule, regulation or order of the Commission or interpretation thereof.[23]

According to the Registration Statement, the Fund will seek to qualify for treatment as a Regulated Investment

[16] U.S. Government securities include securities issued or guaranteed by the U.S. Government or its authorities, agencies, or instrumentalities. Foreign government securities include securities issued or guaranteed by foreign governments (including political subdivisions) or their authorities, agencies, or instrumentalities or by supra-national agencies. Different kinds of U.S. government securities and foreign government securities have different kinds of government support. For example, some U.S. government securities (*e.g.,* U.S. Treasury bonds) are supported by the full faith and credit of the U.S. Other U.S. government securities are issued or guaranteed by federal agencies or government-chartered or -sponsored enterprises but are neither guaranteed nor insured by the U.S. government (*e.g.,* debt securities issued by the Federal Home Loan Mortgage Corporation (''Freddie Mac''), Federal National Mortgage Association (''FNMA'' or ''Fannie Mae''), and Federal Home Loan Banks (''FHLBs''). Similarly, some foreign government securities are supported by the full faith and credit of a foreign national government or political subdivision and some are not.

[17] Supra-national agencies are agencies whose member nations make capital contributions to support the agencies' activities. Examples include the International Bank for Reconstruction and Development (the World Bank), the Asian Development Bank, the European Coal and Steel Community, and the Inter-American Development Bank.

[18] The Fund may invest in master demand notes that are denominated in U.S. dollars. Master demand notes are demand notes that permit the investment of fluctuating amounts of money at varying rates of interest pursuant to arrangements with issuers who meet the quality criteria of the Fund. The interest rate on a master demand note may fluctuate based upon changes in specified interest rates, be reset periodically according to a prescribed formula or be a set rate. Although there is no secondary market in master demand notes, if such notes have a demand future, the payee may demand payment of the principal amount of the note upon relatively short notice. Master demand notes are generally illiquid and therefore subject to a Fund's percentage limitations for investments in illiquid securities.

[19] Commercial paper consists of short-term promissory notes issued by corporations. Commercial paper may be traded in the secondary market after its issuance.

[20] In determining whether a security is of ''comparable quality'', the Adviser will consider, for example, whether the issuer of the security has issued other rated securities; whether the obligations under the security are guaranteed by another entity and the rating of such guarantor (if any); whether and (if applicable) how the security is collateralized; other forms of credit enhancement (if any); the security's maturity date; liquidity features (if any); relevant cash flow(s); valuation features; other structural analysis; macroeconomic analysis and sector or industry analysis.

[21] Securities rated lower than Baa by Moody's, or equivalently rated by S&P or Fitch, are sometimes referred to as ''high yield securities'' or ''junk bonds.''

[22] A repurchase agreement is an agreement under which securities are acquired by a Fund from a securities dealer or bank subject to resale at an agreed upon price on a later date. The Fund may enter into repurchase agreements with banks and broker-dealers.

[23] 15 U.S.C. 80a–12(d)(1).

Company (''RIC'') under the Internal Revenue Code.[24]

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), including Rule 144A securities deemed illiquid by the Adviser[25] and master demand notes, consistent with Commission guidance. The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.[26]

The Fund's investments will be consistent with the Fund's investment objective and will not be used to achieve leveraged returns (*i.e.,* 2Xs and 3Xs) of the Fund's broad-based securities market index (as defined in Form N–1A).[27]

Net Asset Value

The net asset value (''NAV'') of Shares will be calculated each business day by SEI as of the close of regular trading on the New York Stock Exchange (''NYSE''), generally 4:00 p.m., Eastern time on each day that the NYSE is open. The Fund will calculate its NAV per Share by taking the value of its total assets, subtracting any liabilities, and dividing that amount by the total number of Shares outstanding, rounded to the nearest cent. Expenses and fees, including the management fees, will be accrued daily and taken into account for purposes of determining NAV.

When calculating the NAV of the Fund's Shares, investments will generally be valued using market valuations. Market valuations are generally valuations (i) obtained from an exchange, a pricing service or a major market maker (or dealer) or (ii) based on a price quotation or other equivalent indication of a value supplied by an exchange, a pricing service or a major market maker (or dealer), in each case as approved by the Trust's Board of Trustees pursuant to the Trust's valuation policies and procedures. Thus, to the extent that the Fund uses a pricing vendor approved for the Trust by the Board, whether the pricing vendor bases valuations upon dealer quotes, a proprietary analysis of the relevant market, matrix pricing, sensitivity analysis, a combination of the above or any other means, the price provided by the pricing vendor may be considered a market valuation.

Exchange-traded equity securities, including Underlying Vehicles, common stocks and sponsored Depositary Receipts, as well as futures contracts, will be valued at the official closing price on their principal exchange or board of trade, or, lacking any current reported sale at the time of valuation, at the mean of the most recent bid and asked quotations on their principal exchange or board of trade. Unsponsored Depositary Receipts, fixed income securities (including bonds; U.S. Government obligations; corporate debt securities; securities issued by foreign governments and supra-national agencies; master-demand notes; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers' acceptances; commercial paper; inflation-indexed securities; zero coupon securities; and money market instruments) will be valued at the mean between the most recent bid and asked quotations.

Repurchase agreements will be valued at cost. Fixed-income instruments maturing in 60 days or less will be valued at amortized cost and those maturing in excess of 60 days will be valued at the midpoint of bid and asked quotations. Investments in non-exchange-traded investment companies (including money market funds) will be valued at their NAV.

Any assets or liabilities denominated in currencies other than the U.S. dollar will be converted into U.S. dollars at the current exchange rate on the date of valuation as quoted by one or more third parties.

If a market quotation is not readily available or is deemed not to reflect an instrument's market value, the Fund will determine its fair value pursuant to policies and procedures approved by the Board. The Fund may use fair valuation to price securities that trade on a foreign exchange, if any, when a significant event has occurred after the foreign exchange closes but before the time at which the Fund's NAV is calculated. In such cases, the Fund may use various criteria, including an evaluation of U.S. market moves after the close of foreign markets, in determining whether a foreign security's market price is reflective of market value and, if not, the fair value of the security. In general, in determining an instrument's fair value, the Fund may consider, among other things, price comparisons among multiple sources, corporate actions and news events, other financial indicators. Fair value pricing involves subjective judgments. Accordingly, it is possible that the fair value determination for an instrument is materially different than the value that could be realized upon the its sale.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will sell and redeem Shares in aggregations of 50,000 Shares (each, a ''Creation Unit'') on a continuous basis through the Distributor, without a sales load, at the NAV next determined after receipt of an order in proper form on any business day. The size of a Creation Unit is subject to change.

The purchase or redemption of Creation Units from a Fund must be effected by or through an ''Authorized Participant'' (*i.e.,* either a broker-dealer or other participant in the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC'') or a participant in the Depository Trust Company (''DTC'') with access to the DTC system, and who has executed an agreement (''Participant Agreement'') with the Distributor that governs transactions in the Fund's Creation Units [sic].

The consideration for a Creation Unit of a Fund will be the ''Fund Deposit''. The Fund Deposit will consist of the ''In-Kind Creation Basket'' and ''Cash Component'', or an all cash payment (''Cash Value''), as determined by

[24] 26 U.S.C. 851.

[25] In reaching liquidity decisions, the Adviser may consider the following factors: the frequency of trades and quotes for the security; the number of dealers willing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer).

[26] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the 1933 Act).

[27] The Fund's broad-based securities market index will be identified in a future amendment to the Registration Statement following the Fund's first full calendar year of performance.

Cambria to be in the best interest of the Fund. The Cash Component will typically include a ''Balancing Amount'' reflecting the difference, if any, between the NAV of a Creation Unit and the market value of the securities in the ''In-Kind Creation Basket''.

If the NAV per Creation Unit exceeds the market value of the securities in the In-Kind Creation Basket, the purchaser will pay the Balancing Amount to the Fund. By contrast, if the NAV per Creation Unit is less than the market value of the securities in the In-Kind Creation Basket, the Fund will pay the Balancing Amount to the purchaser.

The Transfer Agent, in a portfolio composition file sent via the NSCC, generally will make available on each business day, immediately prior to the opening of business on the Exchange (currently 9:30 a.m., Eastern time), a list of the names and the required number of shares of each security in the In-Kind Creation Basket to be included in the current Fund Deposit for each [sic] Fund (based on information about the Fund's portfolio at the end of the previous business day) (subject to amendment or correction). If applicable, the Transfer Agent, through the NSCC, also will make available on each business day, the estimated Cash Component or Cash Value, effective through and including the previous business day, per Creation Unit.

The announced Fund Deposit will be applicable, subject to any adjustments as described below, for purchases of Creation Units of the Fund until such time as the next-announced Fund Deposit is made available. From day to day, the composition of the In-Kind Creation Basket may change as, among other things, corporate actions and investment decisions by Cambria are implemented for the Fund's portfolio. The Fund reserves the right to accept a nonconforming (*i.e.,* custom) Fund Deposit.

The Fund may, in its sole discretion, permit or require the substitution of an amount of cash ''cash in lieu'') to be added to the Cash Component to replace any security in the In-Kind Creation Basket. The Fund may permit or require cash in lieu when, for example, the securities in the In-Kind Creation Basket may not be available in sufficient quantity for delivery or may not be eligible for transfer through the systems of DTC. Similarly, the Fund may permit or require cash in lieu when, for example, the Authorized Participant or its underlying investor is restricted under U.S. or local securities law or policies from transacting in one or more securities in the In-Kind Creation Basket.[28]

To compensate the Trust for costs incurred in connection with creation and redemption transactions, investors will be required to pay to the Trust a ''Transaction Fee'' as described in the Registration Statement.

According to the Registration Statement, Fund Shares may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Fund through the Transfer Agent and only on a business day. The redemption proceeds for a Creation Unit will consist of the ''In-Kind Redemption Basket'' and a ''Cash Redemption Amount'', or an all cash payment (''Cash Value''), in all instances equal to the value of a Creation Unit.

The Cash Redemption Amount will typically include a Balancing Amount, reflecting the difference, if any, between the NAV of a Creation Unit and the market value of the securities in the In-Kind Redemption Basket. If the NAV per Creation Unit exceeds the market value of the securities in the In-Kind Redemption Basket, the Fund will pay the Balancing Amount to the redeeming investor. By contrast, if the NAV per Creation Unit is less than the market value of the securities in the In-Kind Redemption Basket, the redeeming investor will pay the Balancing Amount to the Fund.

The composition of the In-Kind Creation Basket will normally be the same as the composition of the In-Kind Redemption Basket. Otherwise, the In-Kind Redemption Basket will be made available by the Adviser or Transfer Agent. The Fund reserves the right to accept a nonconforming (*i.e.,* custom) ''Fund Redemption''.

In lieu of an In-Kind Redemption Basket and Cash Redemption Amount, Creation Units may be redeemed consisting solely of cash in an amount equal to the NAV of a Creation Unit, which amount is referred to as the Cash Value. If applicable, information about the Cash Value will be made available by the Adviser or Transfer Agent.

The right of redemption may be suspended or the date of payment postponed: (i) for any period during which the NYSE is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the NYSE is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal of the Shares or determination of a Fund's NAV is not reasonably practicable; or (iv) in such other circumstances as permitted by the Commission.

The Fund may, in its sole discretion, permit or require the substitution of an amount of cash (''cash in lieu'') to be added to the Cash Redemption Amount to replace any security in the In-Kind Redemption Basket. A Fund may permit or require cash in lieu when, for example, the securities in the In-Kind Redemption Basket may not be available in sufficient quantity for delivery or may not be eligible for transfer through the systems of DTC. Similarly, the Fund may permit or require cash in lieu when, for example, the Authorized Participant or its underlying investor is restricted under U.S. or local securities law or policies from transacting in one or more securities in the In-Kind Redemption Basket.

If it is not possible to effect deliveries of the securities in the In-Kind Redemption Basket, the Trust may in its discretion exercise its option to redeem Shares in cash, and the redeeming beneficial owner will be required to receive its redemption proceeds in cash. In addition, an investor may request a redemption in cash that a Fund may, in its sole discretion, permit. In either case, the investor will receive a cash payment equal to the NAV of its Shares based on the NAV of Shares of the relevant Fund next determined after the redemption request is received in proper form (minus a Transaction Fee, including a variable charge, if applicable, as described in the Registration Statement).[29]

The Fund may also, in its sole discretion, upon request of a shareholder, provide such redeemer a portfolio of securities that differs from the exact composition of the In-Kind Redemption Basket, or cash in lieu of some securities added to the Cash Component, but in no event will the total value of the securities delivered and the cash transmitted differ from the NAV. Redemptions of Fund Shares for the In-Kind Redemption Basket will be subject to compliance with applicable federal and state securities laws and the Fund (whether or not it otherwise permits cash redemptions) reserves the right to redeem Creation Units for cash to the extent that the Trust could not lawfully deliver specific securities in the In-Kind Redemption Basket upon redemptions or could not do so without

[28] The Adviser represents that, to the extent the Trust effects the creation of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

[29] The Adviser represents that, to the extent the Trust effects the redemption of Shares in cash, such transactions will be effected in the same manner for all Authorized Participants.

first registering the securities in the In-Kind Redemption Basket under such laws.

When cash redemptions of Creation Units are available or specified for the Fund, they will be effected in essentially the same manner as in-kind redemptions. In the case of a cash redemption, the investor will receive the cash equivalent of the In-Kind Redemption Basket minus any Transaction Fees.

Additional information regarding creation and redemption procedures is included in the Registration Statement.

Availability of Information

The Fund's Web site (*www.cambriafunds.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The Fund's Web site will include additional quantitative information updated on a daily basis, including, for the Fund (1) daily trading volume, the prior business day's NAV and the market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[30] and a calculation of the premium and discount of the closing price or Bid/Ask Price against the NAV, and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio as defined in NYSE Arca Equities Rule 8.600(c)(2) that will form the basis for the Fund's calculation of NAV at the end of the business day.[31]

On a daily basis, the Fund will disclose on its Web site the following information regarding each portfolio holding, as applicable to the type of holding: ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, commodity, index or other asset or instrument underlying the holding, if any; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The Web site information will be publicly available at no charge.

In addition, a basket composition file, which includes the security names and share quantities required to be delivered in exchange for the Fund's Shares, together with estimates and actual cash components, will be publicly disseminated daily prior to the opening of the NYSE via NSCC. The basket represents one Creation Unit of the Fund.

