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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2013–1071]

Security Zones; Annual Events in the Captain of the Port Detroit Zone—North American International Auto Show, Detroit River, Detroit, MI

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce a security zone associated with the North American International Auto Show, Detroit River, Detroit, MI. This security zone is intended to restrict vessels from a portion of the Detroit River in order to ensure the safety and security of participants, visitors, and public officials at the North American International Auto Show, which is being held at Cobo Hall in downtown Detroit, MI. Vessels in close proximity to the security zone will be subject to increased monitoring and boarding during the enforcement of the security zone. No person or vessel may enter the security zone while it is being enforced without permission of the Captain of the Port Detroit.

DATES: The security zone regulation described in 33 CFR 165.915(a)(3) will be enforced from 8 a.m. on January 12, 2015 through 11:59 p.m. on January 25, 2014.

FOR FURTHER INFORMATION CONTACT: If you have questions on this document, call or email LT Adrian Palomeque, Prevention, U.S. Coast Guard Sector Detroit, 110 Mount Elliot Ave., Detroit, MI 48207; telephone (313) 568–9508; email *Adrian.F.Palomeque@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the North American International Auto Show, Detroit River, Detroit, MI security zone listed in 33 CFR 165.915(a)(3). This security zone includes all waters of the Detroit River encompassed by a line beginning at a point of origin on land adjacent to the west end of Joe Lewis Arena at 42°19.44′ N, 083°03.11′ W; then extending offshore approximately 150 yards to 42°19.39′ N, 083°03.07′ W; then proceeding upriver approximately 2000 yards to a point at 42°19.72′ N, 083°01.88′ W; then proceeding onshore to a point on land adjacent the Tricentennial State Park at 42°19.79′ N, 083°01.90′ W; then proceeding downriver along the shoreline to connect back to the point of origin. All coordinates are North American Datum 1983.

All persons and vessels shall comply with the instructions of the Captain of the Port Detroit or his designated on-scene representative, who may be contacted via VHF Channel 16.

Under the provisions of 33 CFR 165.33, no person or vessel may enter or remain in this security zone without the permission of the Captain of the Port Detroit. Each person and vessel in this security zone shall obey any direction or order of the Captain of the Port Detroit. The Captain of the Port Detroit may take possession and control of any vessel in this security zone. The Captain of the Port Detroit may remove any person, vessel, article, or thing from this security zone. No person may board, or take or place any article or thing on board any vessel in this security zone without the permission of the Captain of Port Detroit. No person may take or place any article or thing upon any waterfront facility in this security zone without the permission of the Captain of the Port Detroit.

Vessels that wish to transit through this security zone shall request permission from the Captain of the Port Detroit or his designated representative. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. Approvals may be granted on a case by case basis. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF–FM. The Coast Guard will give notice to the public via Local Notice to Mariners and VHF radio broadcasts that the regulation is in effect.

This document is issued under authority of 33 CFR 165.915 and 5 U.S.C. 552(a). If the Captain of the Port determines that this security zone need not be enforced for the full duration stated in this document; he may suspend such enforcement and notify the public of the suspension via a Broadcast Notice to Mariners.

Dated: December 18, 2014.

S.B. Lemasters,

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

[FR Doc. 2015–00261 Filed 1–9–15; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0163; FRL–9921–19–Region 7]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving revisions to the State Implementation Plan (SIP) for the state of Iowa. The purpose of these revisions is to update the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. The revisions reflect updates to the Iowa statewide rules previously approved by EPA and will ensure consistency between the applicable local agency rules and Federally-approved rules. On April 15, 2014, the state notified EPA that it is withdrawing their request to approve greenhouse gases definition as relating to greenhouse gas emissions. This withdrawal request is in recognition of the July 12, 2013, U.S. Court of Appeals for the District of Columbia decision which vacated the regulation known as the ''biogenic deferral rule.'' On October 31, 2014, the state requested that EPA withdraw their request to approve the definition of anaerobic lagoon.

DATES: This direct final rule will be effective March 13, 2015 without further notice, unless EPA receives adverse comment by February 11, 2015. If EPA receives adverse comment, we will publish a timely withdrawal of the direct final rule in the **Federal Register**

informing the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0163, by one of the following methods:

1. *www.regulations.gov*. Follow the on-line instructions for submitting comments.
2. *Email: Hamilton.heather@epa.gov*.
3. *Mail or Hand Delivery: Hamilton.heather@epa.gov,* Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219.

Instructions: Direct your comments to Docket ID No. EPA–R07–OAR–2014–0163. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through *www.regulations.gov* or email information that you consider to be CBI or otherwise protected. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to EPA without going through *www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. The Regional Office's official hours of business are Monday through Friday, 8:00 to 4:30 excluding legal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219 at (913) 551–7039, or by email at *hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document ''we,'' ''us,'' or ''our'' refer to EPA. This section provides additional information by addressing the following questions:

I. What is being addressed in this document?
II. Have the requirements for approval of a SIP revision been met?
III. What action is EPA taking?
IV. Statutory and Executive Order Reviews

I. What is being addressed in this document?

The State of Iowa has requested EPA approval of revisions to the local agency's rules and regulations, chapter V, ''Air Pollution,'' as a revision to the SIP. In order for the local program's ''Air Pollution'' rules to be incorporated into the Federally-enforceable SIP, on behalf of the local agency, the state must submit the formally adopted regulations and control strategies, which are consistent with the state and Federal requirements, to EPA for inclusion in the SIP. The regulation adoption process generally includes public notice, a public comment period and a public hearing, and formal adoption of the rule by the state authorized rulemaking body. In this case, that rulemaking body is the local agency. After the local agency formally adopts the rule, the local agency submits the rulemaking to the state, and then the state submits the rulemaking to EPA for consideration for formal action (inclusion of the rulemaking into the SIP). EPA must provide public notice and seek additional public comment regarding the proposed Federal action on the state's submission.

EPA received the request from the state to adopt revisions to the local air agency rules into the SIP on September 20, 2013. The revisions were adopted by the local agency on July 30, 2013, and became effective on August 5, 2013. EPA is approving the requested revisions to the Iowa SIP relating to the following:

- Article I. In General, Section 5–1. Purpose and Ambient Air Quality Standards;
- Article I. In General, Section 5–2. Definitions;
- Article II. Authority, Section 5–3. Duties of Health Officer;
- Article II. Authority, Section 5–4. Powers of Health Officer;
- Article III. Incinerator and Open Burning, Section 5–7. Open Burning Prohibited;
- Article VII. Performance Test for Stack Emission Test, Section 5–18. Testing and Sampling of New and Existing Equipment;
- Article X. Permits, Division 1. Construction Permits, Section 5–31. Issuance of Permit;
- Article X. Permits, Division 1. Construction Permits, Section 5–33. Exemptions from Permit Requirements;
- Article X. Permits, Division 1. Construction Permits, Section 5–34. Construction Permit Filing/Review Fees;
- Article X. Permits, Division 1. Construction Permits, Section 5–35.1. Annual/Operating Permit Fees;
- Article X. Permits, Division 2. Operating Permits, Section 5–39. Exemptions from Permit Requirement;
- Article X. Permits, Division 2. Operating Permits, Section 5–50. Evidence used in establishing that a violation has or is occurring;
- Article XI. Compliance Schedules, Section 5–56. Compliance Schedules Required;
- Article XI. Compliance Schedules, Section 5–57. Progress Reports Required.

EPA's action does not cover revisions to:

- Article I. In General, Section 5–2. Definitions; Anaerobic Lagoon and Greenhouse Gases;
- Article III. Incineration and Open Burning, Section 5–7(d), Variance Application;
- Article VI. Sections 5–16(n), (o), and (p) which pertain to New Source Performance Standards (NSPS);
- Article VIII. which pertain to National Emission Standards Hazardous Air Pollutants (NESHAPS);
- Article X. Permits, Division 1. Construction permits, Section 5–35. Operating Permit Required.

On April 15, 2014, the state amended their request and notified EPA that it is withdrawing their requests to approve section 5–1 of article I to adopt greenhouse gases definition and section 5–35(b)(5) of article X relating to greenhouse gas emissions. This withdrawal request is in recognition of the July 12, 2013 U.S. Court of Appeals for the District of Columbia decision which vacated the regulation known as

the ''biogenic deferral rule'' (No. 11–1101 (D.C. Cir., July 12, 2013)). On October 31, 2014, the state requested that EPA withdraw their request to approve the definition of anaerobic lagoon.

II. Have the requirements for approval of a SIP revision been met?

The state submission has met the public notice requirements for SIP submissions in accordance with 40 CFR 51.102. The submission also satisfied the completeness criteria of 40 CFR part 51, appendix V.

III. What action is EPA taking?

We are taking direct final action to approve the amendments to the Polk County Board of Health Rules and Regulations, Chapter V, ''Air Pollution.'' The local agency routinely revises its ''Air Pollution'' regulations to be consistent with the Federally-approved Iowa Administrative Code. The state amended their request and notified EPA that it is withdrawing their requests to approve section 5–1 of article I to adopt greenhouse gases definition and section 5–35(b)(5) of article X relating to greenhouse gas emissions. This withdrawal request is in recognition of the July 12, 2013, U.S. Court of Appeals for the District of Columbia decision which vacated the regulation known as the ''biogenic deferral rule'' (No. 11–1101 (D.C. Cir., July 12, 2013)). On October 31, 2014, the state requested that EPA withdraw their request to approve the definition of anaerobic lagoon.

The local agency's ''Air Pollution'' rules are consistent with state and Federal regulations and are revised as follows:

Article I, section 5–1(c) is revised to cite the cross reference to state-approved rules at (455B). Definitions are added to section 5–2 as follows: Country grain elevator; Department; Director or his designee; Emergency generator; Grain processing; Grain storage elevator, and Maximum achievable control technology (MACT) floor. The definitions to EPA reference method; Particulate matter, and Potential to emit are revised.

Article II, sections 5–3 and 5–4, addresses the duties and powers of the health officer and is revised to change the term ''board of health'' to ''health officer.''