Investors can also obtain the Trust's Statement of Additional Information (''SAI''), the Fund's Shareholder Reports, and the Trust's Form N–CSR and Form N–SAR, filed twice a year. The Trust's SAI and Shareholder Reports are available free upon request from the Trust, and those documents and the Form N–CSR and Form N–SAR may be viewed on-screen or downloaded from the Commission's Web site at *www.sec.gov.* Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via the Exchange proprietary quote and trade services and via the Consolidated Tape Association (''CTA'') high-speed line.

Intra-day price quotations on the securities and other assets held by the Fund will be available from major broker-dealer firms. Intra-day price information on such assets will also be available through free and subscription services that can be accessed by Authorized Participants and other investors. For example, pricing information for exchange-traded securities (including exchange-traded equity securities (such as common stocks and Underlying Vehicles), futures contracts and sponsored Depositary Receipts, will be readily available from the Web sites of the exchanges or boards of trade trading such securities or futures contracts, automated quotation systems, published or other public sources, and subscription services such as Bloomberg or Reuters. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Pricing information for unsponsored Depositary Receipts, non-exchange-traded investment company securities, fixed income securities (including bonds; U.S. Government obligations; corporate debt securities; securities issued by foreign governments and supra-national agencies; master-demand notes; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers' acceptances; commercial paper; inflation-indexed securities; and zero coupon securities), repurchase agreements, and money market instruments will be available through brokers and dealers and/or subscription services, such as Markit, Bloomberg and Thompson Reuters.

In addition, the Intraday Indicative Value (''IIV''),[32] which is the Portfolio Indicative Value as defined in NYSE Arca Equities Rule 8.600 (c)(3), will be widely disseminated at least every 15 seconds during the Exchange's Core Trading Session by one or more major market data vendors.[33] The dissemination of the IIV, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund and provide a close estimate of that value throughout the trading day.

Additional information regarding the Trust and the Shares, including investment strategies, risks, creation and redemption procedures, fees, portfolio holdings disclosure policies, distributions and taxes is included in the Registration Statement. All terms relating to the Fund that are referred to, but not defined in, this proposed rule change are defined in the Registration Statement.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund.[34] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule

[30] The Bid/Ask Price of the Fund will be determined using the midpoint of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[31] Under accounting procedures followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[32] The IIV is an approximate per Share value of the Fund's portfolio holdings, which is disseminated every fifteen seconds throughout the trading day by one or more market data vendors. The IIV will be based on the current market value of the Fund's ''Disclosed Portfolio'' as defined in Rule 8.600(c)(2). The IIV does not necessarily reflect the precise composition of the current portfolio of securities held by the Fund at a particular point in time. The IIV should not be viewed as a ''real-time'' update of the NAV of the Fund because the approximate value may not be calculated in the same manner as the NAV. The quotations for certain investments may not be updated during U.S. trading hours if such holdings do not trade in the U.S., except such quotations may be updated to reflect currency fluctuations.

[33] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available IIVs taken from CTA or other data feeds.

[34] *See* NYSE Arca Equities Rule 7.12.

7.12 have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments comprising the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Shares will trade on the NYSE Arca Marketplace from 4:00 a.m. to 8:00 p.m. Eastern Time in accordance with NYSE Arca Equities Rule 7.34 (Opening, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Equities Rule 7.6, Commentary .03, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Equities Rule 8.600. The Exchange represents that, for initial and/or continued listing, the Fund will be in compliance with Rule 10A–3 under the Act,[35] as provided by NYSE Arca Equities Rule 5.3. A minimum of 100,000 Shares for the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances, administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[36] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and Underlying Vehicles, other exchange-traded equity securities, and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[37] FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds [sic] reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities will consist of equity securities whose principal market is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin (''Bulletin'') of the special characteristics and risks associated with trading the Shares. Specifically, the Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Unit aggregations (and that Shares are not individually redeemable); (2) NYSE Arca Equities Rule 9.2(a), which imposes a duty of due diligence on its Equity Trading Permit Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) the risks involved in trading the Shares during the Opening and Late Trading Sessions when an updated Portfolio Indicative Value will not be calculated or publicly disseminated; (4) how information regarding the Portfolio Indicative Value and the Disclosed Portfolio is disseminated; (5) the requirement that Equity Trading Permit Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Bulletin will discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. The Bulletin will also disclose that the NAV for the Shares will be calculated after 4:00 p.m. Eastern Time each trading day.

2. Statutory Basis

[Insert Section 3(b) from Form 19b–4.] [sic] The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[38] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Equities Rule 8.600. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in

[35] 17 CFR 240.10A–3.

[36] FINRA surveils trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[37] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[38] 15 U.S.C. 78f(b)(5).

the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Adviser is not registered as a broker-dealer or affiliated with a broker-dealer. The Fund's investments will be consistent with its investment objective and will not be used to enhance leverage. FINRA, on behalf of the Exchange, will communicate as needed regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures with other markets and other entities that are members of the ISG, and FINRA, on behalf of the Exchange, may obtain trading information regarding trading in the Shares and Underlying Vehicles, other exchange-traded equity securities, and futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Underlying Vehicles, other exchange-traded equity securities, and futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. All Underlying Vehicles in which the Fund invests will be listed and traded in the U.S. on a national securities exchange. With respect to its exchange-traded equity securities investments, the Fund will normally invest in equity securities that are listed and traded on a U.S. exchange or in markets that are members of the ISG or parties to a comprehensive surveillance sharing agreement with the Exchange. All futures contracts in which the Fund will invest will be traded on a U.S. board of trade. Not more than 10% of the net assets of the Fund in the aggregate invested in exchange-traded equity securities will consist of equity securities whose principal market is not a member of ISG or a market with which the Exchange does not have a comprehensive surveillance sharing agreement. FINRA, on behalf of the Exchange, is able to access, as needed, trade information for certain fixed income securities held by the Funds [sic] reported to FINRA's TRACE.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on its Web site daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day. Moreover, the IIV will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Core Trading Session. On each business day, before commencement of trading in Shares in the Core Trading Session on the Exchange, the Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Quotation and last sale information for the Shares will be available via the Exchange proprietary quote and trade services and via the CTA high-speed line. Intra-day price quotations on the securities and other assets held by the Fund will be available from major broker-dealer firms. Intra-day price information on such assets will also be available through free and subscription services that can be accessed by Authorized Participants and other investors. For example, pricing information for exchange-traded securities (including exchange-traded equity securities (such as common stocks and Underlying Vehicles), futures contracts and sponsored Depositary Receipts, will be readily available from the Web sites of the exchanges or boards of trade trading such securities or futures contracts, automated quotation systems, published or other public sources, and subscription services such as Bloomberg or Reuters. Information regarding the previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Pricing information for unsponsored Depositary Receipts, non-exchange-traded investment company securities, fixed income securities (including bonds; U.S. Government obligations; corporate debt securities; securities issued by foreign governments and supra-national agencies; master-demand notes; Yankee dollar and Eurodollar bank certificates of deposit; time deposits; bankers' acceptances; commercial paper; inflation-indexed securities; and zero coupon securities), repurchase agreements, and money market instruments will be available through brokers and dealers and/or subscription services.

The Web site for the Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Equities Rule 7.12 have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable, and trading in the Shares will be subject to NYSE Arca Equities Rule 8.600(d)(2)(D), which sets forth circumstances under which Shares of the Fund may be halted. The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the IIV, the Disclosed Portfolio, and quotation and last sale information for the Shares.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of actively-managed exchange-traded product that will principally hold equity securities and that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2014–76 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–76. 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 Section, 100 F Street NE., Washington, DC 20549 on official business days between 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the NYSE's principal office and on its Internet Web site at *www.nyse.com*. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2014–76 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[39]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17155 Filed 7–21–14; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72619; File No. SR–Phlx–2014–48]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Extension of a Pilot Program Regarding Price Improvement XL

July 16, 2014.

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 July 15, 2014, NASDAQ OMX PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Exchange Rule 1080(n), Price Improvement XL (''PIXL℠'') to extend, through July 18, 2015, a pilot program (the ''pilot'') concerning (i) the early conclusion of the PIXL Auction (as described below), and (ii) permitting orders of fewer than 50 contracts into the PIXL Auction. The current pilot is scheduled to expire July 18, 2014.[3]

A notice of the proposed rule change for publication in the **Federal Register** is attached hereto as *Exhibit 1.*

Proposed new text is *italicized.* Deleted text is [bracketed].

* * * * *

NASDAQ OMX PHLX LLC Rules

Options Rules

Rule 1080. Phlx XL and Phlx XL II

(a)–(m) No change.

(n) Price Improvement XL (''PIXL'')

A member may electronically submit for execution an order it represents as agent on behalf of a public customer, broker-dealer, or any other entity (''PIXL Order'') against principal interest or against any other order (except as provided in sub-paragraph (n)(i)(F) below) it represents as agent (an ''Initiating Order'') provided it submits the PIXL Order for electronic execution into the PIXL Auction (''Auction'') pursuant to this Rule. The contract size specified in Rule 1080(n) as applicable to PIXL Orders shall apply to Mini Options.

(i) Auction Eligibility Requirements. All options traded on the Exchange are eligible for PIXL. A member (the ''Initiating Member'') may initiate an Auction provided all of the following are met:

(A) No change.

(B) No change.

(C) If the PIXL Order is a Complex Order and of a conforming ratio, as defined in Commentary.08(a)(i) and (a)(ix) to Rule 1080, the Initiating Member must stop the entire PIXL order at a price that is better than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best Phlx bids and offers for the individual options (an ''improved net price''), provided in either case that such price is equal to or better than the PIXL Order's limit price. Complex Orders consisting of a ratio other than a conforming ratio will not be accepted. This sub-paragraph (C) shall apply to all Complex Orders submitted into PIXL. This sub-paragraph (C), where applied to Complex Orders where the smallest leg is less than 50 contracts in size, shall be effective for a pilot period scheduled to expire July 18, 201[4]*5.*

(D)–(G) No change.

(ii) Auction Process. Only one Auction may be conducted at a time in

[39] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The extension of the pilot relates to several subparagraphs of Rule 1080(n) in respect of PIXL and Complex Order PIXL, as discussed below.

any given series or strategy. Once commenced, an Auction may not be cancelled and shall proceed as follows:

(A) No change.

(B) Conclusion of Auction. The PIXL Auction shall conclude at the earlier to occur of (1) through (4) below, with the PIXL Order executing pursuant to paragraph (C)(1) through (3) below.

(1)–(4) No change.

(5) Sub-paragraphs (B)(2), (B)(3) and (B)(4) above shall be effective for a pilot period scheduled to expire July 18, 201[4]*5.*

(C) No change.

(D) An unrelated market or marketable limit order (against the PBBO) on the opposite side of the market from the PIXL Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction. In the case of a Complex PIXL Auction, an unrelated market or marketable limit Complex Order on the opposite side of the market from the Complex PIXL Order as well as orders for the individual components of the Complex Order received during the Auction will not cause the Auction to end early and will execute against interest outside of the Auction. If contracts remain from such unrelated order at the time the Auction ends, they will be considered for participation in the order allocation process described in sub-paragraph (E) below. This sub-paragraph shall be effective for a pilot period scheduled to expire on July 18, 201[4]*5.*

(E)–(J) No change.

(iii)–(vi) No change.

(vii) Initially, and for at least a Pilot Period expiring on July 18, 201[4]*5,* there will be no minimum size requirement for orders to be eligible for the Auction. During this Pilot Period, the Exchange will submit certain data, periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism. Any data which is submitted to the Commission will be provided on a confidential basis.

* * * * *

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxphlx.cchwallstreet.com/NASDAQOMXPHLX/Filings/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to extend the pilot through July 18, 2015.

Background

The Exchange adopted PIXL in October 2010 as a price-improvement mechanism on the Exchange.[4] PIXL is a component of the Exchange's fully automated options trading system, PHLX XL® that allows an Exchange member (an ''Initiating Member'') to electronically submit for execution an order it represents as agent on behalf of a public customer, broker dealer, or any other entity (''PIXL Order'') against principal interest or against any other order it represents as agent (an ''Initiating Order'') provided it submits the PIXL Order for electronic execution into the PIXL Auction (''Auction'') pursuant to the Rule.

An Initiating Member may initiate a PIXL Auction by submitting a PIXL Order, which is not a Complex Order, in one of three ways:

- First, the Initiating Member could submit a PIXL Order specifying a single price at which it seeks to execute the PIXL Order (a ''stop price'').
- Second, an Initiating Member could submit a PIXL Order specifying that it is willing to automatically match as principal or as agent on behalf of an Initiating Order the price and size of all trading interest and responses to the PIXL Auction Notification (''PAN,'' as described below) (''auto-match''), in which case the PIXL Order will be stopped at the National Best Bid/Offer (''NBBO'') on the Initiating Order side.
- Third, an Initiating Member could submit a PIXL Order specifying that it is willing to either: (i) Stop the entire order at a single stop price and auto-match PAN responses, as described below, together with trading interest, at a price or prices that improve the stop price to a specified price above or below which the Initiating Member will not trade (a ''Not Worse Than'' or ''NWT'' price); (ii) stop the entire order at a single stop price and auto-match all PAN responses and trading interest at or better than the stop price; or (iii) stop the entire order at the NBBO on the Initiating Order side, and auto-match PAN responses and trading interest are at a price or prices that improve the stop price up to the NWT price. In all cases, if the PHLX Best Bid/Offer (''PBBO'') on the same side of the market as the PIXL Order represents a limit order on the book, the stop price must be at least one minimum price improvement increment better than the booked limit order's limit price.

In addition, an Initiating Member may initiate a PIXL Auction by submitting a Complex Order which is of a conforming ratio, as defined in Commentary .08(a)(i) and (a)(ix) to Rule 1080. When submitting a Complex Order, the Initiating Member must stop the PIXL order at a price that is better than the best net price (debit or credit) (i) available on the Complex Order book regardless of the Complex Order book size; and (ii) achievable from the best PHLX bids and offers for the individual options (an ''improved net price''), provided in either case that such price is equal to or better than the PIXL Order's limit price.

After the PIXL Order is entered, a PAN is broadcast and a one-second blind Auction ensues. Anyone may respond to the PAN by sending orders or quotes. At the conclusion of the Auction, the PIXL Order will be allocated at the best price(s).

Once the Initiating Member has submitted a PIXL Order for processing, such PIXL Order may not be modified or cancelled. Under any of the above circumstances, the Initiating Member's stop price or NWT price may be improved to the benefit of the PIXL

[4] *See* Securities Exchange Act Release Nos. 63027 (October 1, 2010), 75 FR 62160 (October 7, 2010) (SR–Phlx–2010–108) (Order Granting Approval to a Proposed Rule Change Relating to a Proposed Price Improvement System, Price Improvement XL); 65043 (August 5, 2011), 76 FR 49824 (August 11, 2011) (SR–Phlx–2011–104) (Extending Pilot for Price Improvement System, Price Improvement XL); 67399 (July 11, 2012), 77 FR 42048 (July 17, 2012) (SR–Phlx–2012–94) (Extending Pilot for Price Improvement System, Price Improvement XL); 69845 (June 25, 2013), 78 FR 39429 (July 1, 2013) (SR–Phlx–2013–46) (Order Granting Approval To Proposed Rule Change, as Modified by Amendment No. 1, Regarding Complex Order PIXL)); and 69989 (July 16, 2013), 78 FR 43950 (July 22, 2013) (SR–Phlx–2013–74) (Extending Pilot for Price Improvement System, Price Improvement XL).

Order during the Auction, but may not be cancelled.

After a PIXL Order has been submitted, a member organization submitting the order has no ability to control the timing of the execution. The execution is carried out by the Exchange's PHLX XL automated options trading system and pricing is determined solely by the other orders and quotes that are present in the Auction.

The Pilot

Three components of the PIXL system were approved by the Commission on a pilot basis: (1) Paragraphs (n)(i)(A)(2),[5] (n)(i)(B)(2), and (n)(i)(C) of Rule 1080, relating to auction eligibility requirements; (2) paragraphs (n)(ii)(B)(5) and (n)(ii)(D) of Rule 1080, relating to the early conclusion of the PIXL Auction; and (3) paragraph (n)(vii) of Rule 1080, stating that there shall be no minimum size requirement of orders entered into PIXL. The pilots were approved for a pilot period expiring on July 18, 2014.[6] The Exchange notes that during the pilot period it has been required to submit, and has been submitting, certain data periodically as required by the Commission, to provide supporting evidence that, among other things, there is meaningful competition for all size orders and that there is an active and liquid market functioning on the Exchange outside of the Auction mechanism.[7] The Exchange will continue to provide such data. The Exchange believes that, because the pilot has been operating for a relatively short amount of time, the proposed extension should afford the Commission additional time to evaluate the pilot.

The Exchange proposes to extend the pilots through July 18, 2015.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[8] in general and with Section 6(b)(5) of the Act,[9] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers, or to regulate by virtue of any authority conferred by the Act matters not related to the purposes of the Act or the administration of the Exchange.

The Exchange believes that the proposed rule change is also consistent with Section 6(b)(8) of the Act[10] in that it does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange believes that PIXL, including the rules to which the pilot applies, results in increased liquidity available at improved prices, with competitive final pricing out of the Initiating Member's complete control. The Exchange believes that PIXL promotes and fosters competition and affords the opportunity for price improvement to more options contracts. The extension proposal allows additional time for the Commission to evaluate the pilot.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposal extends existing pilots that apply to all Exchange members, and enables the Exchange to be competitive in respect of other option exchanges that have similar programs.

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)(ii) of the Act[11] and subparagraph (f)(6) of Rule 19b–4 thereunder.[12]

A proposed rule change filed under Rule 19b–4(f)(6)[13] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii)[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requested that the Commission waive the 30-day operative delay. The Exchange noted that such waiver will permit the PIXL pilot to continue without interruption.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest, as it will allow the PIXL pilot to continue uninterrupted, thereby avoiding any potential investor confusion that could result from a temporary interruption in the pilot. Therefore, the Commission designates the proposed rule change to be operative on July 18, 2014.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–48 on the subject line.

[5] On March 9, 2012, the Exchange filed a proposed rule change to clarify Exchange Rule 1080(n)(i)(A)(2). *See* Securities Exchange Act Release No. 66583 (March 13, 2012), 77 FR 16108 (March 19, 2012) (SR–Phlx–2012–032) (Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Price Improvement System, Price Improvement XL). The amendment reflected the correct price—at or better than the NBBO—at which an Initiating Member must guarantee the execution of a PIXL Order that the Initiating Member submits into a PIXL Auction.

[6] *See supra* note 4.

[7] *See* Exchange Rule 1080(n)(vii).

[8] 15 U.S.C. 78f.

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[13] 17 CFR 240.19b–4(f)(6).

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] For purposes only of waiving the operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

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–Phlx–2014–48. 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 the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2014–48 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Kevin M O'Neill,

Deputy Secretary.

[FR Doc. 2014–17143 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–72621; File No. SR–CBOE–2014–057]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Customized Option Pricing Service

July 16, 2014.

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 July 3, 2014, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') proposes various changes to the Customized Option Pricing Service (''COPS''). The text of the proposed rule change is available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to describe various changes to COPS[3]. The Exchange is not proposing to change the fees for COPS data.

Background

COPS provides market participants with an ''end-of-day''[4] file and ''historical''[5] files of valuations for Flexible Exchange (''FLEX'')[6] options and certain over-the-counter (''OTC'') options (collectively, ''COPS Data''). Market Data Express, LLC (''MDX''), an affiliate of CBOE, offers COPS Data for sale to all market participants. COPS Data is available to ''Subscribers'' for internal use and internal distribution only, and to ''Customers'' who, pursuant to a written vendor agreement between MDX and a Customer, may distribute the Data externally (i.e., act as a vendor) and/or use and distribute the Data internally.

COPS Data consists of indicative[7] values for three categories of ''customized'' options. The first category of options is all open series of FLEX options listed on any exchange that offers FLEX options for trading.[8] The second category is OTC options that have the same degree of customization as FLEX options. The third category includes options with strike prices expressed in percentage terms. Values for such options are expressed in percentage terms and are theoretical values.[9]

[3] *See* Securities Exchange Act Release No. 67813 (September 10, 2012), 77 FR 56903 (September 14, 2012) (SR–CBOE–2012–083), Securities Exchange Act Release No. 67928 (September 26, 2012), 77 FR 60161 (October 2, 2012) (SR–CBOE–2012–090), Securities Exchange Act Release No. 70705 (October 17, 2013), 78 FR 63265 (October 23, 2013) (SR–CBOE–2013–097), and Securities Exchange Act Release No. 70845 (November 12, 2013), 78 FR 69168 (November 18, 2013) (SR–CBOE–2013–104).

[4] ''End of day'' refers to data that is distributed prior to the opening of the next trading day.

[5] ''Historical'' COPS data consists of COPS data that is over one month old (i.e., copies of the ''end-of-day'' COPS file that are over one month old).

[6] FLEX options are exchange traded options that provide investors with the ability to customize basic option features including size, expiration date, exercise style, and certain exercise prices.

[7] ''Indicative'' values are indications of potential market prices only and as such are neither firm nor the basis for a transaction.

[8] Current FLEX options open interest spans over 2,000 series on over 300 different underlying securities.

[9] These values are theoretical in that they are indications of potential market prices for options that have not traded (i.e. do not yet exist). Market participants sometimes express option values in percentage terms rather than in dollar terms

The Exchange uses values produced by CBOE registered market-makers to produce COPS Data. Participating CBOE market-makers submit values to MDX on options series specified by MDX on a daily basis. These values are generated by the market-maker's internal pricing models. The valuations that MDX ultimately publishes are an average of multiple contributions of values from participating CBOE market-makers. For each value provided by MDX through COPS, MDX includes a corresponding indication of the number of market-maker contributors that factored into that value.

CBOE market-makers that meet the following objective qualification criteria are allowed to contribute values to MDX for purposes of producing COPS Data. Interested CBOE market-makers must be approved by the Exchange, have the ability to provide valuations to MDX in a timely manner each day after the close of trading, and sign a services agreement with CBOE. Interested CBOE market-makers must also have the ability to provide valuations on several different types of options, including (i) options on all open FLEX series traded on any exchange that offers FLEX options for trading, (ii) options on any potential new FLEX options series, (iii) OTC options that have the same degree of customization as FLEX options, and (iv) customized options where the strike price is expressed in percentage terms (the valuations provided to MDX must also be expressed in percentage terms). In addition, interested CBOE market-makers must participate in a testing phase with MDX. The values submitted by a market-maker during the testing phase and in live production must meet MDX's quality control standards designed to ensure the integrity and accuracy of COPS Data. MDX has implemented procedures including monthly performance reviews to help ensure the integrity and accuracy of COPS Data.

To help ensure that MDX receives numerous values from multiple market-makers on a consistent basis, MDX shares revenue from the sale of COPS Data with participating CBOE market-makers. The amount of revenue that MDX shares with participating market-makers does not exceed thirty percent (30%) of the total revenue received by MDX from the sale of COPS Data. The revenue sharing is based on the following table:

Number of participating market-makers	Total revenue share (percent)	Rev. share per market-maker
3	21	7%
4	24	6%
5 or more	30	30% divided by the number of participating market-makers

If only three market-makers participate, MDX shares 21% of total revenue with each market-maker receiving a 7% share. If four market-makers participate, MDX shares 24% of total revenue with each market-maker receiving a 6% share. If five or more market-makers participate, MDX shares 30% of total revenue divided equally among the market-makers. There are currently three participating market-makers.[10]

The fees that MDX charges for COPS Data are set forth on the Price List on the MDX Web site (*www.marketdataexpress.com*) (''MDX Web site''). MDX currently charges a fee per option per day for ''end-of-day'' COPS data. The amount of the fee is reduced based on the number of options purchased. MDX charges Customers and Subscribers $1.25 per option per day for each option purchased up to 50 options, $1.00 per option per day for each option purchased from 51 to 100 options, $0.75 per option per day for each option purchased from 101 to 500 options, and $0.50 per option per day for each option purchased over 500 options. MDX charges Customers and Subscribers $75 per day for ''historical'' COPS data. Customers are not currently charged any fees for their external distribution of COPS Data.

Proposal

The Exchange proposes a number of changes to COPS for the purpose of improving COPS to potentially make it more appealing to a wider group of users. First, the Exchange proposes to provide additional data through COPS. Specifically, COPS would also provide indicative values for ''exotic'' options. Exotic options are options which are generally traded OTC and are more complex than standard options, usually relating to determination of payoff.[11] An exotic option may also include a non-standard underlying instrument, developed for a particular client or for a particular market. In addition to exotic option values, the Exchange also proposes to provide an implied volatility value with each option value provided by COPS.

Second, the Exchange proposes to allow any CBOE Trading Permit Holder (''TPH'') that meets the COPS qualification criteria to contribute values to MDX for purposes of producing COPS Data. Third, the Exchange proposes to amend the COPS qualification criteria to add new criteria. Specifically, interested CBOE TPHs must also have the ability to provide valuations on exotic options and an implied volatility value with each option value provided.

Fourth, the Exchange proposes to specify a daily deadline for COPS customers to submit requests for new options series to be priced by COPS that day. Currently, COPS customers may request pricing for options that are not already priced by COPS by submitting an email request to MDX. The request must be submitted by a specified time each day in order for the requested option to be priced by COPS that day (currently, this deadline is 11:00 a.m.

because they find it is easier to assess the change, or lack of change, in the marketplace from one day to the next when values are expressed in percentage terms.

[10] In order to help ensure that participating market-makers submit values to MDX on 100% of the series to be valued, a market-maker's revenue share is reduced as follows:

There is one ''grace day'' per month, i.e., if a market-maker does not submit values for 100% of the series on just one day within a given month, that market-maker will not lose any portion of its revenue share for that month.

If a market-maker submits values for less than 100% of the series on any two days within a month, that market-maker will forfeit 10% of its revenue share for that month.

If a market-maker submits values for less than 100% of the series on any three days within a month, that market-maker will forfeit 25% of its revenue share for that month.

If a market-maker submits values for less than 100% of the series on any four days within a month, that market-maker will forfeit 50% of its revenue share for that month.

If a market-maker submits values for less than 100% of the series on any five days within a month, that market-maker will forfeit 75% of its revenue share for that month.

If a market-maker submits values for less than 100% of the series on any six or more days within a month, that market-maker will forfeit 100% of its revenue share for that month.

[11] For example, the payoff at expiration of an exotic option may depend not just on the value of the underlying instrument at expiration, but at its value at several times during the contract's life.

CT). The Exchange proposes that MDX may change this deadline from time to time by publishing the deadline and notice of changes to the deadline on the MDX Web site.

Finally, in order to attract new TPH contributors to COPS, and in light of significantly increased responsibilities such as pricing exotic options, the Exchange proposes to amend the compensation paid to COPS contributors. The Exchange proposes to temporarily change COPS contributor compensation from the revenue sharing plan described above to a fixed payment structure.[12] MDX would pay a maximum of five contributing TPHs a monthly fixed amount for the first six months of the enhanced COPS program, or until annual COPS revenue exceeds $1,000,000, whichever comes first. MDX would pay each of the three current COPS contributors $12,000 per month and each of two new contributors $7,000 per month. The purpose of the fixed monthly fee would be to help contributors offset the cost of development work they would likely need to complete in order to price exotic options. The three current contributors would receive a higher monthly payment than the new contributors because the current contributors have been a part of the COPS program since its inception and have been working with MDX to build the program. The Exchange proposes to limit the number of COPS contributors to five during this initial period because the Exchange believes five contributors is an ideal number to provide significant price discovery yet not too dilutive as to diminish interest among TPHs in participating in COPS.

The three current contributors would be ''grandfathered'' into the enhanced COPS program and the new compensation structure. The two new contributor positions would be open to all TPHs (announced via regulatory circular) and filled during a trial period. Of all the TPHs that try out for the two new positions, the top two TPHs that have the highest weighted average[13] contributions over the course of the trial period would be added to the program, assuming continued adherence to COPS quality control standards.

MDX would transition back to the original revenue share plan described above after this initial six month period (or until annual COPS revenue exceeds $1,000,000, whichever comes first), unless annual COPS revenue exceeds $2,000,000, in which case the percentage of total COPS revenue shared with contributors would increase from 30% to 32% if a new contributor is added to COPS.[14] In subsequent years, if the previous year's COPS revenue increases by $1,000,000 or more, the percentage of total COPS revenue shared with contributors would increase by 2% if an additional contributor is added to COPS. The total number of COPS contributors would ultimately be limited to fifteen. The Exchange believes limiting the number of contributors to fifteen would help keep the revenue share of each TPH at a level sufficient to maintain TPH interest in participating in COPS and incent them to produce high quality valuations. The Exchange further believes that the value of additional contributor prices beyond fifteen would be very limited.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[15] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[17] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In adopting Regulation NMS, the Commission granted self-regulatory organizations and broker-dealers increased authority and flexibility to offer new and unique market data to the public. It was believed that this authority would expand the amount of data available to consumers, and also spur innovation and competition for the provision of market data. The Exchange believes the proposal to provide exotic option and implied volatility values through COPS is in keeping with those principles by promoting increased transparency through the dissemination of useful data and also by clarifying its availability to market participants.