Article III addresses incineration and open burning, and is reorganized to include the headings ''prohibition,'' ''burn permits,'' and ''exemptions.'' Section 5–7(b) ''burn permits'' is revised to include an expanded explanation of training fires, and the conditions that must be met to prior to conducting such a fire. Section 5–7(c) ''exemptions'' is revised to include the exemption of fireplaces or grills, outdoor patio heaters, and recreational bonfires, fireplaces and grills.

Article VII, section 5–18 revises performance test for stack emission test as it relates to new and existing equipment, and details testing procedures. Reference methods are amended to reflect the most current Federal revisions.

Article X, division 1, Construction Permits, section 5–31 language is revised to state each permit shall not be transferable from one piece of equipment to another. A paragraph is added to provide detailed information with regard to written notification prior to transferring equipment to a new location.

Article X, section 5–33, Exemptions from Permit Requirements amends equipment used for cultivating land, harvesting crops, or raising livestock other than anaerobic lagoons; incinerators and paint hook burn-off ovens with a manufacturer's design capacity less than 25 pounds per hour; internal combustion engine burning exclusively natural gas or propane with a brake horsepower rating of less than 100 measures at the shaft; production welding, and new or modified welding operation limitations for solder containing lead.

The final revision in article X, division I, is in section 5–34, Construction Permit filing/review fees, revises the accurate name of the Air Quality Division and states that permit fees will become part of the Air Quality Enterprise fund. A paragraph is being added to describe the circumstances investigation fees are paid for work that has commenced prior to obtaining a permit.

Article X, Permits, division 2, Operating Permits, section 5–35.1, Annual/Operating Permit Fees, removes the exemption for certain applicants and accurately identifies who to pay fees to, as well as stating the fees will become part of the Air Quality Enterprise fund.

Article X, section 5–39, amends subparagraph (a)(1) which refers to incinerators, and is revised to remove pyrolysis cleaning furnaces and add paint hook burn-off ovens. Incinerators installed in a single family dwelling is removed and a sentence is added to state that combustible material shall not contain lead. Subparagraph (a)(43) Production Welding, is revised to acceptable specifications for Gas Metal Arc Welding to 12,500 pounds per year, and Shielded Metal Arc Welding to 1,600 pounds per year. Subparagraph (a)(44) is amended to add that new or modified welding operations will be limited to 37,000 pounds per year of lead-containing solder. Two new paragraphs are added as exemptions at (a)(51), equipment used for cultivating land, harvesting crops, or raising livestock other than anaerobic lagoons, and (a)(52) internal combustion engine burning exclusively natural gas or propane with a brake horsepower rating of less than 100 measures at the shaft.

Article X, section 5–50, is amended to add two new subsections. The first subsection addresses methods of presumptively credible evidence of whether a violation has occurred at a source that includes a monitoring method approved for the source and incorporated in an operating permit; compliance test methods, and, testing or monitoring methods approved for the source in an issued construction permit. The second subsection addresses presumptively credible testing, monitoring or information-gathering methods that include any monitoring or testing methods provided in the Polk County rules, or, other testing, monitoring or information-gathering methods that produce information comparable to that produced by any above.

Article XI, Compliance Schedules, section 5–56, Compliance Schedules Required is amended to clarify the time (30 days) in which the health officer determines in writing that satisfactory progress towards the elimination or prevention of air pollution is made. Administrative changes are also made to this section.

Article XI, section 5–57, is amended to make administrative changes and to add that on the determination of unsatisfactory progress, the health office may deny or suspend the compliance schedule and institute appropriate legal proceedings to enforce this chapter (referring to Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution). Additional information on the details of the Polk County revisions, which are being approved, is found in the Technical Support Document in the docket of this rulemaking.

We are publishing this rule without a prior proposed rule because we view this as a noncontroversial amendment and anticipate no adverse comment because the revisions are largely administrative and consistent with Federal regulations. However, in the ''Proposed Rules'' section of this **Federal Register**, we are publishing a separate document that will serve as the proposed rule to approve the SIP revision if adverse comments are

received on this direct final rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so at this time. For further information about commenting on this rule, see the **ADDRESSES** section of this document.

If EPA receives adverse comment, we will publish a timely withdrawal in the **Federal Register** informing the public that this direct final rule will not take effect. We will address all public comments in any subsequent final rule based on the proposed rule.

IV. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a ''significant regulatory action'' under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under Executive Orders 12866 and 13563 (76 FR 3821, January 21, 2011).
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

The SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it impose substantial direct costs on tribal governments or preempt tribal law.

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 13, 2015. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. Parties with objections to this direct final rule are encouraged to file a comment in response to the parallel notice of proposed rulemaking for this action published in the proposed rules section of this **Federal Register**, rather than file an immediate petition for judicial review of this direct final rule, so that EPA can withdraw this direct final rule and address the comment in the proposed rulemaking. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

Dated: December 19, 2014.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency amends 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. In § 52.820, the table in paragraph (c) is amended by revising the entry for ''CHAPTER V'' to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
*	*	*	*	*
Polk County				
CHAPTER V	Polk County Board of Health Rules and Regulations Air Pollution Chapter V	08/05/13	1/12/15 [Insert **Federal Register** citation]	Article I, Section 5–2, definition of ''variance,'' ''anaerobic lagoon,'' and ''greenhouse gases''; Article III, Incineration and Open Burning, Section 5–7(d) Variance Application; Article VI, Sections 5–16(n), (o) and (p); Article VIII; Article IX, Sections 5–27(3) and (4); Article X, Section 5–28, subsections (a) through (c), and Article X, Section 5–35(b)(5); Article XIII; and Article XVI, Section 5–75 are not part of the SIP. Article VI, Section 5–17, adopted by Polk County on 7/26/2011, is not part of the SIP, and the previously approved version of Article VI, Section 5–17 remains part of the SIP.

* * * * *

[FR Doc. 2015–00079 Filed 1–9–15; 8:45 am]

BILLING CODE 6560–50–P

Proposed Rules

Federal Register
Vol. 80, No. 7
Monday, January 12, 2015

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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–109; NRC–2014–0257]

Improved Identification Techniques Against Alkali-Silica Reaction Concrete Degradation at Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of docketing, and request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking (PRM) from Sandra Gavutis on behalf of C–10 Research and Education Foundation (C–10 or the petitioner), dated September 25, 2014, requesting that the NRC amend its regulations to provide improved identification techniques against Alkali-Silica Reaction (ASR) concrete degradation at nuclear power plants. The petition was docketed by the NRC on October 8, 2014, and has been assigned Docket No. PRM–50–109. The NRC is requesting public comments on this petition for rulemaking.

DATES: Submit comments by March 30, 2015. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or 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–2014–0257. Address questions about NRC dockets to Carol Gallagher; telephone: 301–287–3422; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual(s) 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 accessing information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Jessica Kratchman, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–5112, email: *Jessica.Kratchman@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2014–0257 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–2014–0257.
- *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–2014–0257 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. The Petitioner

The petition states that C–10 is a non-profit organization that ''evolved from'' *Citizens within the Ten-Mile Radius,* which C–10 claims is a 5,000 member organization founded in 1986 to challenge evacuation plans for the [NextEra] Seabrook Station reactor. The petition represents that C–10 was established in 1991 to address the health and safety issues related to the [NextEra] Seabrook Station nuclear power plant. The petition further states that ''C–10 has been engaging the NRC about concrete degradation at Seabrook since December 22, 2011,'' and that the Union of Concerned Scientists assisted C–10 in preparing this petition.

III. The Petition

Sandra Gavutis, Executive Director, submitted a PRM on behalf of C–10, dated September 25, 2014 (ADAMS Accession No. ML14281A124), requesting that the NRC amend its

regulations to improve identification techniques against ASR concrete degradation at nuclear power plants. The NRC has determined that the petition meets the threshold sufficiency requirements for a PRM under § 2.802 of Title 10 of the *Code of Federal Regulations,* ''Petition for rulemaking,'' and the petition has been docketed as PRM–50–109. The NRC is requesting public comments on this PRM.

IV. Discussion of the Petition

At an NRC public meeting at Seabrook Station on June 24, 2014, the petitioner asked the NRC if the agency was investigating the U.S. nuclear fleet for ASR concrete degradation. The NRC staff responded that ASR concrete degradation could be adequately indicated through visual examination. However, an NRC position paper, ''In Situ Monitoring of ASR-affected Concrete,'' November 2012 (ADAMS Accession No. ML13108A047), states, ''ASR can exist in concrete without indications of pattern cracking,'' and that for ''. . . structures exposed to ASR, internal damage occurs through the depth of the section but visible cracking is suppressed by heavy reinforcement. . . .'' When NextEra determined 131 locations with ''assumed'' ASR visual signs within multiple power-block structures at Seabrook Station during 2012, further engineering evaluations were not required by the NRC.

The petitioner requests that the NRC amend its regulations to improve identification techniques against ASR concrete degradation at U.S. nuclear power plants. The petitioner suggests that the reliance on a visual inspection does not ''adequately identify Alkali-Silica Reaction (ASR), does not confirm ASR, or provide the current state of ASR damage (if present) without petrographic analysis under current existing code.'' The petitioner asserts that codes and standards exist that are capable of detecting ASR and determining the key material properties needed to evaluate the degree and severity of ASR damage. American Concrete Institute (ACI) Standard 349.3R, ''Evaluation of Existing Nuclear Safety-Related Concrete Structures,'' for instance, has been endorsed by the NRC (ADAMS Accession No. ML112241029) as an acceptable method of protecting against excessive ASR concrete degradation, but is not a regulatory requirement. The petitioner requests that the NRC amend its regulations to require that all licensees comply with industry codes and standards that have ''already been endorsed by the agency,'' and identified two standards for which the NRC's regulations should require compliance: (1) ACI Standard 349.3R; and (2) American Society for Testing & Materials (ASTM) C856–11, ''Standard Practice for Petrographic Examination of Hardened Concrete.''

Dated at Rockville, Maryland, this 5th day of January, 2015.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2015–00199 Filed 1–9–15; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Part 431

[Docket No. EERE–2013–BT–STD–0006]

RIN 1904–AC55

Energy Efficiency Program for Commercial and Industrial Equipment: Energy Conservation Standards for Commercial and Industrial Fans and Blowers

AGENCY: Office of Energy Efficiency and Renewable Energy, Department of Energy.

ACTION: Extension of public comment period.