The Exchange believes the proposed rule change is not designed to permit unfair discrimination between CBOE TPHs because it would allow any CBOE TPH that meets the COPS qualification criteria to participate in COPS (assuming continued adherence to COPS quality control standards). Expanding eligibility for COPS to all CBOE TPHs may result in more contributors, which should help improve the quality of COPS Data.

The Exchange believes the proposal to add new COPS qualification criteria is consistent with the protection of investors and the public interest in that it would help ensure that only TPHs who are able to produce quality valuations for all categories of COPS Data are allowed to participate in the program.

The Exchange believes the proposal to specify a daily deadline for customers to submit requests for new options series to be priced by COPS is consistent with just and equitable principles of trade because it would provide MDX and contributors with enough time to price the new options series the same day.

The Exchange believes the proposal to grandfather the three current contributors into the enhanced COPS program and pay them a higher fixed monthly fee than new contributors for a limited period of time is not unfairly discriminatory because the current contributors have been a part of COPS since its inception and have helped MDX build the program. For example, in advance of the COPS launch in January 2013, the current contributors participated in trial runs with MDX to help ensure their values were in line with MDX's expectations. The current contributors also helped MDX work out the flow of the daily file transfer process (MDX delivers to contributors a file of options series to be priced, the contributors return the file including their option values). In addition,

[12] The Exchange is not proposing to eliminate the revenue share plan, only to suspend it temporarily as described herein.

[13] MDX would publish on its Web site a description of the methodology used for averaging the values submitted by TPHs to produce a single publishable value (which methodology may change from time to time). MDX intends to use a weighted average methodology. A weighted average is an average in which each quantity to be averaged (in this case each value submitted by a contributor) is assigned a weight. These weightings determine the relative importance of each quantity on the average.

[14] The addition of new contributors would be accomplished through the same try out mechanism described above. This try out mechanism would also be used if a contributor is removed from COPS, or voluntarily leaves the program.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *Id.*

contributors have assisted MDX with promotion of COPS. Through these efforts, the current contributors have helped MDX lay the ground work for new contributors to join COPS. The Exchange believes limiting the number of COPS contributors to five initially, and ultimately to fifteen, is not unfairly discriminatory because all TPHs would be eligible to try out for the limited COPS contributor positions and to be selected if they perform best during a trial period.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change would allow the Exchange, through MDX, to disseminate COPS Data on a voluntary basis. COPS is voluntary on the part of the Exchange, which is not required to offer such services, and voluntary on the part of prospective customers who are not required to use it. The Exchange notes there are at least a small number of market data vendors that produce option value data that is similar to COPS Data and market data users may elect to buy these other products if they choose.[18] The Options Clearing Corporation (''OCC'') also produces FLEX option value data that is similar to the FLEX option value data that is included in COPS.[19] The Exchange believes the proposed COPS enhancements may help attract new customers to COPS and new order flow to the Exchange, thereby improving the Exchange's ability to compete in the market for options order flow and executions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, provided that the self-regulatory organization has given the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change or such shorter time as designated by the Commission,[20] the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[21] and Rule 19b–4(f)(6) thereunder.[22] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2014–057 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2014–057. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2014–057 and should be submitted on or before August 12, 2014.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2014–17145 Filed 7–21–14; 8:45 am]

BILLING CODE 8011–01–P

[18] These vendors include SuperDerivatives, Markit, Prism, and Bloomberg's BVAL service.

[19] The OCC makes this data available on its Web site at *http://www.theocc.com/webapps/flex-reports.*

[20] The Exchange has fulfilled this requirement.

[21] 15 U.S.C. 78s(b)(3)(A).

[22] 17 CFR 240.19b–4(f)(6).

[23] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[File No. 500–1]

mBeach Software, Inc.; Order of Suspension of Trading

July 18, 2014.

mBeach Software, Inc. (CIK No. 1465856) is a Florida corporation located in Tel Aviv, Israel with a class of securities registered with the Securities and Exchange Commission (''Commission'') pursuant to Section 12(g) of the Securities Exchange Act of 1934 (''Exchange Act''). mBeach Software, Inc. is delinquent in its periodic filings with the Commission, having not filed any periodic reports since it filed a Form 10–Q for the period ended September 30, 2010, which reported a net loss of $118,018 for the prior nine months. As of June 30, 2014, the company's stock (symbol ''MBHS'') was quoted on OTC Link (previously, ''Pink Sheets'') operated by OTC Markets Group, Inc., had seven market makers, and was eligible for the ''piggyback'' exception of Exchange Act Rule 15c2–11(f)(3).

It appears to the Commission that there is a lack of current and accurate information concerning the securities of

mBeach Software, Inc. because it has not filed any periodic reports since its Form 10–Q for the period ended September 30, 2010. The Commission is of the opinion that the public interest and the protection of investors require a suspension of trading in the securities of mBeach Software, Inc.

Therefore, it is ordered, pursuant to Section 12(k) of the Exchange Act, that trading in the securities of mBeach Software, Inc. is suspended for the period from 9:30 a.m. EDT on July 18, 2014, through 11:59 p.m. EDT on July 31, 2014.

By the Commission.

Jill M. Peterson,

Assistant Secretary.

[FR Doc. 2014–17295 Filed 7–18–14; 4:15 pm]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 41 existing Small Business Development Centers (SBDCs) for refunding on January 1, 2015 subject to the availability of funds. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice also is being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

ADDRESSES:

ADDRESSES OF RELEVANT SBDC STATE DIRECTORS

Mr. Sherman Wilkinson, SBDC State Director, Salt Lake Community College, 9750 South 300 West, Sandy, UT 84070, (801) 957–5384

Ms. Michele Abraham, SBDC State Director, University of South Carolina, 1705 College Street, Columbia, SC 29208, (803) 777–4555

Ms. Diane R. Howerton, SBDC Regional Director, University of California, Merced, 550 East Shaw, Suite 100, Fresno, CA 93710, (559) 241–6590

Ms. Aleta Wilson, SBDC Regional Director, SW Community College District, 880 National City Blvd., National City, CA 91950, (619) 216–6721

Mr. Casey Jeszenka, SBDC State Director, University of Guam, P.O. Box 5014—U.O.G. Station, Mangilao, GU 96923, (671) 735–2590

Mr. Dan Ripke, SBDC State Director, California State University, Chico, Building 35, CSU Chico, Chico, CA 95929, (530) 898–4598

Ms. Priscilla Lopez, SBDC Regional Director, CSU Fullerton Auxiliary Services Corp., 800 North State College Blvd., SGMH 5313, Fullerton, CA 92831, (657) 278–2719

Ms. Janet Rodrick, SBDC State Director, University of Arkansas, 2801 South University Avenue, Little Rock, AR 72204, (501) 683–7700

Mr. Allan Adams, SBDC State Director, University of Georgia, Chicopee Complex, 1180 East Broad Street, Athens, GA 30602, (706) 542–6762

Ms. Mary Collins, SBDC State Director, University of New Hampshire, 201 Paul Hall, 10 Garrison Ave., Durham, NH 03824, (603) 862–2200

Ms. Carol Lopucki, State Director, 1020 L. William Seidman Center, 50 Front Avenue SW., Grand Rapids, MI 49504, (616) 331–7480

Mr. Herbert Thweatt, SBDC State Director, American Samoa Community College, P.O. Box 2609, Pago Pago, American Samoa 96799, (684) 699–4830.

Mr. Michael Myhre, SBDC State Director, University of West Florida, 11000 University Parkway, Bldg. 38, Pensacola, FL 32514, (850) 473–7802.

Mr. Sam Males, SBDC State Director, University of Nevada Reno, College of Business Admin., Room 441, Reno, NV 89557–0100, (775) 784–1717.

Mr. Mark DeLisle, SBDC State Director, University of Southern Maine, 501 Forest Avenue, Portland, ME 04104, (207) 780–4420.

Mr. Jesse Torres, SBDC Regional Director, Long Beach Community College, 4901 E Carson Street, MC 05, Long Beach, CA 90808, (562) 938–5020.

Ms. Kristin Johnson, SBDC Regional Director, Humboldt State University, Office of Economic & Community Dev., 1 Harpst Street, House 71, Room 110, Arcata, CA 95521, (707) 826–3920.

Ms. Janice Washington, SBDC State Director, Maricopa County Community College, 2411 West 14th Street, Suite 132, Tempe, AZ 85281–6942, (480) 731–8722.

Mr. Darrell Brown, SBDC Executive Director, Howard University, 2600 6th Street NW., Washington, DC 20059, (202) 806–1550.

Ms. Bonita Wikenheiser, SBDC State Director, University of North Dakota, Bank of North Dakota Building, 1200 Memorial Highway Bismarck, ND 58504, (701) 328–5375.

Dr. James Petell, SBDC Interim State Director, University of Rhode Island, 75 Lower College Road, Kingston, RI 02881, (401) 874–4807.

FOR FURTHER INFORMATION CONTACT: Louis Peasley, Director of Financial Oversight, Office of Small Business Development Centers, U.S. Small Business Administration, 409 Third Street SW., Sixth Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with the SBA. SBDCs operate on the basis of a state plan to provide assistance within a state or geographic area. The initial plan must have the written approval of the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) increase economic growth;

(c) assist more small businesses; and

(d) broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) locate service centers so that they are as accessible as possible to small businesses;

(b) open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) maintain lists of private consultants at each service center.

Carroll A. Thomas,

Associate Administrator, Office of Small Business Development Centers.

[FR Doc. 2014–17161 Filed 7–21–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review

AGENCY: U.S. Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: The Small Business Administration (SBA) is notifying the public that it intends to grant the pending applications of 22 existing Small Business Development Centers (SBDCs) for refunding on October 1, 2014, subject to the availability of funds. A short description of the SBDC program follows in the supplementary information below.

The SBA is publishing this notice at least 90 days before the expected refunding date. The SBDCs and their mailing addresses are listed below in the address section. A copy of this notice is also being furnished to the respective State single points of contact designated under the Executive Order. Each SBDC application must be consistent with any area-wide small business assistance plan adopted by a State-authorized agency.

DATES: A State single point of contact and other interested State or local entities may submit written comments regarding an SBDC refunding within 30 days from the date of publication of this notice to the SBDC.

ADDRESSES:

ADDRESSES OF RELEVANT SBDC STATE DIRECTORS

Mr. Rande Kessler, State Director, University of Louisiana, Monroe, 700 University Avenue, Admin 2–101, Monroe, LA 71209–6435, (318) 342–5506.

Mr. Mike Bowman, State Director, University of Delaware, One Innovation Way, Suite 301, Newark, DE 19711, (302) 831–4283.

Ms. Becky Naugle, State Director, University of Kentucky, One Quality Street, Lexington, KY 40507, (859) 257–7668.

Mr. Chris Bouchard, State Director, University of Missouri, 410 South Sixth Street, 200 Engineering North, Columbia, MO 65211, (573) 884–1555.

Ms. Leonor Dottin-Carrillo, State Director, University of the Virgin Islands, 8000 Niskey Center, Suite 720, St. Thomas, USVI 00802–5804, (340) 776–3206.

Ms. Kristina Oliver, State Director, West Virginia Development Office, 1900 Kanawha Blvd., Capitol Complex, Building 6, Room 652, Charleston, WV 25305, (304) 558–2960.

Ms. Carmen Marti, SBDC Director, Inter American University of Puerto Rico, 416 Ponce de Leon Avenue, Union Plaza, Seventh Floor, San Juan, PR 00918, (787) 763–6811.

Ms. Rene Sprow, State Director, Univ. of Maryland@College Park, 7100 Baltimore Avenue, Suite 402, Baltimore, MD 20740, (301) 403–8300.

Mr. Ted Bair, Interim State Director, Iowa State University, 2321 North Loop Drive, Suite 202, Ames, IA 50010–8218, (515) 294–2037.

FOR FURTHER INFORMATION CONTACT: Louis Peasley, Director of Financial Oversight, Office of Small Business Development Centers, U.S. Small Business Administration, 409 Third Street SW., Sixth Floor, Washington, DC 20416.

SUPPLEMENTARY INFORMATION:

Description of the SBDC Program

A partnership exists between SBA and an SBDC. SBDCs offer training, counseling and other business development assistance to small businesses. Each SBDC provides services under a negotiated Cooperative Agreement with SBA, the general management and oversight of SBA, and a state plan initially approved by the Governor. Non-Federal funds must match Federal funds. An SBDC must operate according to law, the Cooperative Agreement, SBA's regulations, the annual Program Announcement, and program guidance.

Program Objectives

The SBDC program uses Federal funds to leverage the resources of states, academic institutions and the private sector to:

(a) Strengthen the small business community;

(b) increase economic growth;

(c) assist more small businesses; and

(d) broaden the delivery system to more small businesses.

SBDC Program Organization

The lead SBDC operates a statewide or regional network of SBDC service centers. An SBDC must have a full-time Director. SBDCs must use at least 80 percent of the Federal funds to provide services to small businesses. SBDCs use volunteers and other low cost resources as much as possible.

SBDC Services

An SBDC must have a full range of business development and technical assistance services in its area of operations, depending upon local needs, SBA priorities and SBDC program objectives. Services include training and counseling to existing and prospective small business owners in management, marketing, finance, operations, planning, taxes, and any other general or technical area of assistance that supports small business growth.

The SBA district office and the SBDC must agree upon the specific mix of services. They should give particular attention to SBA's priority and special emphasis groups, including veterans, women, exporters, the disabled, and minorities.

SBDC Program Requirements

An SBDC must meet programmatic and financial requirements imposed by statute, regulations or its Cooperative Agreement. The SBDC must:

(a) Locate service centers so that they are as accessible as possible to small businesses;

(b) open all service centers at least 40 hours per week, or during the normal business hours of its state or academic Host Organization, throughout the year;

(c) develop working relationships with financial institutions, the investment community, professional associations, private consultants and small business groups; and

(d) maintain lists of private consultants at each service center.

Carroll A. Thomas,

Associate Administrator, Office of Small Business Development Centers.

[FR Doc. 2014–17160 Filed 7–21–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments

ACTION: 60-Day notice and request for comments.

SUMMARY: The Small Business Administration (SBA) intends to request approval, from the Office of Management and Budget (OMB) for the collection of information described below. The Paperwork Reduction Act (PRA) of 1995, 44 U.S.C. Chapter 35 requires federal agencies to publish a notice in the **Federal Register** concerning each proposed collection of information before submission to OMB, and to allow 60 days for public comment in response to the notice. This notice complies with that requirement.