SUMMARY: On December 10, 2014, the Department of Energy (DOE) published a notice of data availability (NODA) which presented a provisional analysis that estimates the potential economic impacts and energy savings that could result from promulgating a regulatory energy conservation standard for commercial and industrial fans and blowers. DOE did not propose any energy conservation standard for commercial and industrial fans and blowers. However, DOE published its analysis and the underlying assumptions and calculations, which may ultimately support a proposed standard, for stakeholder review. In response to requests by stakeholders, the comment period for the NODA is being extended to February 25, 2015.

DATES: The comment period for the notice of data availability relating to commercial and industrial fan and blower equipment is extended to February 25, 2015.

ADDRESSES: Interested persons may submit comments, identified by docket number EERE–2013–BT–STD–0006 and/or Regulation Identification Number (RIN) 1904–AC55, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: CIFB2013STD0006@EE.Doe.Gov.* Include EERE–2013–BT–STD–0006 and/or RIN 1904–AC55 in the subject line of the message.
- *Mail:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a compact disc (CD), in which case it is not necessary to include printed copies. [Please note that comments and CDs sent by mail are often delayed and may be damaged by mail screening processes.]
- *Hand Delivery/Courier:* Ms. Brenda Edwards, U.S. Department of Energy, Building Technologies Program, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone (202) 586–2945. If possible, please submit all items on CD, in which case it is not necessary to include printed copies.

Docket: The docket is available for review at *www.regulations.gov*, including **Federal Register** notices, public meeting attendee lists and transcripts, comments, and other supporting documents/materials. All documents in the docket are listed in the *www.regulations.gov* index. However, not all documents listed in the index may be publicly available, such as information that is exempt from public disclosure. The rulemaking Web page can be found at: *http://www1.eere.energy.gov/buildings/appliance_standards/rulemaking.aspx/ruleid/25.* This Web page contains a link to the docket for this notice on the regulation.gov site. The *www.regulations.gov* Web page contains instructions on how to access all documents in the docket, including public comments.

FOR FURTHER INFORMATION CONTACT:

Mr. Ron Majette, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies, EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–7935. Email: *CIFansBlowers@ee.doe.gov.*

Mr. Peter Cochran, U.S. Department of Energy, Office of the General Counsel, GC–33, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–9496. Email: *peter.cochran@hq.doe.gov.*

For further information on how to submit a comment and review other public comments and the docket, contact Ms. Brenda Edwards at (202) 586–2945 or by email: *Brenda.Edwards@ee.doe.gov.*

SUPPLEMENTARY INFORMATION: On December 10, 2014, DOE published a

notice of data availability (NODA) in the **Federal Register** to make available and invite comments on its provisional analysis regarding energy conservation standards for commercial and industrial fans and blowers. 79 FR 73246. The NODA provided for the written submission of comments by January 26, 2015. The Air Movement and Control Association International (AMCA) and the Appliance Standards Awareness Project (ASAP) requested an extension of the public comment period by 45 days. Stakeholders stated that additional time is necessary to review of the published analysis in order to provide, prepare, and submit comments accordingly. DOE has determined that extending the comment period to allow additional time for interested parties to submit comments is appropriate based on the foregoing reason. However, DOE believes a 30 day extension, providing a total comment period of 75 days, allows sufficient time for submitting comments. Accordingly, DOE will consider any comments received by midnight of February 25, 2015, and deems any comments received by that time to be timely submitted.

Issued in Washington, DC, on December 31, 2014.

Kathleen B. Hogan,

Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.

[FR Doc. 2015–00234 Filed 1–9–15; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 284

[Docket No. RM14–2–000]

Coordination of the Scheduling Processes of Interstate Natural Gas Pipelines and Public Utilities

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking; notice of extension of time.

SUMMARY: On December 12, 2014, pursuant to authority delegated to the Director, Office of Energy Policy and Innovation, a data request was issued to each ISO and RTO regarding the effect on the reliable and efficient operations of natural gas-fired generators of the current 9 a.m. CCT start to the Gas Day. The requests seek data from the ISOs/RTOs with respect to derates by natural gas generators during the morning ramp period. This notice extends the deadline to submit answers in response to these data requests.

DATES: Responses to the data request must be filed on or before January 22, 2015 in Docket No. RM14–2–000. Comments on the responses to the data request must be filed in the same docket within 10 days of the data request response, on or before February 2, 2015.

ADDRESSES: Responses and Comments, identified by docket number, may be filed in the following ways:

- Electronic Filing through *http://www.ferc.gov*. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.
- Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE., Washington, DC 20426.

Instructions: For detailed instructions on submitting responses and comments, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Anna Fernandez (Legal Information), Federal Energy Regulatory Commission, Office of the General Counsel, 888 First Street NE., Washington, DC 20426, 202–502–6682.

Caroline Daly Wozniak (Technical Information), Federal Energy Regulatory Commission, Office of Energy Policy and Innovation, 888 First Street NE., Washington, DC 20426, 202–502–8931.

SUPPLEMENTARY INFORMATION: On January 5, 2015, the ISO/RTO Council (IRC) filed a motion requesting a 10-day extension of time (motion) until January 22, 2015 to submit answers to the data requests issued on December 12, 2014, as requested by the Office of Energy Policy and Innovation, in the above-referenced proceeding.[1] In its motion, IRC states that the additional time is needed due to the amount of source data required to review, the intervening holidays, and other intervening data response commitments.

Upon consideration, notice is hereby given to all parties that IRC's motion is granted, extending the deadline to submit answers to and including January 22, 2015; and to submit comments in response to those answers, to and including February 2, 2015.

[1] Letters requesting a response to the data requests under RM14–2–000 were issued to the following ISOs and RTOs: ISO New England, New York Independent System Operator, Inc., California Independent System Operator, Southwest Power Pool, Inc., PJM Interconnection, L.L.C., and Midcontinent Independent System Operator, Inc.

Dated: January 7, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00263 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 112

[Docket No. FDA–2014–N–2244]

RIN 0910–AG35

Draft Environmental Impact Statement for the Proposed Rule, Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption; Notice for Public Meeting on Draft Environmental Impact Statement

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting.

SUMMARY: The Food and Drug Administration (FDA or we) has made available for public review and comment the Draft Environmental Impact Statement (EIS) for the proposed rule establishing standards for the growing, harvesting, packing, and holding of produce for human consumption. The document is available in Docket No. FDA–2014–N–2244. FDA is also announcing a public meeting to discuss the Draft EIS. The purpose of the public meeting is to inform the public of the findings in the Draft EIS, to provide information about the EIS process (including how to submit comments, data, and other information to the docket), to solicit oral stakeholder and public comments on the Draft EIS, and to provide clarification, as needed, about the contents of the Draft EIS.

DATES: See section II, ''How to Participate in the Public Meeting'' in the **SUPPLEMENTARY INFORMATION** section of this document for date and time of the public meeting, closing dates for advance registration, and information on deadlines for submitting either electronic or written comments on the Draft EIS.

ADDRESSES: You may submit comments by any of the following methods.

Electronic Submissions

Submit electronic comments in the following way:

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

Written Submissions

Submit written submissions in the following ways:

- *Mail/Hand delivery/Courier* (for paper): Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Instructions: All submissions received must include the Docket No. FDA–2014–N–2244. All comments received may be posted without change to *http://www.regulations.gov,* including any personal information provided.

Docket: For access to the docket to read background documents or comments received, go to *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

Public Meeting: See section II, ''How to Participate in the Public Meeting'' in **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

For questions about the Draft Environmental Impact Statement, or submitting comments contact: Annette McCarthy, Center for Food Safety and Applied Nutrition (HFS–205), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 240–402–1057.

For questions about registering for the meeting, to register by phone, or to submit a notice of participation by mail, FAX, or email, contact: Rick Williams, c/o FDA EIS, 72 Loveton Circle, Sparks, MD 21152; telephone: 410–316–2377; FAX: 410–472–3289; email: *RWilliams@jmt.com.*

For general questions about the meeting, to request an opportunity to make an oral presentation at the public meeting, to submit the full text, comprehensive outline, or summary of an oral presentation, or for special accommodations due to a disability, contact: Cynthia Wise, Center for Food Safety and Applied Nutrition (HFS–300), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, telephone: 240–402–1357, email: *cynthia.wise@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The FDA Food Safety Modernization Act (FSMA) (Public Law 111–353), signed into law by President Obama on January 4, 2011, enables FDA to better protect public health by helping to ensure the safety and security of the food supply. FSMA amends the Federal Food, Drug, and Cosmetic Act (the FD&C Act) to establish the foundation of a modernized, prevention-based food safety system. As part of our implementation of FSMA, we published the Proposed Rule: Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption (hereafter referred to as ''the 2013 proposed rule'') to establish science-based minimum standards for the safe growing, harvesting, packing, and holding of produce (78 FR 3504, January 16, 2013). On September 29, 2014, FDA issued a supplemental notice of proposed rulemaking (''the supplemental proposed rule''), amending certain specific provisions of the 2013 proposed rule (79 FR 58434). Taken together, these publications constitute FDA's proposed standards for the growing, harvesting, packing, and holding of produce for human consumption (''the Produce Safety Proposed Rule'').

FDA announced a ''Notice of Intent'' (NOI) to prepare an EIS to evaluate the potential environmental effects of the Produce Safety Proposed Rule in the **Federal Register** on August 19, 2013 (78 FR 50358). In the NOI, FDA also announced the beginning of the scoping process and solicited public comments to identify issues to be analyzed in an EIS. The NOI asked for public comment by November 15, 2013, and FDA later extended the deadline for the comment period to April 18, 2014 (79 FR 13593; March 11, 2014). A public scoping meeting was held on April 4, 2014, in College Park, MD.

In the Produce Safety Proposed Rule, FDA proposed science-based minimum standards for the safe production and harvesting of produce. As discussed in the Draft EIS (Ref. 1), out of these standards, we identified four provisions that could potentially significantly affect the quality of the human environment, if finalized (hereinafter referred to as ''potentially significant provisions''). For each of the potentially significant provisions, FDA then identified alternative provisions to consider. The potentially significant provisions are: (1) Standards directed to agricultural water, (2) standards directed to biological soil amendments (BSA) of animal origin, (3) standards directed to domesticated and wild animals, and (4) general provisions (*i.e.,* cumulative impacts). Additionally, an overarching ''No Action'' Alternative was considered for the purpose of evaluating conditions in the absence of any final rule.

For standards directed to agricultural water, we considered the following alternatives: (1) As proposed by FDA, *i.e.,* a statistical threshold value (STV) not exceeding 410 colony forming units (CFU) of generic *Escherichia coli* per 100 ml of water and a geometric mean (GM) not exceeding 126 CFU of generic *E. coli* per 100 ml of water, along with options to achieve the standard by applying either a time interval between last irrigation and harvest using a microbial die-off rate of 0.5 log per day and/or a time interval between harvest and end of storage using an appropriate microbial die-off or removal rates, including during activities such as commercial washing (proposed 21 CFR 112.44(c)); (2) a microbial quality standard of no more than 235 CFU (or most probable number (MPN), as appropriate) generic *E. coli* per 100 ml for any single sample or a rolling GM (n=5) of more than 126 CFU (or MPN, as appropriate) per 100 ml of water, as was proposed in the 2013 proposed rule; (3) as proposed (*i.e.,* Alternative 1), but with an additional criterion establishing a maximum generic *E. coli* threshold; and (4) for each of the alternatives above, consider the environmental impacts of two different interpretations of the definition of ''direct water application method'' in proposed § 112.3(c): (a) To include root crops that are drip irrigated and (b) to exclude root crops that are drip irrigated.

For standards directed to BSAs of animal origin, FDA considered standards for both untreated and treated BSAs. For untreated BSAs of animal origin, the alternatives considered included a range of minimal application intervals (the time between application and harvest) when the BSA is applied in a manner that does not contact covered produce during application and minimizes the potential for contact with covered produce after application. The alternative application intervals evaluated were: (1) 9 months, (2) 0 months, (3) 90 and 120 days, consistent with the National Organic Programs' regulations in 7 CFR 205.203(c)(1), (4) 6 months, and (5) 12 months. For standards directed to treated BSAs, the alternatives considered included a range of application intervals when the BSA is composted in accordance with the requirements proposed in § 112.54(c) and applied in a manner that minimizes the potential for contact with covered produce during and after application. The application intervals evaluated were: (1) As proposed by FDA, 0 days (proposed § 112.56(a)(4)(i)), (2) 45 days, and (3) 90 days.

For standards directed at domesticated animals, we considered alternatives under which, if working animals are used in a growing area

where a crop has been planted, measures would be required to prevent the introduction of known or reasonably foreseeable hazards into or onto covered produce with the waiting period between grazing and harvesting varying by alternative. The following alternatives were evaluated: (1) As proposed by FDA, an adequate waiting period between grazing and harvesting for covered produce in any growing area that was grazed to ensure the safety of the harvested crop (proposed § 112.82(a)); (2) a minimum waiting period of 9 months; and (3) a minimum waiting period of 90 days and 120 days before harvest, depending upon whether the edible portion of the crop contacts the soil (applying the timeframes for raw manure set forth in the National Organic Programs' regulations in 7 CFR 205.203(c)(1)). For standards directed to wild animals, we considered alternatives to the proposed requirement that under circumstances when there is a reasonable probability that animal intrusion will contaminate covered produce, the grower would be required to monitor those areas that are used for a covered activity for evidence of animal intrusion: (1) As needed during the growing season based on (i) the grower's covered produce and (ii) the grower's observations and experience; and (2) immediately prior to harvest. The alternatives evaluated were: (1) As proposed by FDA, if animal intrusion occurs—as made evident by observation of significant quantities of animals, animal excreta or crop destruction via grazing—the grower must evaluate whether the covered produce can be harvested in accordance with the requirements of proposed § 112.112 (proposed § 112.83(a) and (b)) and (2) if animal intrusion is reasonably likely to occur, the grower must take measures to exclude animals from fields where covered produce is grown.

The cumulative impacts of the proposed rule were considered using a range of alternatives to the general provision in proposed § 112.4, which would specify the farms that would be covered under the rule based on the farm's annual sales of produce. The alternatives evaluated were to cover those farms that have: (1) As proposed by FDA, an average annual monetary value of produce sold during the previous 3-year period of more than $25,000 (on a rolling basis) (proposed § 112.4); (2) an average annual monetary value of food sold during the previous 3-year period of more than $50,000 (on a rolling basis); (3) an average annual monetary value of food sold during the previous 3-year period of more than $100,000 (on a rolling basis); and (4) an average annual monetary value of covered produce sold during the previous 3-year period of more than $25,000 (on a rolling basis).

FDA has made this Draft EIS available for public review and comment in Docket No. FDA–2014–N–2244 (See Ref. 1).

II. How To Participate in the Public Meeting

FDA is holding the public meeting on February 10, 2015, from 1 p.m. until 4 p.m., at Wiley Auditorium, Harvey W. Wiley Federal Bldg., 5100 Paint Branch Pkwy., College Park, MD 20740, to discuss the Draft EIS for the proposed rule to establish standards for growing, harvesting, packing and holding of produce for human consumption. Due to limited space and time, FDA encourages all persons who wish to attend the meetings to register early and in advance of the meeting. There is no fee to register for the public meeting, and registration will be on a first-come, first-served basis. Onsite registration will be accepted, as space permits, after all preregistered attendees are seated.

Those requesting an opportunity to make an oral presentation during the time allotted for public comment at the meeting are asked to submit a request in advance and to provide information about the specific topic or issue to be addressed. Due to the anticipated high level of interest in presenting public comments and the limited time available, FDA is allocating 4 minutes to each speaker to make an oral presentation. FDA will provide opportunities to submit written comments at the meeting; there will not be an opportunity to display materials such as slide shows, videos, or other media during the meeting. If time permits, individuals or organizations that did not register in advance may be granted the opportunity to make an oral presentation. FDA would like to maximize the number of individuals who make a presentation at the meeting and will do our best to accommodate all persons who wish to make a presentation or express their opinions at the meeting.

FDA encourages persons and groups who have similar interests to consolidate their information for presentation by a single representative. After reviewing the presentation requests, FDA will notify each participant before the meeting of the approximate time their presentation is scheduled to begin, and remind them of the presentation format (*i.e.,* 4-minute oral presentation without visual media).

While oral presentations from specific individuals and organizations will be necessarily limited due to time constraints during the public meeting, stakeholders may submit electronic or written comments discussing any issues of concern to the administrative record (the docket). All relevant data and documentation should be submitted with the comments to Docket No. FDA–2014–N–2244.

Table 1 provides information on participation in the public meeting:

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO THE DOCKET

	Date	Electronic address	Address	Other information
College Park, MD Public Meeting.	February 10, 2015—1 p.m. to 4 p.m.	*http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*	Wiley Auditorium, Harvey W. Wiley Federal Bldg., 5100 Paint Branch Pkwy., College Park, MD 20740.	
Deadline for Registration	February 3, 2015.	*http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm* Docket No. FDA–2014–N–2244.	We encourage you to use electronic registration if possible [1].	There is no registration fee for the public meetings. Early registration is recommended because seating is limited.

TABLE 1—INFORMATION ON PARTICIPATION IN THE MEETING AND ON SUBMITTING COMMENTS TO THE DOCKET—Continued

	Date	Electronic address	Address	Other information
Request to Make a Public Comment.	February 3, 2015.	*http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*[2].	.....	Requests made on the day of the meeting to make an oral presentation will be granted as time permits. Information on requests to make an oral presentation may be posted without change to *http://www.regulations.gov,* including any personal information provided.
Request Special Accommodations Due to a Disability.	February 3, 2015.	Cynthia Wise email: *cynthia.wise@fda.hhs.gov*.	See **FOR FURTHER INFORMATION CONTACT**.	
Closing Date for Written Comments.	March 13, 2015.			

[1] For questions about registering for the meeting, to register by phone, or to submit a notice of participation by mail, Fax, or email, contact: Rick Williams, c/o FDA EIS, 72 Loveton Circle, Sparks, MD 21152; telephone: 410–316–2377; FAX: 410–472–3289; email: *RWilliams@jmt.com*.

[2] You may also request to make an oral presentation at the public meeting via email. Please include your name, title, firm name, address, and phone and FAX numbers as well as the full text, comprehensive outline, or summary of your oral presentation and send to: Cynthia Wise, Center for Food Safety and Applied Nutrition, Food and Drug Administration, 5100 Paint Branch Pkwy, College Park, MD 20740, telephone: 240–402–1357, email: *cynthia.wise@fda.hhs.gov*.

III. Comments, Transcripts, and Recorded Video

Information and data submitted voluntarily to FDA during the public meeting will become part of the administrative record and will be accessible to the public at *http://www.regulations.gov*. The transcript of the proceedings from the public meeting will become part of the administrative record. Please be advised that as soon as a transcript is available, it will be accessible at *http://www.regulations.gov* and at FDA's FSMA Web site at *http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm*. It may also be viewed at the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852. A transcript will also be available in either hardcopy or on CD–ROM, after submission of a Freedom of Information request. Written requests are to be sent to the Division of Freedom of Information (ELEM–1029), 12420 Parklawn Dr., Element Bldg., Rockville, MD 20857. Additionally, FDA will be live webcasting and recording the public meeting. Once the recorded video is available, it will be accessible at FDA's FSMA Web site at *http://www.fda.gov/Food/GuidanceRegulation/FSMA/default.htm*.

IV. Reference

1. *Draft Environmental Impact Statement for the Proposed Rule:* Standards for Growing, Harvesting, Packing, and Holding of Produce for Human Consumption.

Dated: January 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–00205 Filed 1–9–15; 8:45 am]

BILLING CODE 4164–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R07–OAR–2014–0163; FRL–9921–18–Region 7]

Approval and Promulgation of Implementation Plans; State of Iowa

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the State Implementation Plan (SIP) for the State of Iowa. The purpose of these revisions is to update the Polk County Board of Health Rules and Regulations, Chapter V, Air Pollution. These proposed revisions reflect updates to the Iowa statewide rules previously approved by EPA and will ensure consistency between the applicable local agency rules and Federally-approved rules. On April 15, 2014, the state amended their request and notified EPA that it is withdrawing their requests to approve to adopt greenhouse gases definition and sections relating to greenhouse gas emissions. This withdrawal request is in recognition of the July 12, 2013, U.S. Court of Appeals for the District of Columbia decision which vacated the regulation known as the ''biogenic deferral rule''. On October 31, 2014, the state requested that EPA withdraw their request to approve the definition of anaerobic lagoon.