DATES: Submit comments on or before September 22, 2014.

ADDRESSES: Send all comments to Linda Rusche, Director, Office of Financial Assistance, Small Business Administration, 409 3rd Street, 8th Floor, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Linda Reilly, Chief, 504 Loan Program, 202–205–9949, *linda.reilly@sba.gov,* or Curtis B. Rich, Management Analyst, 202–205–7030, *curtis.rich@sba.gov.*

SUPPLEMENTARY INFORMATION: The Small Business Investment Act authorizes SBA to guarantee a debenture issued by a Certified Development Company (CDC). The proceeds from each debenture are used to fund loans to eligible small business concerns (''504 loans''). 15 U.S.C. 697(a). The Small Business Act and the Small Business Investment Act mandate that all guaranteed loans provided by the SBA to small business concerns (SBCs) must have a reasonable assurance of ability to repay. See 15 U.S.C. 636(a)(6) and 687(f); see also 13 CFR 120.150. The information collections described below—SBA Form 1244 and SBA Form 2450—are part of the application process for a 504 loan. SBA is proposing to make changes to Form 2450 to remove duplicative questions as well as questions that are no longer applicable to the 504 Loan Program.

Solicitation of Public Comments

SBA is requesting comments on (a) Whether the collection of information is necessary for the agency to properly perform its functions; (b) whether the burden estimates are accurate; (c) whether there are ways to minimize the burden, including through the use of automated techniques or other forms of information technology; and (d) whether there are ways to enhance the quality, utility, and clarity of the information.

Summary of Information Collections

Title: Application for Section 504 Loan.

Description of Respondents: Small Business Concerns applying for a section 504 loan and Certified Development Companies.

(i) *Form Number:* SBA Form 1244, Application for Section 504 Loan. The information collected by this form is used to review the eligibility of the small business concern (SBC) for SBA financial assistance; the creditworthiness and repayment ability of the SBC; and the terms and conditions of the 504 loan for which the SBC is applying.

(ii) Form 2450 is the Eligibility Checklist used to document the 504 loan's eligibility based on program requirements. These forms are used by CDCs to request SBA's guarantee on each debenture.

SBA has established a streamlined loan application processing procedure known as the Abridged Submission Method (ASM). Under this process, the CDCs are required to collect and retain all exhibits to SBA Form 1244, but are only required to submit selective documents. CDCs using the non-ASM method are required to submit all documents and exhibits required for Form 1244. All CDCs must submit the Form 2450.

The burden estimates (based on the experience of the CDCs and SBA field offices) of the burden hours imposed by use of these forms, including exhibits, are as follows:

There are 260 CDCs affected by the information collection. The total number of small business concerns that will annually respond to Form 1244 is approximately 7,000 based on the average submission of applications submitted from CDCs over the past FY using both the ASM and non-ASM methods. This is a total of 7,260 respondents. Burden hours are 2.25 hours for ASM and 2.45 hours for non-ASM submissions (this number is slightly higher due to the fact that these respondents are required to submit more documentation than the ASM respondents). These estimates include the content from SBA Form 2450, which takes an estimated 15 minute for completion.

Form 1244

Total burden hours = 16,799.

Submission through the ASM—4,937 × 2.25 = 11,108 burden hours.

Submission through non-ASM (standard method)—2,323 × 2.45 = 5,691 burden hours.

Form 2450

Total burden hours = 1,815.

Submission through the ASM and non-ASM—7,260 × .25 = 1,815 burden hours.

Total Burden Hours = 18,614.

Curtis B. Rich,

Management Analyst.

[FR Doc. 2014–17202 Filed 7–21–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14058 and #14059]

Iowa Disaster #IA–00059

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Iowa (FEMA–4181–DR), dated 07/14/2014.

Incident: Severe storms, tornadoes, straight-line winds, and flooding.

Incident Period: 06/03/2014 through 06/04/2014.

DATES: *Effective Date:* 07/14/2014.

Physical Loan Application Deadline Date: 09/12/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 04/14/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 07/14/2014, Private Non-Profit organizations that provide essential services of governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Adams, Clarke, Decatur, Mills, Montgomery, Pottawattamie, Ringgold, Taylor, Wayne.

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations with Credit Available Elsewhere ...	2.625
Non-Profit Organizations without Credit Available Elsewhere	2.625
For Economic Injury:	
Non-Profit Organizations without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14058B and for economic injury is 14059B.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

Lisa Lopez-Suarez,

Acting Associate Administrator, for Disaster Assistance.

[FR Doc. 2014–17118 Filed 7–21–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14049 and #14050]

Wisconsin Disaster #WI–00049

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of Wisconsin dated 07/14/2014.

Incident: Severe Storms, Flash Flooding, and Tornadoes.

Incident Period: 06/16/2014 through 06/18/2014.

DATES: *Effective Date:* 07/14/2014.

Physical Loan Application Deadline Date: 09/12/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 04/14/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties:

Grant.

Contiguous Counties:

Wisconsin:

Crawford; Iowa; Lafayette; Richland.

Iowa:

Clayton; Dubuque.

Illinois:

Jo Daviess.

The Interest Rates are:

	Percent
For Physical Damage:.	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:.	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14049 C and for economic injury is 14050 0.

The States which received an EIDL Declaration # are Wisconsin; Illinois; Iowa.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: July 14, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–17121 Filed 7–21–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 14051 and # 14052]

Massachusetts Disaster # MA–00059

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the Commonwealth of Massachusetts dated 07/14/2014.

Incident: Apartment Building Fire.

Incident Period: 06/16/2014.

DATES: *Effective Date:* 07/14/2014.

Physical Loan Application Deadline Date: 09/12/2014.

Economic Injury (EIDL) Loan Application Deadline Date: 04/14/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Hampden.

Contiguous Counties:

Massachusetts: Berkshire; Hampshire; Worcester.

Connecticut: Hartford; Litchfield; Tolland.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners with Credit Available Elsewhere	4.375
Homeowners without Credit Available Elsewhere	2.188
Businesses with Credit Available Elsewhere	6.000
Businesses without Credit Available Elsewhere	4.000
Non-Profit Organizations with Credit Available Elsewhere	2.625
Non-Profit Organizations without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives without Credit Available Elsewhere	4.000
Non-Profit Organizations without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14051 5 and for economic injury is 14052 0.

The States which received an EIDL Declaration # are Massachusetts; Connecticut.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: July 14, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–17116 Filed 7–21–14; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #14056 and #14057]

South Dakota Disaster #SD–00064

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Administrative declaration of a disaster for the State of South Dakota dated 07/14/2014.

Incident: Severe Storms, Flooding and Tornadoes.

Incident Period: 06/13/2014 through 06/20/2014.

DATES: *Effective Date:* 07/14/2014.

Physical Loan Application Deadline Date: 09/12/2014.

ECONOMIC INJURY (EIDL) LOAN APPLICATION DEADLINE DATE: 04/14/2015.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's disaster declaration, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Jerauld; Lincoln.

Contiguous Counties:

South Dakota: Aurora; Beadle; Brule; Buffalo; Clay; Hand; Minnehaha; Sanborn; Turner; Union

Iowa: Lyon; Sioux.

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	4.375
Homeowners Without Credit Available Elsewhere	2.188
Businesses With Credit Available Elsewhere	6.000
Businesses Without Credit Available Elsewhere	4.000
Non-Profit Organizations With Credit Available Elsewhere	2.625
Non-Profit Organizations Without Credit Available Elsewhere	2.625
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000
Non-Profit Organizations Without Credit Available Elsewhere	2.625

The number assigned to this disaster for physical damage is 14056 C and for economic injury is 14057 0.

The States which received an EIDL Declaration # are South Dakota; Iowa.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008)

Dated: July 14, 2014.

Maria Contreras-Sweet,

Administrator.

[FR Doc. 2014–17114 Filed 7–21–14; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 8802]

30-Day Notice of Proposed Information Collection: Affidavit Regarding a Change of Name

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to August 21, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to U.S. Department of State, Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, 2201 C Street, NW., Washington, DC 20520, who may be reached on (202) 485–6373 or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Affidavit Regarding a Change of Name.
- *OMB Control Number:* 1405–0133.
- *Type of Request:* Revision of a currently approved collection.
- *Originating Office:* Bureau of Consular Affairs, CA/PPT.
- *Form Number:* DS–60.
- *Respondents:* Individuals or households.
- *Estimated Number of Respondents:* 183,037 per year.
- *Estimated Number of Responses:* 183,037 per year.
- *Average Time Per Response:* 40 minutes.

• *Total Estimated Burden Time:* 122,025 hours.

• *Frequency:* On occasion.

• *Obligation to Respond:* Required to obtain or retain a benefit.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The Affidavit Regarding a Change of Name is submitted in conjunction with an application for a U.S. passport. It is used by Passport Services to collect information for the purpose of establishing that a passport applicant has adopted a new name without formal court proceedings or by marriage and has publicly and exclusively used the adopted name over a period of time (at least five years).

No comments were received in response to the 60-day **Federal Register** notice for this information collection (79 FR 24483).

Methodology:

When needed, the Affidavit Regarding a Change of Name is completed at the time a U.S. citizen applies for a U.S. passport.

Dated: July 15, 2014.

Brenda Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2014–17223 Filed 7–21–14; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice: 8805]

30-Day Notice of Proposed Information Collection: Foreign Service Officer Test Registration Form

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to August 21, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

• *Email:* oira_submission@omb.eop.gov. You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.

• *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Claudia M. Coleman, HR/REE, SA–1, H–518, 2401 E Street NW., Washington, DC, who may be reached on 202.203.5126 or at *colemancm@state.gov.*

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* Foreign Service Officer Test Registration Form.

• *OMB Control Number:* 1405–0008.

• *Type of Request:* Extension.

• *Originating Office:* HR/REE/BEX.

• *Form Number:* DS–1998E.

• *Respondents:* Registrants for the Foreign Service Officer Test.

• *Estimated Number of Respondents:* 32,000.

• *Estimated Number of Responses:* 32,000.

• *Average Time Per Response:* 2 hours.

• *Total Estimated Burden Time:* 64,000.

• *Frequency:* On Occasion.

• *Obligation to Respond:* Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: Individuals registering for the Foreign Service Officer Test will complete a registration form that consists of an application form that gathers information about their name, age, Social Security Number, contact information, sex, race, national origin, disability, education, work history, and military experience. The information will be used to prepare and issue admission to the Foreign Service Officer Test, to provide data useful for improving future tests and to conduct research studies based on the test results.

Methodology: Responses are submitted electronically.

Additional Information:

Dated: July 17, 2014.

Matthew D. Smith,

Deputy Executive Director, HR/EX, Department of State.

[FR Doc. 2014–17239 Filed 7–21–14; 8:45 am]

BILLING CODE 4710–15–P

DEPARTMENT OF STATE

[Public Notice 8803]

30-Day Notice of Proposed Information Collection: Statement of Non-Receipt of a U.S. Passport

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of

Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to August 21, 2014.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to U.S. Department of State, Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, 2201 C Street, NW., Washington, DC 20520, who may be reached on (202) 485–6373 or at *PPTFormsOfficer@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Statement of Non-Receipt of a U.S. Passport.
- *OMB Control Number:* 1405–0146.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Consular Affairs, Passport Services, Office of Program Management and Operational Support, Program Coordination Division CA/PPT/S/PMO/PC.
- *Form Number:* DS–86.
- *Respondents:* Individuals who have not received the passport for which they originally applied.
- *Estimated Number of Respondents:* 15,005 per year.
- *Estimated Number of Responses:* 15,005 per year.
- *Average Hours per Response:* 15 minutes.
- *Total Estimated Burden:* 3,751 hours.
- *Frequency:* On Occasion.
- *Obligation to Respond:* Required to Obtain a Benefit.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection:

The Statement of Non-Receipt of a U.S. Passport, Form DS–0086 is used by the U.S. Department of State to collect information for the purpose of issuing a replacement passport to customers who have not received the passport for which they originally applied. There were no comments received in response to the 60-day **Federal Register** notice for this information collection (79 FR 18111).

Methodology:

Passport applicants who do not receive their passports are required to complete a Statement of Non-Receipt of a Passport, Form DS–86. Passport applicants may either download the form from the www.Travel.State.gov or obtain a copy from an Acceptance Facility/Passport Agency. The form must be completed, signed, and then submitted to the issuing Passport Agency for passport re-issuance.

Dated: July 15, 2014.

Brenda S. Sprague,

Deputy Assistant Secretary for Passport Services, Bureau of Consular Affairs, Department of State.

[FR Doc. 2014–17222 Filed 7–21–14; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF STATE

[Public Notice 8804]

Certification Pursuant to Section 7041(A)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act

By virtue of the authority vested in me as Secretary of State pursuant to section 7041(a)(1) of the Department of State, Foreign Operations, and Related Programs Appropriations Act, 2014 (Div. K, Pub. L. 113–76) I hereby certify that the Government of Egypt is sustaining the strategic relationship with the United States and meeting its obligations under the 1979 Egypt-Israel Peace Treaty.

This determination shall be published in the **Federal Register** and, along with the accompanying Memorandum of Justification, shall be reported to Congress.

Dated: April 22, 2014.

John F. Kerry,

Secretary of State.

[FR Doc. 2014–17221 Filed 7–21–14; 8:45 am]

BILLING CODE 4710–31–P

DEPARTMENT OF TRANSPORTATION

[Docket No. DOT–MARAD 2014–0094]

Agency Requests for Renewal of a Previously Approved Information Collection(s): Application and Reporting Requirements for Participation in the Maritime Security Program

Correction

In notice document 2014–15756 appearing on page 38354 in the issue of Monday, July 7, 2014, make the following correction:

In the second column, under the **DATES** heading, in the second line ''August 6, 2014'' should read ''September 5, 2014''.

[FR Doc. C1–2014–15756 Filed 7–21–14; 8:45 am]

BILLING CODE 1505–01–D

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; granting of application for exemption.

SUMMARY: FMCSA announces its decision to grant Daimler Trucks North America's (Daimler) application for an exemption for one Daimler driver to drive commercial motor vehicles (CMV) in the United States without possessing a commercial driver's license (CDL) issued by one of the States. Sven Ennerst is an engineering executive who will test-drive Daimler vehicles on U.S.

roads to better understand product requirements for these vehicles in ''real world'' environments and verify results. He holds a valid German CDL but lacks the U.S. residency necessary to obtain a CDL issued by one of the States. FMCSA believes that the process for obtaining a German-issued CDL is comparable to or is effective as the U.S. CDL requirements and ensures that this driver will likely achieve a level of safety that is equivalent to or greater than the level of safety that would be obtained in the absence of the exemption.