DATES: Comments on this proposed action must be received in writing by February 11, 2015.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R07–OAR–2014–0163 by mail to: Heather Hamilton, Environmental Protection Agency, Air Planning and Development Branch, 11201 Renner Boulevard, Lenexa, Kansas 66219. Comments may also be submitted electronically or through hand delivery/courier by following the detailed instructions in the **ADDRESSES** section of the direct final rule located in the rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Heather Hamilton at (913) 551–7039, or by email at *Hamilton.heather@epa.gov*.

SUPPLEMENTARY INFORMATION: In the final rules section of this **Federal Register**, EPA is approving the state's SIP revision as a direct final rule without prior proposal because the Agency views this as a noncontroversial revision amendment and anticipates no relevant adverse comments to this action. A detailed rationale for the approval is set forth in the direct final rule. If no relevant adverse comments are received in response to this action, no further activity is contemplated in relation to this action. If EPA receives relevant adverse comments, the direct

final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed action. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. Please note that if EPA receives adverse comment on part of the rule and if that part can be severed from the remainder of the rule, EPA may adopt as final those parts of the rule that are not the subject of an adverse comment. For additional information, see the direct final rule which is located in the rules section of this **Federal Register**.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Incorporation by reference, Lead, Reporting and recordkeeping requirements.

Dated: December 19, 2014.

Karl Brooks,

Regional Administrator, Region 7.

For the reasons stated in the preamble, the Environmental Protection Agency proposes to amend 40 CFR part 52 as set forth below:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart Q—Iowa

■ 2. In § 52.820, the table in paragraph (c) is amended by revising the entry for ''CHAPTER V'' to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

EPA–APPROVED IOWA REGULATIONS

Iowa citation	Title	State effective date	EPA approval date	Explanation
Iowa Department of Natural Resources Environmental Protection Commission [567]				
*	*	*	*	* * *
Polk County				
CHAPTER V	Polk County Board of Health Rules and Regulations Air Pollution Chapter V.	08/05/13	January 12, 2015 [*Insert* **Federal Register** *citation*].	Article I, Section 5–2, definition of ''variance,'' ''anaerobic lagoon,'' and ''greenhouse gases''; Article III, Incineration and Open Burning, Section 5–7(d) Variance Application; Article VI, Sections 5–16(n), (o) and (p); Article VIII; Article IX, Sections 5–27(3) and (4); Article X, Section 5–28, subsections (a) through (c), and Article X, Section 5–35(b)(5); Article XIII; and Article XVI, Section 5–75 are not part of the SIP. Article VI, Section 5–17, adopted by Polk County on 7/26/2011, is not part of the SIP, and the previously approved version of Article VI, Section 5–17 remains part of the SIP.

* * * * *

[FR Doc. 2015–00080 Filed 1–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[EPA–R09–OAR–2014–0813; FRL–9921–22–Region 9]

Designation of Areas for Air Quality Planning Purposes; California; San Joaquin Valley; Reclassification as Serious Nonattainment for the 1997 $PM_{2.5}$ Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to reclassify the San Joaquin Valley (SJV) Moderate nonattainment area, including areas of Indian country within it, as a Serious nonattainment area for the 1997 $PM_{2.5}$ national ambient air quality standards (NAAQS) based on EPA's determination that the area cannot practicably attain these NAAQS by the applicable attainment date of April 5, 2015. Upon final reclassification as a Serious area, California will be required to submit a Serious area plan including a demonstration that the plan provides for attainment of the 1997 annual and 24-hour $PM_{2.5}$ standards in the SJV area by the applicable attainment date, which is no later than December 31, 2015, or by the most expeditious alternative date practicable, in accordance with the requirements of part D of title I of the Clean Air Act.

DATES: Comments must arrive by February 11, 2015.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2014–0813, by one of the following methods:

- *Federal e-Rulemaking Portal: www.regulations.gov.* Follow the on-line instructions.
- *Email: lee.anita@epa.gov.*
- *Mail or delivery:* Anita Lee; Air Planning Office (AIR–2); U.S. Environmental Protection Agency, Region 9; 75 Hawthorne Street, San Francisco, California 94105.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov,* including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. The *www.regulations.gov* Web site is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comments due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment.

Docket: The index to the docket (docket number EPA–R09–OAR–2014–0813) for this proposed rule is available electronically on the

www.regulations.gov Web site and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California 94105. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.,* copyrighted material), and some may not be publicly available at either location (*e.g.,* CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section below.

FOR FURTHER INFORMATION CONTACT: Anita Lee, Air Planning Office (AIR–2), U.S. Environmental Protection Agency, Region 9, (415) 972–3958, *lee.anita@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. Background for Proposed Action

On July 18, 1997, EPA established new national ambient air quality standards (NAAQS) for $PM_{2.5}$, particulate matter with a diameter of 2.5 microns or less, including an annual standard of 15.0 micrograms per cubic meter (μg/m³) based on a 3-year average of annual mean $PM_{2.5}$ concentrations, and a 24-hour (daily) standard of 65 μg/m³ based on a 3-year average of 98th percentile 24-hour $PM_{2.5}$ concentrations.[1] EPA established these standards after considering substantial evidence from numerous health studies demonstrating that serious health effects are associated with exposures to $PM_{2.5}$ concentrations above the levels of these standards.

Epidemiological studies have shown statistically significant correlations between elevated $PM_{2.5}$ levels and premature mortality. Other important health effects associated with $PM_{2.5}$ exposure include aggravation of respiratory and cardiovascular disease (as indicated by increased hospital admissions, emergency room visits, absences from school or work, and restricted activity days), changes in lung function and increased respiratory symptoms, as well as new evidence for more subtle indicators of cardiovascular health. Individuals particularly sensitive to $PM_{2.5}$ exposure include older adults, people with heart and lung disease, and children.[2]

$PM_{2.5}$ can be emitted directly into the atmosphere as a solid or liquid particle (primary $PM_{2.5}$ or direct $PM_{2.5}$) or can be formed in the atmosphere as a result of various chemical reactions from precursor emissions of nitrogen oxides, sulfur oxides, volatile organic compounds, and ammonia (secondary $PM_{2.5}$).[3]

Following promulgation of a new or revised NAAQS, EPA is required by Clean Air Act (CAA) section 107(d) to designate areas throughout the nation as attaining or not attaining the NAAQS. On January 5, 2005, EPA published initial air quality designations for the 1997 annual and 24-hour $PM_{2.5}$ NAAQS, using air quality monitoring data for the three-year periods of 2001–2003 and 2002–2004.[4] These designations became effective on April 5, 2005.[5] EPA designated the San Joaquin Valley (SJV) area as nonattainment for both the 1997 annual $PM_{2.5}$ standard (15.0 μg/m³) and the 1997 24-hour $PM_{2.5}$ standard (65 μg/m³).[6]

The SJV $PM_{2.5}$ nonattainment area encompasses over 23,000 square miles and includes all or part of eight counties: San Joaquin, Stanislaus, Merced, Madera, Fresno, Tulare, Kings, and the valley portion of Kern.[7] The area is home to 4 million people and is the nation's leading agricultural region. Stretching over 250 miles from north to south and averaging 80 miles wide, it is partially enclosed by the Coast Mountain range to the west, the Tehachapi Mountains to the south, and the Sierra Nevada range to the east. The San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD or District) has primary responsibility for developing plans to provide for attainment of the NAAQS in this area. The District works cooperatively with the California Air Resources Board (CARB) in preparing these plans.

Between 2007 and 2011, California made six SIP submittals to address nonattainment area planning requirements for the 1997 $PM_{2.5}$ NAAQS in the SJV.[8] We refer to these submittals collectively as the ''SJV $PM_{2.5}$ SIP.'' On November 9, 2011, EPA approved all elements of the SJV $PM_{2.5}$ SIP except for the contingency measures, which EPA disapproved.[9] As part of this action and pursuant to CAA section 172(a)(2)(A), EPA granted California's request for an extension of the attainment date for the SJV area to April 5, 2015.[10] EPA took these actions in accordance with the ''Clean Air Fine Particle Implementation Rule,'' which EPA issued in April 2007 to assist states in their development of SIPs to meet the Act's attainment planning requirements for the 1997 $PM_{2.5}$ NAAQS (hereafter ''2007 $PM_{2.5}$ Implementation Rule'').[11] In July 2013, the State submitted a revised $PM_{2.5}$ contingency measure plan for the SJV, which EPA fully approved in May 2014.[12]

On January 4, 2013, the U.S. Court of Appeals for the D.C. Circuit issued its decision in a challenge by the Natural Resources Defense Council (NRDC) to EPA's 2007 $PM_{2.5}$ Implementation Rule.[13] In *NRDC,* the court held that EPA erred in implementing the 1997 $PM_{2.5}$ standards solely pursuant to the general implementation requirements of subpart 1, without also considering the requirements specific to nonattainment areas for particulate matter with a diameter of 10 microns or less (PM_{10}) in subpart 4, part D of title I of the CAA. The court reasoned that the plain meaning of the CAA requires

[1] *See* 62 FR 36852 (July 18, 1997) and 40 CFR 50.7. Effective December 18, 2006, EPA strengthened the 24-hour $PM_{2.5}$ NAAQS by lowering the level to 35 μg/m³. *See* 71 FR 61144 (October 17, 2006) and 40 CFR 50.13. Effective March 18, 2013, EPA strengthened the annual $PM_{2.5}$ NAAQS by lowering the level to 12 μg/m³. *See* 78 FR 3086 (January 15, 2013) and 40 CFR 50.18. In this preamble, all references to the $PM_{2.5}$ NAAQS, unless otherwise specified, are to the 1997 24-hour $PM_{2.5}$ standard of 65 μg/m³ and annual standard of 15.0 μg/m³ as codified in 40 CFR 50.7.

[2] *See* EPA, Air Quality Criteria for Particulate Matter, No. EPA/600/P–99/002aF and EPA/600/P–99/002bF, October 2004.