DATES: This exemption is effective July 22, 2014 and expires July 22, 2015.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Clemente, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 202–366–4325. Email: *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

Legal Basis

Section 4007(a) of the Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107, 401, June 9, 1998) provided the Secretary of Transportation (the Secretary) the authority to grant exemptions from any of the Federal Motor Carrier Safety Regulations (FMCSRs) issued under chapter 313 or section 31136 of title 49, United States Code, to a person(s) seeking regulatory relief (49 U.S.C. 31136, 31315(b)). Prior to granting an exemption, the Secretary must request public comment and make a determination that the exemption is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the exemption. Exemptions may be granted for a period of up to 2 years and may be renewed.

The FMCSA Administrator has been delegated authority under 49 CFR 1.87(e)(1) and (f) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 313 and subchapters I and III of chapter 311, relating, respectively, to the commercial driver's license program and to commercial motor vehicle (CMV) programs and safety regulation.

Background

In the May 25, 2012, **Federal Register** (77 FR 31422), FMCSA granted Daimler a similar exemption for two of its test drivers. Each individual held a valid German CDL but lacked the U.S. residency necessary to obtain a CDL in the United States. FMCSA concluded that the process for obtaining a German CDL is comparable to or as effective as the U.S. CDL requirements and ensures that these drivers will likely achieve a level of safety equivalent to or greater than the level that would be obtained in the absence of the exemption. These two drivers were not involved in any crashes or other safety-related incidents.

Daimler Application for Exemption

Daimler applied for an exemption for Mr. Sven Ennerst from 49 CFR 383.23, requiring drivers operating CMVs to have a CDL issued by one of the States. Notice of the application was published on March 27, 2014 (79 FR 17227). No comments were received. A copy of the Daimler request is in the docket identified at the beginning of this notice. The exemption allows Sven Ennerst to operate CMVs to support Daimler field tests to meet future vehicle safety and environmental requirements and to promote the development of technology and advancements in vehicle safety systems and emissions reductions. He 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.

Section 383.21 requires CMV drivers in the United States to have a CDL issued by a State. Ennerst is a citizen and resident of Germany. Only residents of a State can apply for a CDL. Without the exemption, Mr. Ennerst would not be able to test-drive Daimler prototype CMVs on U.S. roads.

Mr. Ennerst holds a valid German CDL and is an experienced operator of CMVs. In the application for exemption, Daimler also submitted documentation showing his safe German driving record.

Method to Ensure an Equivalent or Greater Level of Safety

According to Daimler, the requirements for a German-issued CDL ensure that the same level of safety is met or exceeded as if these drivers had a CDL issued by one of the States. Mr. Ennerst, is very familiar with the operation of CMVs worldwide and will be accompanied at all times by a driver who holds a U.S.-issued CDL and is familiar with the routes to be traveled. FMCSA has determined that the process for obtaining a CDL in Germany is comparable to that for obtaining a CDL issued by one of the States and adequately assesses the driver's ability to safely operate CMVs in the United States.

FMCSA Decision

Based upon the merits of this application, including Mr. Ennerst's extensive driving experience and safety record, and the fact that he has successfully completed the requisite training and testing to obtain a German CDL, FMCSA 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).

Terms and Conditions for the Exemption

FMCSA grants Daimler and Sven Ennerst an exemption from the CDL requirement in 49 CFR 383.23 to allow Mr. Ennerst 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 Federal Motor Carrier Safety Regulations (FMCSRs) (49 CFR parts 350–399), (2) the driver must be in possession of the exemption document and a valid German CDL, (3) the driver must be employed by and operating the CMV within the scope of his duties for Daimler, (4) Daimler must notify FMCSA within 5 business days in writing of any accident, as defined in 49 CFR 390.5, involving this driver, and (5) 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 1 year unless revoked earlier by the FMCSA. The exemption will be revoked if: (1) Mr. Ennerst 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.

Issued on: July 15, 2014.

Anne S. Ferro,

Administrator.

[FR Doc. 2014–17246 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2014–0016]

Qualification of Drivers; Exemption Applications; Diabetes Mellitus

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

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt 82 individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective July 22, 2014. The exemptions expire on July 22, 2016.

FOR FURTHER INFORMATION CONTACT: Elaine M. Papp, Chief, Medical Programs Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

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., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's Privacy Act Statement for the Federal Docket Management System (FDMS) published in the **Federal Register** on January 17, 2008 (73 FR 3316).

Background

On May 22, 2014, FMCSA published a notice of receipt of Federal diabetes exemption applications from 82 individuals and requested comments from the public (79 FR 29484). The public comment period closed on June 23, 2014, and four comments were received.

FMCSA has evaluated the eligibility of the 82 applicants and determined that granting the 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)(3).

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current requirement for diabetes in 1970 because several risk studies indicated that drivers with diabetes had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible. The September 3, 2003 (68 FR 52441), **Federal Register** notice in conjunction with the November 8, 2005 (70 FR 67777), **Federal Register** notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These 82 applicants have had ITDM over a range of 1 to 51 years. These applicants report no severe hypoglycemic reactions resulting in loss of consciousness or seizure, requiring the assistance of another person, or resulting in impaired cognitive function that occurred without warning symptoms, in the past 12 months and no recurrent (2 or more) severe hypoglycemic episodes in the past 5 years. In each case, an endocrinologist verified that the driver has demonstrated a willingness to properly monitor and manage his/her diabetes mellitus, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision requirement at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the May 22, 2014, **Federal Register** notice and they will not be repeated in this notice.

Discussion of Comments

FMCSA received four comments in this proceeding. The comments are discussed and considered below.

One anonymous commenter is in favor of granting the exemptions to all drivers.

Three anonymous commenters stated that people with diabetes take better care of themselves than those without diabetes due to the monitoring the condition requires.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes requirement in 49 CFR 391.41(b)(3) 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.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologists' medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that in each case exempting these applicants from the diabetes requirement in 49 CFR 391.41(b)(3) is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not it is related to an episode of hypoglycemia; (3) 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 (4) 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 also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Conclusion

Based upon its evaluation of the 82 exemption applications, FMCSA exempts Curtis D. Andersen (ND), Thomas E. Armbrust (IL), David L. Baker Jr. (IN), Michael A. Barrett (MI), John E. Barrineau, Sr. (PA), Curk A. Beals (WA), Jene W. Bell (WI), Norman Billie (UT), Howard R. Brandt (MN), Albert Bryan (TX), Daniel P. Calaman (PA), Rick L. Case (IA), Jerry G. Clise Jr. (MD), George F. Cressey, II (ME), Richard K. Cressman (ND), Bradley M. Crull (WI), Michael G. Cunningham (IN), Steven W. Dahl (ND), Archie E. Eastling (MN), Shannon D. Eck (KS), Manuel Fernandez (PA), Kevin J. Franje (IA), Chad A. Fuehrer (SD), Charles Gagnon (WA), Michael E. Goldsberry (VA), Jared P. Greene (OH), James M. Haight (NC), Gary R. Harper (IN), Wayne H. Haslam (ME), Gregg S. Hessler (NY), Kristopher J. Ilenda (ND), Jay A. Jennato (NH), Michael L. Jobe (PA), Edwin P. Jonas, II (PA), David W. Jones (MD), John J. Katcher (CO), Glenn T. Keller (PA), Michael G. Keller (CA), James H. King (TX), Jay T. Kirschmann (ND), Vernon E. LaDuke (TN), James L. Laufenberg (ND), James R. Longo (MD), Eric M. Mardesen (IA), Charles R. Maybee (NY), Earl W. Meadows (WV), James E. Meek (VA), Ralph H. Mills (MA), Matthew C. Moberly (KY), Timothy L. Monrian (MO), Alan E. Nelson (AL), Erik O. Olson (UT), Brant S. Perry (TX), Greg R. Peterson (NE), Zachary A. Petitt (TX), James W. Restuccio Jr. (NJ), Adam L. Ridenbaugh (OH), Tommy R. Riley (IL), Vincent Rodriguez (TN), Pedro Saavedra Garcia (CA), Juan A. Salinas (IL), David Salmond (UT), Phillip H. Shaw (PA), Jerry J. Shipley (KS), Glen A. Skonberg (SD), John Smeal (PA), Douglas R. Smith (KS), Howard C. Smith (GA), Jerry Spurlock Jr. (AL), Cheryl G. Stephens (DE), James F. Stewart (PA), Maria V. Stinson (NY), Martin T. Struthers (NE), Dennis C. Svec (MI), Larry L. Taff (AR), Filbert J. Torres (NM), Jennifer A. Tyson (PA), Burdette Walker (PA), Jacob D. Walter (PA), Richard E. Watkins (NY), Harold W. Wilson Jr. (SC), and Ronald D. Young (GA) from the ITDM requirement in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years 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 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. 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: July 10, 2014.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2014–17247 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2009–0078]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated May 6, 2014, the American Short Line and Regional Railroad Association (ASLRRA)—on behalf of Lehigh Valley Rail Management, and Sandersville Railroad Company—petitioned the Federal Railroad Administration (FRA) for an amended waiver of compliance from certain provisions of the Federal hours of service laws contained at 49 U.S.C. 21103(a)(4), which, in part, require a train employee to receive 48 hours off duty after initiating an on-duty period for 6 consecutive days. FRA assigned the petition Docket Number FRA–2009–0078.

In its petition, ASLRRA seeks to amend its existing waiver to add the two railroads referenced above, which did not participate in ASLRRA's prior waiver petition. FRA granted ASLRRA's petition for a waiver extension in a letter dated February 27, 2012. The waiver allows a train employee to initiate an on-duty period each day for 6 consecutive days followed by 24 hours, rather than 48 hours, off duty.

Each railroad that seeks to be added to the waiver executed a compliance letter, attesting that it complies with all of the employee consent requirements that FRA set forth in its initial decision letter, dated March 5, 2010. Additionally, each railroad will maintain the underlying employee consent or employee representative consent documents in its files for FRA inspection.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 5, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on July 8, 2014.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2014–17173 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0034]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a letter dated March 25, 2014, Norfolk Southern Railway (NS), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 232, Brake System Safety Standards for Freight and Other Non-Passenger Trains and Equipment; End-of-Train Devices. FRA assigned the petition Docket Number FRA–2014–0034.

Specifically, NS seeks a waiver of compliance from 49 CFR 232.215, *Transfer train brake tests.* This section states a transfer train, as defined in 49 CFR 232.5, *Definitions,* shall receive a specified brake test performed by a qualified person before proceeding. NS seeks approval to perform a Class 3 brake test pursuant to 49 CFR 232.211(b) on freight cars that are in switch service between the NS Decatur Yard and Archer Daniels Midland's East Plant, West Plant, and New Yard (collectively ''ADM'') facilities, in Decatur, IL, instead of the specified transfer train brake test. The switch moves that are the subject of this waiver request range from 0.2 miles to a maximum of 0.9 miles.

NS states that performing the Class 3 brake test provides an opportunity to verify the safe functioning of the brakes and also to supplement the safety appliance inspection made upon arrival at the yard inbound or during assembly of the move to ADM. An equivalent level of safety is achieved through the performance of this test, as the rear car's set and release confirms the functioning of the brake system. In addition, the moves to ADM are 0.9 miles plus the length of the cut making up the move. Of additional benefit is the elimination of potentially burdensome delays due to blocked crossings and undue congestion to the community at road crossings that could occur while train crews perform a full transfer train brake test.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at www.regulations.gov and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by August 21, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on July 8, 2014.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2014–17174 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0055]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated June 10, 2014, Mr. Wayne Kirchhof, President of the Walkersville Southern Railroad (WSRR), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215. FRA assigned the petition Docket Number FRA–2014–0055.

Specifically, WSRR requests a waiver from the stenciling requirement found at 49 CFR 215.303, for a cabin car, Car Number 477532.

WSRR states that the cabin car is more than 50 years of age from its original construction date and, therefore, is restricted per 49 CFR 215.203(a). This car is used occasionally in passenger excursion service over 7 miles of track located entirely in Frederick County, MD, where all trains operate under restricted speed rules not exceeding 10 mph.

WSRR further states that the subject car is not, and will not be, interchanged with any other railroad. WSRR's operating territory is generally rural in nature, and the car has been inspected and found to be safe to operate.

In addition, WSRR has requested a Special Approval for this cabin car to continue in service in accordance with 49 CFR 205.203(c).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the

appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 5, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on July 8, 2014.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2014–17175 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2014–0057]

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that by a document dated June 10, 2014, Mr. Wayne Kirchhof, President of the Walkersville Southern Railroad (WSRR), petitioned the Federal Railroad Administration (FRA) for a waiver of compliance from certain provisions of the Federal railroad safety regulations contained at 49 CFR Part 215. FRA assigned the petition Docket Number FRA–2014–0057.

Specifically, WSRR requests a waiver from the stenciling requirement found at 49 CFR 215.303, for two flat cars, identified as Car Numbers 10 and 11.

WSRR states that the flat cars are more than 50 years of age from their original construction date and, therefore, are restricted per 49 CFR 215.203(a).

WSRR further states that these two flat cars have been outfitted with seats, and are used in passenger excursion service over 7 miles of track located entirely in Frederick County, MD, where all trains operate under restricted speed rules not exceeding 10 mph.

Additionally, WSRR states that the subject cars are not, and will not be, interchanged with any other railroad. WSRR's operating territory is generally rural in nature, and the cars have been inspected and found to be safe to operate.

WSRR has requested a Special Approval for these flat cars to continue in service in accordance with 49 CFR 205.203(c).

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's Docket Operations Facility, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

- *Web site: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., W12–140, Washington, DC 20590.
- *Hand Delivery:* 1200 New Jersey Avenue SE., Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by September 5, 2014 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable.

Anyone is able to search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). See *http://www.regulations.gov/#!privacyNotice* for the privacy notice of regulations.gov or interested parties may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477).

Issued in Washington, DC, on July 8, 2014.

Ron Hynes,

Director, Office of Safety Assurance and Compliance.

[FR Doc. 2014–17176 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

Fiscal Year 2013 and 2014 Passenger Ferry Grant Program Project Selections

AGENCY: Federal Transit Administration (FTA), DOT.

ACTION: Passenger Ferry Grant Program Announcement of Project Selections.