[3] *See* 72 FR 20586, 20589 (April 25, 2007).

[4] *See* 70 FR 944 (January 5, 2005).

[5] *Id.*

[6] *See* 40 CFR 81.305.

[7] For a precise description of the geographic boundaries of the San Joaquin Valley $PM_{2.5}$ nonattainment area, see 40 CFR 81.305.

[8] *See* 76 FR 69896 at n. 2 (November 9, 2011).

[9] *See id.* at 69924.

[10] *See id.* Under CAA section 172(a)(2)(A), the attainment date for a nonattainment area is ''the date by which attainment can be achieved as expeditiously as practicable, but no later than five years from the date such area was designated nonattainment,'' except that EPA may extend the attainment date as appropriate for a period no greater than ten years from the date of designation as nonattainment, considering the severity of nonattainment and the availability and feasibility of pollution control measures. CAA section 172(a)(2)(A); *see also* 40 CFR 51.1004(a) and (b).

[11] *See* 72 FR 20583 (April 25, 2007), codified at 40 CFR part 51, subpart Z. This rule was premised on EPA's prior interpretation of the Act as allowing for implementation of the $PM_{2.5}$ NAAQS solely pursuant to the general nonattainment area provisions of subpart 1 and not the more specific provisions for particulate matter nonattainment areas in subpart 4 of part D, title I of the Act.

[12] *See* 79 FR 29327 (May 22, 2014).

[13] See *Natural Resources Defense Council* v. *EPA,* 706 F.3d 428 (D.C. Cir. 2013).

implementation of the 1997 $PM_{2.5}$ standards under subpart 4 because $PM_{2.5}$ particles fall within the statutory definition of PM_{10} and are thus subject to the same statutory requirements as PM_{10}. The court remanded the rule and instructed EPA ''to repromulgate these rules pursuant to Subpart 4 consistent with this opinion.''[14]

Consistent with the *NRDC* decision, on June 2, 2014, EPA published a final rule classifying all areas currently designated nonattainment for the 1997 and/or 2006 $PM_{2.5}$ standards as Moderate under subpart 4.[15] EPA also established a deadline of December 31, 2014 for states to submit attainment-related and nonattainment new source review (NNSR) SIP elements required for these areas pursuant to subpart 4.[16] This rulemaking did not affect any action that EPA had previously taken under section 110(k) of the Act on a SIP for a $PM_{2.5}$ nonattainment area.[17] Accordingly, EPA's previous approval of the April 5, 2015 attainment date for the SJV area remains in effect.[18]

Under section 188(b)(1) of the CAA, prior to an area's attainment date, EPA has discretionary authority to reclassify as a Serious nonattainment area ''any area that the Administrator determines cannot practicably attain'' the $PM_{2.5}$ NAAQS by the applicable Moderate area attainment date.[19] On September 25, 2014, the District requested that EPA reclassify the SJV nonattainment area as Serious nonattainment for the 1997 $PM_{2.5}$ standards. This request included a demonstration that the SJV cannot practicably attain the 1997 annual $PM_{2.5}$ standard by the April 5, 2015 attainment date.[20]

II. Evaluation of Ambient $PM_{2.5}$ Air Quality Monitoring Data

A determination of whether an area's air quality currently meets the $PM_{2.5}$ NAAQS is generally based upon the most recent three years of complete, quality-assured data gathered at established State and Local Air Monitoring Stations (SLAMS) in a nonattainment area and entered into EPA's Air Quality System (AQS) database. Data from air monitors operated by state/local agencies in compliance with EPA monitoring requirements must be submitted to AQS. Monitoring agencies annually certify that these data are accurate to the best of their knowledge. Accordingly, EPA relies primarily on data in AQS when determining the attainment status of areas.[21]

Under EPA regulations in 40 CFR 50.7 and in accordance with part 50, appendix N, the 1997 annual $PM_{2.5}$ standard is met when the ''annual $PM_{2.5}$ NAAQS design value'' (based on the 3-year average of $PM_{2.5}$ annual mean mass concentrations)[22] is less than or equal to 15.0 μg/m³ at each eligible monitoring site. The 1997 24-hour $PM_{2.5}$ standard is met when the ''24-hour $PM_{2.5}$ NAAQS design value'' (based on the 3-year average of annual 98th percentile 24-hour $PM_{2.5}$ mass concentrations)[23] is less than or equal to 65 μg/m³ at each eligible monitoring site.

A. $PM_{2.5}$ Trends in the SJV

Ambient annual and 24-hour $PM_{2.5}$ NAAQS design value levels in the SJV are the highest recorded in the United States at 18.1 μg/m³ (Madera) and 65 μg/m³ (Bakersfield), respectively, for the 2011–2013 period.[24] The levels and composition of ambient $PM_{2.5}$ in the SJV differ by season.[25] Higher $PM_{2.5}$ concentrations occur during the winter, between late November and February, when the SJV experiences extended periods of stagnant weather with cold foggy conditions which encourage wood burning, a source of directly emitted particulates (direct $PM_{2.5}$), and are conducive to the formation of ammonium nitrate from the reaction of nitrogen oxides (NO_X) with ammonia. Tables 1 and 2 show the annual and 24-hour concentrations recorded at $PM_{2.5}$ monitoring sites in the SJV during the 2005–2013 period.

TABLE 1—ANNUAL $PM_{2.5}$ NAAQS DESIGN VALUES[a] IN μg/m³ FOR MONITORS IN THE SJV

Site	AQS ID	2005	2006	2007	2008	2009	2010	2011	2012	2013
Bakersfield:										
Planz	60290016	18.4	18.9	20.3	21.5	22.6	21.2	18.2	15.6	17.3
CA Ave	60290014	18.0	18.5	19.6	20.9	21.0	18.4	16.5	14.5	16.4
Golden State Hwy	60290010	19.0	18.6	19.2	18.8	19.3	n/a	n/a	n/a	n/a
Corcoran	60310004	17.0	17.2	17.6	17.0	17.3	17.1	16.2	n/a	n/a
Hanford	60311004	n/a	n/a	n/a	n/a	n/a	n/a	n/a	15.8	17.0
Visalia	61072002	18.0	18.2	19.3	19.7	18.8	16.5	15.2	14.8	16.6
Fresno:										
Pacific	60195025	17.2	17.2	17.1	17.0	16.0	14.9	14.5	13.8	14.7
Garland	60190011	16.9	16.6	17.4	17.7	17.1	15.2	14.5	[b] 14.3	[b] 15.4
Clovis	60195001	17.1	16.4	16.4	16.3	17.0	16.4	17.0	16.0	16.4
Tranquility	60192009	n/a	n/a	n/a	n/a	n/a	n/a	n/a	7.4	7.8
Madera	60392010	n/a	n/a	n/a	n/a	n/a	n/a	n/a	19.0	18.1
Merced:										
M Street	60472510	15.0	14.7	14.7	n/a	n/a	n/a	11.7	10.4	11.1
Coffee	60470003	n/a	n/a	n/a	n/a	n/a	n/a	18.2	14.3	13.3

[14] *Id.*

[15] See 79 FR 31566 (June 2, 2014).

[16] *Id.*

[17] *Id.* at 31569.

[18] *Id.; see also* 79 FR 29327 at 29329 (May 22, 2014) (noting that ''[a]bsent an EPA rulemaking to withdraw or revise [the November 9, 2011] final rule, which *NRDC* does not compel, our final action on the SJV $PM_{2.5}$ SIP remains effective . . .'').

[19] Section 188(b)(1) of the Act is a general expression of delegated rulemaking authority. See ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 57 FR 13498 (April 16, 1992) (hereafter ''General Preamble'') at 13537, n. 15. Although subparagraphs (A) and (B) of section 188(b)(1) mandate that EPA reclassify by specified timeframes any areas that it determines appropriate for reclassification by those dates, these subparagraphs do not restrict the general authority but simply specify that, at a minimum, EPA's authority must be exercised at certain times. *See id.*

[20] *See* letter dated September 25, 2014 from Seyed Sadredin, Executive Director/Air Pollution Control Officer, SJVUAPCD, to Jared Blumenfeld, Regional Administrator, EPA Region 9, ''RE: San Joaquin Valley Unified Air Pollution Control District Request for Reclassification of the San Joaquin Valley as a Serious $PM_{2.5}$ Nonattainment Area for the Federal 1997 $PM_{2.5}$ Standard,'' attaching Memorandum dated August 21, 2014 from Seyed Sadredin, Executive Director/APCO and Sheraz Gill, Project Coordinator, to the SJVUAPCD Governing Board, ''RE: Item Number 9: Review and Approve Actions to Address Air Quality Impacts Resulting from the Exceptional Weather Conditions Caused by the Recent Drought'' (hereafter ''Sadredin Memo'').

[21] *See* 40 CFR 50.7; 40 CFR part 50, appendix L; 40 CFR part 50, appendix N; 40 CFR part 53; 40 CFR part 58; and 40 CFR part 58, appendices A, C, D, and E.

[22] *See* 40 CFR part 50, appendix N (section 1.0).

[23] *See id.*

[24] *See* U.S. EPA, 2013 Design Value Reports, $PM_{2.5}$ Detailed Information Updated 8/24/14, available at *http://www.epa.gov/airtrends/values.html* (''PM25_DesignValues_20112013_FINAL_08_28_14'') (hereafter ''2013 p.m.2.5 Design Value Reports''). The Bakersfield monitor also recorded the nation's second highest annual $PM_{2.5}$ NAAQS design value (17.3 μg/m³) during this period. *See id.*

[25] *See* 76 FR 41338 at 41339 (July 13, 2011) (proposed action on SJV $PM_{2.5}$ Plan).

TABLE 1—ANNUAL $PM_{2.5}$ NAAQS DESIGN VALUES [a] IN μg/m³ FOR MONITORS IN THE SJV—Continued

Site	AQS ID	2005	2006	2007	2008	2009	2010	2011	2012	2013
Turlock	60990006	n/a	n/a	n/a	n/a	n/a	n/a	15.3	14.9	15.7
Modesto	60990005	14.0	14.1	14.6	15.3	14.7	n/a	n/a	12.9	13.6
Manteca	60772010	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	10.2
Stockton	60771002	13.1	12.9	12.8	13.5	12.9	12.1	11.1	11.4	13.8

Source: 2013 $PM_{2.5}$ Design Value Reports. The term ''n/a'' means monitoring data is not available or does not meet minimum data completeness requirements (40 CFR part 50, appendix N).

[a] The annual $PM_{2.5}$ NAAQS design value for each monitor is based on the 3-year average of annual mean $PM_{2.5}$ concentrations. See 40 CFR part 50, appendix N. For example, the annual $PM_{2.5}$ NAAQS design value for 2013 for each monitor is the average of the annual mean $PM_{2.5}$ concentrations for 2011, 2012, and 2013 at that monitor. The 1997 annual $PM_{2.5}$ NAAQS is attained when the design value at each eligible monitor is 15.0 μg/m³ or less.

[b] The Garland site was approved for replaced operation of the First Street site (AQS ID: 60190008) beginning with data collected in calendar year 2012. The design value reported represents a combined site record with the existing Garland site and old First Street site which ceased operation in early 2012.

TABLE 2—24-HOUR $PM_{2.5}$ NAAQS DESIGN VALUES [a] IN μg/m³ FOR MONITORS IN THE SJV

Site	AQS ID	2005	2006	2007	2008	2009	2010	2011	2012	2013
Bakersfield:										
Planz	60290016	54	60	68	70	70	65	55	47	60
CA Ave	60290014	58	62	66	66	68	62	62	58	65
Golden State Hwy	60290010	60	64	69	64	66	64	n/a	n/a	n/a
Corcoran	60310004	55	58	61	52	53	49	46	43	49
Hanford	60311004	n/a	n/a	n/a	n/a	n/a	n/a	n/a	54	60
Visalia	61072002	55	56	58	57	59	51	47	47	56
Fresno:										
Pacific	60195025	57	59	61	52	50	43	48	53	63
Garland	60190011	60	58	63	58	60	54	58	[b] 59	[b] 62
Clovis	60195001	55	56	58	54	53	47	54	54	58
Tranquility	60192009	n/a	n/a	n/a	n/a	n/a	n/a	n/a	31	30
Madera	60392010	n/a	n/a	n/a	n/a	n/a	n/a	n/a	51	52
Merced:										
M Street	60472510	45	45	48	50	51	45	39	40	49
Coffee	60470003	n/a	n/a	n/a	n/a	n/a	n/a	43	41	42
Turlock	60990006	n/a	n/a	n/a	n/a	n/a	55	51	49	53
Modesto	60990005	49	51	55	54	55	49	50	44	51
Manteca	60772010	n/a	n/a	n/a	n/a	n/a	n/a	n/a	38	37
Stockton	60771002	40	41	45	51	50	44	38	36	45

Source: 2013 $PM_{2.5}$ Design Value Reports. The term ''n/a'' means monitoring data is not available or does not meet minimum data completeness requirements (40 CFR part 50, appendix N).

[a] The 24-hour $PM_{2.5}$ NAAQS design value for each monitor is based on the 3-year average of annual 98th percentile 24-hour $PM_{2.5}$ concentrations. See 40 CFR part 50, appendix N. For example, the 24-hour $PM_{2.5}$ NAAQS design value for 2013 for each monitor is the average of the 98th percentile $PM_{2.5}$ concentrations for 2011, 2012, and 2013 at that monitor. The 1997 24-hour $PM_{2.5}$ NAAQS is attained when the design value at each eligible monitor is 65 μg/m³ or less.

[b] The Garland site was approved for replaced operation of the First Street site (AQS ID: 60190008) beginning with data collected in calendar year 2012. The design value reported represents a combined site record with the existing Garland site and old First Street site which ceased operation in early 2012.

B. Impracticability of Attaining the 1997 Annual $PM_{2.5}$ Standard by April 5, 2015

In its September 25, 2014 letter to EPA, the District provided ambient air quality data showing that the SJV area cannot attain the 1997 $PM_{2.5}$ annual standard by April 5, 2015.[26] Specifically, the District provided annual average $PM_{2.5}$ concentrations recorded at monitoring sites in the SJV for 2012 and 2013, and then calculated the maximum 2014 annual average concentration for each monitoring site that would result in a 3-year average $PM_{2.5}$ concentration of 15.0 μg/m³ at that site. According to the District, the maximum 2014 annual average concentration at the Bakersfield-Planz site (which recorded the area's highest annual concentrations in 2013) that will enable the site to show a design value at or below 15.0 μg/m³ for 2014 is 7.5 μg/m³.[27] The annual average value for a given year is calculated based on the quarterly averages for that year.[28] The District reported that the average $PM_{2.5}$ concentration measured at the Bakersfield-Planz site in the first quarter of 2014, however, was 29.7 μg/m³.[29] Thus, according to the District, average $PM_{2.5}$ concentrations at this monitoring site for the remaining three quarters of 2014 would have to be zero in order to result in a design value at or below 15.0 μg/m³ for 2014.[30] The remaining three quarters of 2014 include November and December, which, like other winter months in the SJV, tend to experience high $PM_{2.5}$ concentrations. These preliminary data and analyses indicate that it is not possible for the Bakersfield-Planz monitoring site to show an annual $PM_{2.5}$ NAAQS design value at or below 15.0 μg/m³ by April 5, 2015.

EPA also independently evaluated preliminary 2014 $PM_{2.5}$ air quality data available in AQS as of August 2014 to assess the District's representations.[31] Table 3 shows four monitoring locations for which preliminary 2014 AQS data already indicate that the 3-year average $PM_{2.5}$ concentration for 2012–2014 will likely be well above 15.0 μg/m³. Specifically, for each of these monitoring sites, EPA calculated the maximum 2014 average $PM_{2.5}$ concentration that would enable the site to show a 2014 annual $PM_{2.5}$ NAAQS design value at or below 15.0 μg/m³.[32]

[26] See Sadredin Memo at 2–6.

[27] *Id.* at Table 3.

[28] 40 CFR part 50, appendix N, section 4.4.

[29] *See* Sadredin Memo at Table 4.

[30] *Id.*

[31] *See* Memorandum from Elfego Felix and Scott Bohning to Docket entitled ''Practicability of SJV 2014 attainment of the 1997 $PM_{2.5}$ NAAQS'' dated December 10, 2014 with attachment entitled ''SJV PM2 5 1997 std impracticable 2014–12–10.xlsx'' (hereafter ''Felix and Bohning Memo'').

[32] The small differences between the District's and EPA's calculations of ''maximum 2014'' values are due to the use of different rounding conventions. EPA's calculations of maximum 2014 values are based on the rounding convention in 40 CFR part 50, appendix N, which provides that intermediate calculations are not rounded, and that a design value with a decimal lower than 15.05 μg/m³ is rounded down to 15.0 μg/m³. *See* 40 CFR part 50, appendix N, section 4.3. In computing the maximum 2014 concentration consistent with attainment and consistent with 2012 and 2013

Continued

As shown in Table 3, the 2014 annual average $PM_{2.5}$ concentration at the Visalia, Corcoran, and Hanford sites would have to be nearly 20 percent lower than the lowest annual averages observed at each of those sites during the 2003–2013 period, and the 2014 annual average $PM_{2.5}$ concentration at the Bakersfield-Planz site would have to be nearly 50 percent lower than the lowest annual average observed during that same period, in order to result in a 2014 annual $PM_{2.5}$ NAAQS design value at or below 15.0 μg/m³.[33]

TABLE 3—PRELIMINARY RECORDED 2014 ANNUAL AVERAGE $PM_{2.5}$ CONCENTRATIONS (IN μg/m³) FOR SELECTED SITES IN SJV AND COMPARISON TO LOWEST RECORDED CONCENTRATIONS

	Average recorded 2014 [a]	EPA estimate for max 2014 annual average allowed to attain [b]	Lowest recorded annual average (year) [b]	Percent difference between max 2014 and lowest recorded annual verage
Bakersfield—Planz	29.7	7.7	14.5 (2011)	47
Visalia	27.9	11.4	13.6 (2010)	16
Corcoran	22.9	13.0	15.6 (2013)	16
Hanford	18.7	12.1	14.8 (2012)	18

[a] Source: U.S. EPA, Air Quality System, Combined Site Sample Values Report, $PM_{2.5}$, 2014 (Report Date: August 7, 2014) (preliminary 2014 1st quarter data for all identified sites and 2nd quarter data for Hanford site).
[b] *See* Felix and Bohning Memo and attachment.

If 2014 monitoring data is timely certified by May 1, 2015 (*see* 40 CFR 58.15) and EPA's determination of whether the SJV area meets the $PM_{2.5}$ NAAQS occurs after this date, the determination would be based on monitoring data for the 2012–2014 period as this would be the most recent 3-year period for which complete, quality-assured and certified monitoring data is available. Because a determination of attainment requires that each eligible monitoring site in the area show a design value at or below the level of the $PM_{2.5}$ NAAQS (*see* 40 CFR part 50, § 50.7 and appendix N), a 2014 design value above this level at one eligible monitor would render attainment by April 5, 2015 impossible.

In sum, air quality data for the 2003–2014 period indicate that it is not practicable for the Bakersfield-Planz monitoring site to show an annual $PM_{2.5}$ NAAQS design value at or below 15.0 μg/m³ by April 5, 2015, and that the SJV area cannot practicably attain the 1997 annual $PM_{2.5}$ NAAQS by this date.[34]

C. Impracticability of Attaining the 1997 24-Hour $PM_{2.5}$ Standard by April 5, 2015

The District's September 25, 2014 letter did not specifically address the SJV area's ability to attain the 24-hour $PM_{2.5}$ standard by April 5, 2015. EPA independently reviewed ambient air quality data available in AQS, however, to consider whether the SJV area can practicably attain the 24-hour standard by this date.