SUMMARY: The US. Department of Transportation's (DOT) Federal Transit Administration (FTA) announces the selection of projects with Fiscal Year (FY) 2013 and FY 2014 appropriations for the Passenger Ferry Grant Program (Ferry Program). The Moving Ahead for Progress in the 21st Century Act (MAP–21) set forth a new discretionary Ferry Program as a take-down under the Section 5307 Urbanized Area Formula Grants Program, 49 U.S.C. § 5307, that authorized a combined total of $60 million for discretionary allocations in FY 2013 and FY 2014. The across-the-board rescission enacted by Congress in the FY 2013 Continuing Resolution reduced the available amount for the program in FY 2013 to approximately $29.9 million; this amount, combined with the FY 2014 apportionment of $30 million, provided a total of approximately $59.9 million for this program. On August 21, 2013, FTA published a Notice of Funding availability (NOFA) (78 FR 51812) announcing the availability of funding for this program. These program dollars will provide financial assistance to purchase, replace, or rehabilitate ferries, terminals and related infrastructure and other eligible capital project costs.

FOR FURTHER INFORMATION CONTACT: Successful applicants should contact the appropriate FTA Regional Office for information regarding applying for the

funds or program-specific information. A list of Regional Offices can be found at *www.fta.dot.gov*. Unsuccessful applicants may contact Vanessa Williams, Office of Program Management at (202) 366–4818, email: *Vanessa.williams@dot.gov,* to arrange a proposal debriefing within 30 days of this announcement. A TDD is available at 1–800–877–8339 (TDD/FIRS).

SUPPLEMENTARY INFORMATION: In response to the NOFA, FTA received 31 proposals from 15 States plus Puerto Rico requesting $115.8 million in Federal funds. Project proposals were evaluated based on each applicant's responsiveness to the program evaluation criteria as detailed in the NOFA. FTA is funding 26 projects as shown in Table 1 for a total of $59.9 million. Grantees selected for competitive discretionary funding should work with their FTA Regional Office to finalize the grant application in FTA's Transportation Electronic Awards Management System (TEAM) so that funds can be obligated expeditiously. Grant applications must only include eligible activities applied for in the original project application. Funds must be used consistent with the competitive proposal and for the eligible purposes established in the NOFA and described in the FTA Circular 9030.1E. In cases where the allocation amount is less than the proposer's requested amount, grantees should work with the Regional Office to reduce scope or scale the project such that a complete phase or project is accomplished. Grantees are reminded that program requirements such as cost sharing or local match can be found in the NOFA. A discretionary project identification number has been assigned to each project for tracking purposes and must be used in the TEAM application. Selected projects are eligible for pre-award authority no earlier than June 2, 2014. Pre-award authority is also contingent upon other requirements, such as planning and environmental requirements, having been met. For more about FTA's policy on pre-award authority, please see the FTA Fiscal Year 2014 Apportionments, Allocations, and Program notice found in 77 FR 13461 (March 10, 2014). Post-award reporting requirements include submission of the Federal Financial Report and Milestone reports in TEAM as appropriate (see FTA.C.5010.1D and C9030.1E). The grantees must comply with all applicable Federal statutes, regulations, executive orders, FTA circulars, and other Federal requirements in carrying out the project supported by the FTA grant. FTA emphasizes that grantees must follow all third-party procurement guidance, as described in FTA.C.4220.1F. Funds allocated in this announcement must be obligated in a grant by September 30, 2019.

Issued in Washington, DC, this 16th day of July, 2014.

Therese McMillan,

Deputy Administrator.

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FTA FY 2013 and 2014 Passenger Ferry Discretionary Funding Recommendations

State	Recipient	Project ID	Project Description	Allocation
CA	Golden Gate Bridge, Highway and Transportation District	D2013-PFGP-001	The Golden Gate Bridge, Highway and Transportation District will receive funding to refurbish the M.S. Sonoma Ferry Boat, which will extend its useful life for another 25 years. The M.S. Sonoma is part of the Golden Gate Ferry fleet, the largest public ferry service on the San Francisco Bay, providing over 2 million passenger trips per year between San Francisco and Marin County.	$6,000,000
CA	Los Angeles County Metropolitan Transportation Authority	D2013-PFGP-002	The Los Angeles County Metropolitan Transportation Authority, in partnership with the Los Angeles County Department of Beaches and Harbors, will receive funding to purchase three vessels to support growing demand for "WaterBus" passenger ferry service in Los Angeles County's Marina Del Rey community. Increasing the number of ferries will decrease wait times and increase capacity to accommodate the more than 75,000 passengers who are expected to use the service in 2015.	$336,600
CA	San Francisco Bay Area Water Emergency Transportation Authority (WETA)	D2013-PFGP-003	The San Francisco Bay Area Water Emergency Transportation Authority (WETA) will receive funding to construct a new maintenance facility at Alameda Point in the City of Alameda to serve as the base for the authority's vessel maintenance activities and vessel mooring. The new facility will accommodate WETA's fleet of 12 vessels, which provide more than 1.6 million passenger trips per year in the San Francisco Bay area.	$3,000,000
FL	Hillsborough Area Regional Transit Authority	D2013-PFGP-004	The Hillsborough Area Regional Transit Authority will receive funding to implement a new high speed passenger ferry service that will provide a new transit option for residents to travel across Tampa Bay to new ferry terminals at MacDill Air Force Base, Gibsonton, downtown Tampa and downtown St. Petersburg. The project includes construction of four new ferry terminals and related infrastructure.	$4,772,755
FL	Jacksonville Transportation Authority	D2013-PFGP-005	The Jacksonville Transportation Authority will receive funding to replace aging ferry slips that have reached the end of their useful life. The new docking equipment will be used for the St. Johns River Ferry, which connects the north and south ends of Florida State Road A1A in Duval County and serves more than 225,000 riders each year.	$3,973,099

FTA FY 2013 and 2014 Passenger Ferry Discretionary Funding Recommendations

State	Recipient	Project ID	Project Description	Allocation
GA	Chatham Area Transit Authority	D2013-PFGP-006	The Chatham Area Transit Authority will receive funding to renovate three ferry landings that are used for Savannah Belles Ferry service, which provides trips between downtown Savannah and Hutchinson Island, where the Savannah International Trade and Convention Center is located. The ferry landings will be renovated to improve access for people with disabilities, improve safety, and accommodate increasing demand.	$374,400
IL	Rock Island County Metropolitan Mass Transit District	D2013-PFGP-007	Rock Island County Metropolitan Mass Transit District will receive funding to construct a new Channel Cat Passenger Ferryboat Terminal on the Mississippi River in Moline, Illinois. This project will expand docking capacity to accommodate the current Channel Cat fleet of three vessels, and improve safety and access for people with disabilities.	$756,350
MA	Massachusetts Bay Transportation Authority	D2013-PFGP-008	The Massachusetts Bay Transportation Authority (MBTA) will receive funding to replace a twin engine and obsolete steering control equipment on the "Lightning" high speed catamaran ferry, which provides commuter ferry service between Quincy, Hull, Boston and Logan International Airport.	$904,000
MA	Massachusetts Bay Transportation Authority	D2013-PFGP-009	The Massachusetts Bay Transportation Authority (MBTA) will receive funding to construct an inner harbor water taxi docking facility to be built in conjunction with a new ferry wharf and terminal building redevelopment project (including office and residential space) currently under construction at Lovejoy Wharf, adjacent to the North Station intermodal transit hub in downtown Boston.	$600,000
MA	Massachusetts Bay Transportation Authority	D2013-PFGP-10	The Massachusetts Bay Transportation Authority (MBTA) will receive funding to upgrade the Pemberton Pier ferry terminal located in Hull, Massachusetts, to improve commuter ferry service between Quincy, Hull, Boston and Logan International Airport.	$196,542

FTA FY 2013 and 2014 Passenger Ferry Discretionary Funding Recommendations

State	Recipient	Project ID	Project Description	Allocation
MD	City of Baltimore Department of Transportation	D2013-PFGP-11	The City of Baltimore Department of Transportation will receive funding to implement the Charm City Circulator Harbor Connector, a state-of-the-art, all-electric water taxi and high-powered smart charging infrastructure. This project will provide Baltimore Harbor with a state of the art passenger vessel designed for safe, efficient and environmentally friendly transportation of passengers around the developing waterfront.	$854,130
ME	Casco Bay Island Transit District	D2013-PFGP-12	Casco Bay Island Transit District will receive funding to improve an aging ferry terminal that was built over 25 years ago and allow for continued ferry service that connects the islands of Casco Bay with the mainland and each other. This project will improve the terminal's capacity to accommodate additional passengers and will enhance passenger access and safety.	$2,560,000
NJ	NJ TRANSIT	D2013-PFGP-13 ($5,612,124); D2014-PFGP-001 ($387,876)	NJ Transit will receive funding to improve the state of good repair of its ferry fleet by retrofitting the power and propulsion engine systems for its commuter ferry vessels. This project will allow for improved ferry service for approximately 30,000 daily passengers traveling between the New York - New Jersey metropolitan region.	$6,000,000
NY	New York City Department of Transportation	D2014-PFGP-002	The New York City Department of Transportation (NYCDOT), in partnership with the New York City Economic Development Corporation (NYCEDC), will receive funding for the Queens and Kings County Ferry Landing Modernization, which will upgrade and improve ferry landing structures and infrastructure at Hunter's Point South in Queens and at Brooklyn Bridge Park/Pier 6 in Brooklyn; and funding to convert a Staten Island Ferry vessel from diesel propulsion to Liquefied Natural Gas.	$6,000,000

FTA FY 2013 and 2014 Passenger Ferry Discretionary Funding Recommendations

State	Recipient	Project ID	Project Description	Allocation
NY	Suffolk County	D2014-PFGP-003	Suffolk County will receive funding to rehabilitate the Cross Sound Ferry Service Terminal located in Long Island's Orient Point. This project will improve the terminal's state of good repair and allow for continued ferry service, which provides more than 1.1 million annual passenger trips between Long Island and New London, Connecticut.	$1,232,000
PR	Highway and Transportation Authority, Puerto Rico	D2014-PFGP-004	The Highway and Transportation Authority of Puerto Rico will receive funding for the Ceiba Ferry facility, which will significantly improve passenger ferry service and provide a more direct route between mainland Puerto Rico and the island of Vieques. The project includes rerouting current service to a new location at the marina of the former Roosevelt Roads Naval Station.	$1,067,299
RI	Rhode Island Public Transit Authority	D2014-PFGP-005	The Rhode Island Public Transit Authority will receive funding to improve parking conditions at a new passenger ferry facility at Quonset Point in North Kingstown, Rhode Island. The improvements will make it easier for more than 65,000 annual passengers to access the Rhode Island Fast Ferry, which provides high-speed passenger ferry service from Rhode Island to Oak Bluffs and Martha's Vineyard in Dukes County, Massachusetts.	$279,200
TX	Brazos Transit District	D2014-PFGP-006	The Brazos Transit District will receive funding for the Woodlands Waterway Cruisers Capital project, which will replace aging equipment on six passenger ferries to ensure reliable service for thousands of residents and visitors within the Woodlands community.	$253,844
TX	Corpus Christi Regional Transportation Authority	D2014-PFGP-007	The Corpus Christi Regional Transportation Authority will receive funding to rehabilitate two dock landing areas for the Corpus Christi Harbor Ferry. The project will ensure safe and reliable passenger ferry service between the Texas State Aquarium/North Beach area and the Peoples Street T-Head in the Corpus Christi Marina.	$328,580

FTA FY 2013 and 2014 Passenger Ferry Discretionary Funding Recommendations

State	Recipient	Project ID	Project Description	Allocation
VA	Transportation District Commission of Hampton Roads	D2014-PFGP-008	The Transportation District Commission of Hampton Roads will receive funding to replace aging equipment and infrastructure on three passenger ferry vessels that provide service for the Elizabeth River Ferry, which connects the downtown centers of Norfolk and Portsmouth. The project will ensure safe, reliable and accessibile transportation for thousands of annual ferry passengers traveling to jobs, education and other destinations in the Hampton Roads region.	$4,423,201
VA	Virginia Department of Transportation	D2014-PFGP-009	The Virginia Department of Transportation (VDOT) will receive funding to implement a new commuter passenger ferry service from Jones Point Park in Alexandria, Virginia, to the Joint Base Anacostia-Bolling military installation in Southeast Washington, D.C. The new service will provide a new transit option for thousands of military and federal employees traveling to the base and the U.S. Department of Homeland Security's future headquarters at St. Elizabeths campus.	$3,380,000
VA	Williamsburg Area Transit Authority	D2014-PFGP-010	The Williamsburg Area Transit Authority will receive funding to replace an aging ferry boat, the Pocahontas, in order to ensure continued and reliable passenger ferry service between Jamestown and Surry, Virginia. The new ferry will be part of the Jamestown-Scotland Ferry service, which connects rural residents in Surry County to jobs, medical care and other destinations in James City County, which includes Jamestown and the City of Williamsburg.	$2,680,000
WA	King County Department of Transportation	D2014-PFGP-011	The King County Department of Transportation will receive funding to replace the aging, passenger ferry terminal at Colman Dock in downtown Seattle. The new ferry terminal will ensure safe and reliable passenger ferry service for more than eight million annual passengers who travel by ferry between downtown Seattle and communities in King County and the Olympic Peninsula.	$3,000,000

FTA FY 2013 and 2014 Passenger Ferry Discretionary Funding Recommendations

State	Recipient	Project ID	Project Description	Allocation
WA	Washington State Department of Transportation	D2014-PFGP-012	The Washington State Department of Transportation will receive funding to stabilize an aging seawall at the ferry terminal in Edmonds, Washington, to protect passengers and sustain service in the event of an earthquake. By stabilizing the seawall and preventing its failure, the project will ensure safe and reliable ferry service on the Edmonds-Kingston route, which serves more than three million passengers each year and connects the Kitsap Peninsula on the western side of Puget Sound to the greater Seattle area.	$2,268,000
WA	Washington State Department of Transportation	D2014-PFGP-013	The Washington State Department of Transportation will receive funding to replace an aging ferry terminal in Mukilteo, Washington, with a new facility located at a nearby vacant brownfield. The new terminal will ensure safe and reliable ferry service on the Mukilteo-Clinton route, which serves nearly four million passengers each year and connects Whidbey Island with the greater Seattle area.	$4,700,000
TOTAL				$59,940,000

[FR Doc. 2014–17248 Filed 7–21–14; 8:45 am]
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DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2014 0107]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel PUELCHE; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before August 21, 2014.

ADDRESSES: Comments should refer to docket number MARAD–2014–0107. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Linda Williams, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W23–453, Washington, DC 20590. Telephone 202–366–0903, Email *Linda.Williams@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel Puelche is:

Intended Commercial Use Of Vessel: ''Crewed sailboat charter.''

Geographic Region: ''Washington State.''

The complete application is given in DOT docket MARAD–2014–0107 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR Part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: July 8, 2014.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2014–16592 Filed 7–21–14; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF THE TREASURY

Financial Crimes Enforcement Network

Notice of Finding That FBME Bank Ltd., Formerly Known as Federal Bank of the Middle East, Ltd., Is a Financial Institution of Primary Money Laundering Concern

AGENCY: Financial Crimes Enforcement Network (''FinCEN''), Treasury.

ACTION: Notice of finding.

SUMMARY: This document provides notice that, pursuant to the authority contained in 31 U.S.C. 5318A, the Director of FinCEN found on July 15, 2014, that reasonable grounds exist for concluding that FBME Bank Ltd. (''FBME'' or the ''Bank''), formerly known as Federal Bank of the Middle East, Ltd., defined to include all of its branches, subsidiaries, and offices, is a financial institution operating outside of the United States of primary money laundering concern.

DATES: The finding referred to in this notice was effective as of July 15, 2014.

FOR FURTHER INFORMATION CONTACT: FinCEN, (800) 767–2825.

SUPPLEMENTARY INFORMATION:

I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (the ''USA PATRIOT Act''), Public Law 107–56. Title III of the USA PATRIOT Act amends the anti-money laundering (''AML'') provisions of the Bank Secrecy Act (''BSA''), codified at 12 U.S.C. 1829b, 12 U.S.C 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (the ''Secretary'') to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.

Section 311 of the USA PATRIOT Act (''Section 311''), codified at 31 U.S.C. 5318A, grants the Director of FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transaction, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern.

II. History of FBME and Jurisdictions of Operation

FBME was established in 1982 in Cyprus as the Federal Bank of the Middle East, Ltd., a subsidiary of the private Lebanese bank, Federal Bank of Lebanon. Both FBME and the Federal Bank of Lebanon are owned by Ayoub-Farid M. Saab and Fadi M. Saab. In 1986, FBME changed its country of incorporation to the Cayman Islands, and its banking presence in Cyprus was re-registered as a branch of the Cayman Islands entity. In 2003, FBME left the Cayman Islands due to problems with capital adequacy regulations and re-established itself in Tanzania by acquiring Delphis Bank, a small Tanzanian financial institution with three bank branches. At the same time, FBME's Cypriot operations became a branch of FBME Tanzania Ltd. In 2005, FBME formally changed its name from Federal Bank of the Middle East, Ltd. to FBME Bank Ltd.

Since 2003, FBME has been headquartered in Tanzania. FBME headquarters is widely regarded as the largest bank in Tanzania based on its $2 billion asset size, but it has only four branches. While FBME is presently headquartered in Tanzania, FBME transacts over 90% of its global banking business and holds over 90% of its assets in its Cyprus branch. FBME has always maintained a significant presence in Cyprus. FBME has stated, however, that it is not in direct competition with local retail banks in Cyprus for several reasons, including that it does not issue checks, has no retail counters, and its Cypriot customers are limited to mainly staff, contractors, and professionals providing services to FBME.

The Central Bank of Cyprus (''CBC''), which supervises and regulates all Cypriot banks, including branches of foreign financial institutions such as FBME, has found FBME's compliance with Cypriot banking laws and AML regulations deficient on at least two occasions. As evidenced by its failure to comply with the Cypriot AML law, FBME's weak AML controls and customer due diligence resulted in a fine by the CBC in 2008. In addition, in 2013, FBME took active steps to evade oversight by the Cypriot regulatory authorities. In November 2013, the CBC stated that FBME may be subject to sanctions and a fine of up to 240 million euro for alleged violations of capital controls.

III. The Extent To Which FBME Has Been Used To Facilitate or Promote Money Laundering In or Through Cyprus and Tanzania

1. FBME Facilitates Money Laundering, Terrorist Financing, Transnational Organized Crime, Fraud Schemes, Sanctions Evasion, Weapons Proliferation, Corruption by Politically-Exposed Persons, and Other Financial Crimes

FBME facilitated a substantial volume of money laundering through the Bank for many years. FBME is used by its customers to facilitate money laundering, terrorist financing, transnational organized crime, fraud, sanctions evasion, and other illicit activity internationally and through the U.S. financial system. FBME has systemic failures in its AML controls that attract high-risk shell companies, that is, companies formed for the sole purpose of holding property or funds and that do not engage in any legitimate business activity. FBME performs a significant volume of transactions and activities that have little or no transparency and often no apparent legitimate business purpose.

Through relationships developed by FBME's management since at least 2006, as well its large shell company customer base, FBME facilitates the activities of international terrorist financiers, organized crime figures, and money launderers. For example, since at least early 2011, the head of an international narcotics trafficking and money laundering network has used shell companies' accounts at FBME to engage in financial activity. In late 2012, the head of the same international narcotics trafficking and money laundering network continued to express interest in conducting financial transactions through accounts with FBME in Cyprus. Separately, in 2008, an FBME customer received a deposit of hundreds of thousands of dollars from a financier for Lebanese Hezbollah. FBME also facilitates financial activity for transnational organized crime. As of 2008, a financial advisor for a major transnational organized crime figure who banked entirely at FBME in Cyprus maintained a relationship with the owners of FBME.

FBME facilitated transactions for entities that perpetrate fraud and cybercrime against victims from around the world, including in the United States. For example, in 2009, FBME facilitated the transfer of over $100,000

to an FBME account involved in a High Yield Investment Program (''HYIP'') fraud against a U.S. person. In July 2012, the FBME customer operating the alleged HYIP was indicted in the United States District Court for the Northern District of Ohio for wire fraud and money laundering related to the HYIP fraud. FBME has processed payments for cybercrime networks. In September 2010, FBME facilitated the unauthorized transfer of over $100,000 to an FBME account from a Michigan-based company that was the victim of a phishing attack. Several FBME accounts have been the recipients of the proceeds of cybercriminal activity against U.S. victims. For example, in October 2012, an FBME account holder operating as a shell company was the intended beneficiary of over $600,000 in wire transfers generated from a fraud scheme, the majority of which came from a victim in California.

FBME's offshore banking business allows sanctioned entities to circumvent sanctions imposed by the International Emergency Economic Powers Act (''IEEPA''). IEEPA authorizes the President to declare the existence of an unusual and extraordinary threat to the national security, foreign policy, or economy of the United States originating outside the United States. It further authorizes the President, after such a declaration, to impose sanctions, block transactions, and freeze assets to respond to the threat. FBME facilitates U.S. sanctions evasion through its extensive customer base of shell companies. For example, at least one FBME customer is a front company for a U.S.-sanctioned Syrian entity, the Scientific Studies and Research Center (''SSRC''), which has been designated as a proliferator of weapons of mass destruction. The SSRC front company used its FBME account to process transactions through the U.S. financial system. This SSRC front company also shared a Tortola, British Virgin Islands (''BVI'') address with at least 111 other shell companies, including at least one other additional FBME customer that is subject to international sanctions.

FBME solicits and is recognized by its high-risk customers for its ease of use. FBME advertises the Bank to its potential customer base as willing to facilitate the evasion of AML regulations. Separately, FBME is recognized for the ease of its account creation. In September 2013, FBME's offshore bank account services were featured prominently on a Web site that facilitates the formation of offshore entities. FBME is also popular with online gamblers, particularly U.S. gamblers that seek to engage in unlawful internet gambling. One Web site that encourages the opening of offshore bank accounts to gamble online notes that FBME in Cyprus is ''[a]nother Europe-based bank [we've] found particularly easy to deal with.''

In October 2011, the Department of Justice (''DOJ'') filed civil forfeiture complaints against approximately $70.8 million in real and personal property alleged to be the proceeds of foreign corruption offenses perpetrated by the President of Equatorial Guinea, Teodoro Obiang's son and his associates and laundered through the United States. Subsequently, between December 2011 and July 2012, the Treasury of Equatorial Guinea wired over $47 million to several Cypriot banks and entities in a pattern of transactions that was identified as being consistent with the allegations in the DOJ complaint. This included $7.2 million wired to a British shell company using an FBME account.

2. FBME's Weak AML Controls Encourage Use of the Bank by Shell Companies and Allow Its Customers To Perform a Significant Volume of Obscured Transactions and Activities Through the U.S. Financial System

FBME accesses the U.S. financial system through both direct and indirect correspondent accounts. In 2009, one U.S. financial institution terminated its banking relationship with FMBE based on money laundering concerns. The volume of suspicious wire activity conducted by FBME customers through the U.S. financial system, however, remains significant. In just the year from April 2013 through April 2014, FBME conducted at least $387 million in wire transfers through the U.S. financial system that exhibited indicators of high-risk money laundering typologies, including widespread shell company activity, short-term ''surge'' wire activity, structuring, and high-risk business customers.

FBME has a significant number of shell company customers nominally based in Cyprus and in other high-risk jurisdictions. Wire transfers related to suspected shell company activities accounted for hundreds of millions of dollars of FBME's financial activity between 2006 and 2014. For example, FBME was involved in at least 4,500 suspicious wire transfers through U.S. correspondent accounts that totaled at least $875 million between November 2006 and March 2013. The FBME customers involved in these wire transfers exhibited shell company attributes, and other financial institutions involved in the transfers reported that they were unable to verify the identities of FBME's customers. A lack of transparency for such significant wire activity involving FBME's customers makes it extremely difficult for U.S. and other financial institutions involved in these transactions to verify the *bona fides* of all of the parties to these transfers.

FBME customers, including its many shell company customers, have frequently used FBME's Cyprus address to conduct collectively tens of millions of dollars of transactions. From July 2007 to February 2013, at least 71 entities used FBME's Cyprus address to conduct transactions through the U.S. financial system. Although there may be rare occasions when use of the bank's address as a bank customer's address of record is legitimate, such a practice is highly unusual and indicative of the bank's potential complicity in its customers' illicit activities. This is particularly true if a party to such a transaction is located in a high-risk or sanctioned jurisdiction. Obscuring the true address of the customer inhibits compliance checks by counterparty or intermediary financial institutions.

IV. The Extent To Which FBME Is Used for Legitimate Business Purposes in Cyprus and Tanzania

Legitimate activity at FBME's Cyprus branch is difficult to assess because of the limited amount of information that is available regarding Cypriot branches of foreign banks, such as FBME. FBME claims to have a relatively limited number of customers in Cyprus, yet it also states that it transacts over 90% of its global banking business, and holds over 90% of its assets, in its Cyprus branch. As discussed in this Notice of Finding, FBME functions largely as an offshore bank catering to a significant number of shell entities that are nominally located in Cyprus and other high-risk jurisdictions.

V. The Extent To Which This Action Is Sufficient to Guard Against International Money Laundering and Other Financial Crimes.

FinCEN's July 22, 2014 proposed imposition of the fifth special measure would guard against the international money laundering and other financial crime risks described above directly by restricting the ability of FBME to access the U.S. financial system to process transactions, and indirectly by public notification to the international financial community of the risks posed by dealing with FBME.

Dated: July 15, 2014.

Jennifer Shasky Calvery,

Director, Financial Crimes Enforcement Network.

[FR Doc. 2014–17171 Filed 7–21–14; 8:45 am]

BILLING CODE 4810–02–P

DEPARTMENT OF THE TREASURY

United States Mint

Citizens Coinage Advisory Committee Meeting

ACTION: Notification of Citizens Coinage Advisory Committee July 22, 2014, Public Meeting.

SUMMARY: Pursuant to United States Code, Title 31, section 5135(b)(8)(C), the United States Mint announces the Citizens Coinage Advisory Committee (CCAC) public meeting scheduled for July 22, 2014.

Date: July 22, 2014

Time: 3:00 p.m. to 4:00 p.m. EDT

Location: This meeting will occur *via teleconference.* Interested members of the public may attend the meeting at the United States Mint; 801 9th Street NW., Washington, DC; Conference Room A.

Subject: Discussion of a potential 2015 24-Karat Gold Ultra-High Relief Coin and Silver Medal.

Interested persons should call the CCAC HOTLINE at (202) 354–7502 for the latest update on meeting time and room location.

In accordance with 31 U.S.C. 5135, the CCAC:

- Advises the Secretary of the Treasury on any theme or design proposals relating to circulating coinage, bullion coinage, Congressional Gold Medals, and national and other medals.
- Advises the Secretary of the Treasury with regard to the events, persons, or places to be commemorated by the issuance of commemorative coins in each of the five calendar years succeeding the year in which a commemorative coin designation is made.
- Makes recommendations with respect to the mintage level for any commemorative coin recommended.

FOR FURTHER INFORMATION CONTACT: William Norton, United States Mint Liaison to the CCAC; 801 9th Street NW., Washington, DC 20220; or call 202–354–7200.

Any member of the public interested in submitting matters for the CCAC's consideration is invited to submit them by fax to the following number: 202–756–6525.

Authority: 31 U.S.C. 5135(b)(8)(C).

Dated: July 17, 2014.

Richard A. Peterson,

Deputy Director, United States Mint.

[FR Doc. 2014–17245 Filed 7–21–14; 8:45 am]

BILLING CODE 4810–37–P

FEDERAL REGISTER

Vol. 79 Tuesday,

No. 140 July 22, 2014

Part II

The President

Notice of July 18, 2014—Continuation of the National Emergency With Respect to Transnational Criminal Organizations

Federal Register
Vol. 79, No. 140
Tuesday, July 22, 2014

Presidential Documents

Title 3—

The President

Notice of July 18, 2014

Continuation of the National Emergency With Respect to Transnational Criminal Organizations

On July 24, 2011, by Executive Order 13581, I declared a national emergency with respect to transnational criminal organizations pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706) to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the activities of significant transnational criminal organizations.

The activities of significant transnational criminal organizations have reached such scope and gravity that they threaten the stability of international political and economic systems. Such organizations are becoming increasingly sophisticated and dangerous to the United States; they are increasingly entrenched in the operations of foreign governments and the international financial system, thereby weakening democratic institutions, degrading the rule of law, and undermining economic markets. These organizations facilitate and aggravate violent civil conflicts and increasingly facilitate the activities of other dangerous persons.

The activities of significant transnational criminal organizations continue to pose an unusual and extraordinary threat to the national security, foreign policy, and economy of the United States. For this reason, the national emergency declared in Executive Order 13581 of July 24, 2011, and the measures adopted on that date to deal with that emergency, must continue in effect beyond July 24, 2014. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to transnational criminal organizations declared in Executive Order 13581.

This notice shall be published in the *Federal Register* and transmitted to the Congress.

THE WHITE HOUSE,
July 18, 2014.

[FR Doc. 2014–17402
Filed 7–21–14; 11:15 am]
Billing code 3295–F4

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