Table 4 shows the 98th percentile 24-hour average $PM_{2.5}$ concentrations recorded in 2012 and 2013 at selected monitoring sites. The 98th percentile 24-hour concentrations in 2013 were higher than in 2012, and in some cases the 2013 value was significantly higher than the 2012 value, *e.g.,* at the Bakersfield-Planz monitoring site.[35] Based on these observed 98th percentile values in 2012 and 2013, EPA calculated for each of these monitoring sites the maximum 98th percentile 24-hour concentration in 2014 that would enable the site to show a 2014 24-hour $PM_{2.5}$ NAAQS design value at or below 65 μg/m³. EPA also calculated a low estimate of the 98th percentile 24-hour concentration for 2014 at each of these sites, based on preliminary data reported to AQS for the first quarter of 2014 and a conservative assumption that 24-hour $PM_{2.5}$ concentrations remain below these levels for the remainder of the year at each monitoring site.[36] As shown in Table 4, EPA's low estimates of the 98th percentile concentrations for 2014 at the two monitoring sites in Bakersfield (Planz and California Avenue) already exceed the maximum 2014 values that would enable these two sites to show a 24-hour $PM_{2.5}$ NAAQS design value for 2014 at or below 65 μg/m³. Thus, these two monitoring sites in Bakersfield cannot practicably show a 24-hour $PM_{2.5}$ NAAQS design value at or below 65 μg/m³ by April 5, 2015.

annual mean concentrations, EPA did not round the 2012 and 2013 means in the intermediate steps of the calculation, and used 15.04 as the highest design value consistent with the standard. In contrast, the Sadredin memo rounded 2012 and 2013 means to one decimal place initially, and used 15.00 as the highest attaining design value.

[33] *See* Felix and Bohning Memo and attachment.

[34] Any reclassification of a Moderate $PM_{2.5}$ nonattainment area as Serious based on a determination that the area cannot practicably attain the NAAQS by the applicable attainment date will be based on the facts and circumstances of the particular nonattainment area at issue. Monitored air quality and the reductions in ambient concentrations that the area would need to achieve in order to monitor attainment are important factors. Another important factor is whether additional control measures could be implemented in time and reduce emissions adequately to attain the NAAQS. Given the significant reductions in ambient $PM_{2.5}$ levels that the SJV nonattainment area would need to monitor attainment, and the extremely short time remaining before the applicable attainment date for this area (April 5, 2015), EPA focused its analysis in this proposal on air quality-related information.

[35] The Sadredin Memo cites weather conditions associated with the extreme drought in California, including low precipitation, high stagnation, and strong inversions, among the reasons for the high $PM_{2.5}$ concentrations observed in the winter of 2013–2014. *See* Sadredin Memo at 3–7.

[36] Identification of the 98th percentile 24-hour concentration is based on the number of creditable samples in a given year. *See* 40 CFR part 50, appendix N, section 4.5. Specifically, in any year for which there are at least 351 creditable samples, the 98th percentile is the 8th highest concentration, and as the number of creditable samples decreases the 98th percentile concentration increases. *See id.* at Table 1. To calculate a low estimate of the 98th percentile 24-hour concentration for 2014 at each monitoring site, EPA assumed conservatively that preliminary 2014 monitoring data available in AQS (*see* Table 4) represented the highest values for 2014 (*i.e.,* no higher values would be recorded at these sites for the remainder of 2014) and that the total number of creditable samples in 2014 would be consistent with the sampling frequency observed as of August 7, 2014. *See* Felix and Bohning Memo and attachment. We note that 2014 monitoring data is not due for certification until May 1, 2015. *See* 40 CFR 58.15.

TABLE 4—PRELIMINARY RECORDED 2014 24-HOUR $PM_{2.5}$ CONCENTRATIONS (IN μg/m³) FOR SELECTED SITES IN SJV AND CALCULATION OF 98TH PERCENTILE VALUES

	98th percentile in 2012 [a]	98th percentile in 2013 [a]	Low estimate of 98th percentile in 2014 [b]	Max 98th percentile allowed in 2014 to attain [b]
Bakersfield—Planz	40.6	96.7	64.4	58.9
Bakersfield—CA Ave	56.4	71.8	72.6	68.0
Hanford	48.3	67.6	76.7	80.3
Fresno—Pacific	51.3	71.6	61.8	73.3
Fresno—Garland	52.6	63.8	65.5	79.8

[a] Source: See 2013 $PM_{2.5}$ Design Value Reports.
[b] *See* Felix and Bohning Memo and attachment (calculations based on preliminary 2014 1st quarter data for all identified sites and 2nd quarter data for Hanford site).

If 2014 monitoring data is timely certified by May 1, 2015 (*see* 40 CFR 58.15) and EPA's determination of whether the SJV area meets the $PM_{2.5}$ NAAQS occurs after this date, the determination would be based on monitoring data for the 2012–2014 period as this would be the most recent 3-year period for which complete, quality-assured and certified monitoring data is available. Because a determination of attainment requires that each eligible monitoring site in the area show a design value at or below the level of the $PM_{2.5}$ NAAQS (*see* 40 CFR part 50, § 50.7 and appendix N), a 2014 design value above this level at one eligible monitor would render attainment by April 5, 2015 impossible.

In sum, air quality data for the 2003–2014 period indicate that it is not practicable for the two Bakersfield monitoring sites to show a 24-hour $PM_{2.5}$ NAAQS design value at or below 65 μg/m³ by April 5, 2015, and that the SJV area cannot practicably attain the 1997 24-hour $PM_{2.5}$ NAAQS by this date.[37]

III. Reclassification as Serious Nonattainment and Applicable Attainment Dates

Section 188 of the Act outlines the process for classification of $PM_{2.5}$ nonattainment areas and establishes the applicable attainment dates. In accordance with section 188 and in response to the *NRDC* decision, EPA classified the SJV area as Moderate nonattainment for the 1997 $PM_{2.5}$ NAAQS, effective July 2, 2014.[38] This classification rulemaking did not affect any prior action that EPA had taken under CAA section 110(k) on a $PM_{2.5}$ attainment plan for a nonattainment area. Accordingly, the April 5, 2015 attainment date that EPA approved on November 9, 2011 for the SJV area remains the applicable attainment date for the 1997 $PM_{2.5}$ NAAQS in this area.[39]

Under the plain meaning of the terms of section 188(b)(1) of the Act, EPA has general authority to reclassify at any time before the applicable attainment date any area that EPA determines cannot practicably attain the standard by such date. Accordingly, section 188(b)(1) of the Act is a general expression of delegated rulemaking authority. In addition, subparagraphs (A) and (B) of section 188(b)(1) mandate that EPA reclassify ''appropriate'' PM_{10} nonattainment areas at specified time frames (*i.e.,* by December 31, 1991 for the initial PM_{10} nonattainment areas, and within 18 months after the SIP submittal due date for subsequent nonattainment areas). These subparagraphs do not restrict EPA's general authority but simply specify that, at a minimum, it must be exercised at certain times.[40] In accordance with section 188(b)(1) of the Act, EPA is proposing to reclassify the SJV area from Moderate to Serious nonattainment for the 1997 annual and 24-hour $PM_{2.5}$ standards of 15.0 and 65 μg/m³, respectively, based on EPA's determination that the SJV area cannot practicably attain these standards by the applicable attainment date of April 5, 2015.

Under section 188(c)(2) of the Act, the attainment date for a Serious area ''shall be as expeditiously as practicable but no later than the end of the tenth calendar year beginning after the area's designation as nonattainment. . . .'' The SJV area was designated nonattainment for the 1997 $PM_{2.5}$ standards effective April 5, 2005.[41] Therefore, upon final reclassification of the SJV area as a Serious nonattainment area, the latest permissible attainment date under section 188(c)(2) of the Act, for purposes of the 1997 $PM_{2.5}$ standards in this area, will be December 31, 2015.

Under section 188(e) of the Act, a state may apply to EPA for a single extension of the Serious area attainment date by up to 5 years, which EPA may grant if the State satisfies certain conditions. Before EPA may extend the attainment date for a Serious area under section 188(e), the State must: (1) Apply for an extension of the attainment date beyond the statutory attainment date; (2) demonstrate that attainment by the statutory attainment date is impracticable; (3) have complied with all requirements and commitments pertaining to the area in the implementation plan; (4) demonstrate to the satisfaction of the Administrator that the plan for the area includes the most stringent measures that are included in the implementation plan of any State or are achieved in practice in any State, and can feasibly be implemented in the area; and (5) submit a demonstration of attainment by the most expeditious alternative date practicable.[42] As more fully described in Section V of this proposal, EPA anticipates that California may choose to submit a request for an extension of the Serious area attainment date consistent with

[37] *See* note 34 *supra.*

[38] *See* 79 FR 31566 at 31587, 31593 (June 2, 2014).

[39] *See* notes 17 and 18, *supra.*

[40] For a general discussion of EPA's interpretation of the reclassification provisions in section 188(b)(1) of the Act, see the General Preamble, 57 FR 13498 at 13537–38 (April 16, 1992).

[41] *See* 70 FR 944 at 956, 957 (January 5, 2005).

[42] For a discussion of EPA's interpretation of the requirements of section 188(e), see ''State Implementation Plans for Serious PM_{10} Nonattainment Areas, and Attainment Date Waivers for PM_{10} Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998 (August 16, 1994) (hereafter ''Addendum'') at 42002; 65 FR 19964 (April 13, 2000) (proposed action on PM_{10} Plan for Maricopa County, Arizona); 66 FR 50252 (October 2, 2001) (proposed action on PM_{10} Plan for Maricopa County, Arizona); 67 FR 48718 (July 25, 2002) (final action on PM_{10} Plan for Maricopa County, Arizona); and *Vigil* v. *EPA,* 366 F.3d 1025, amended at 381 F.3d 826 (9th Cir. 2004) (remanding EPA action on PM_{10} Plan for Maricopa County, Arizona but generally upholding EPA's interpretation of CAA section 188(e)).

these requirements when it submits a Serious area attainment plan for the 1997 $PM_{2.5}$ standards for this area.

IV. Reclassification of Areas of Indian Country [43]

Eight Indian tribes are located within the boundaries of the San Joaquin Valley $PM_{2.5}$ nonattainment area: the Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation.

We have considered the relevance of our proposal to reclassify the SJV nonattainment area as Serious for the 1997 $PM_{2.5}$ standards to each tribe located within the SJV area. We believe that the same facts and circumstances that support the proposal for the non-Indian country lands also support the proposal for Indian country located within the SJV nonattainment area. EPA is therefore proposing to exercise our authority under CAA section 188(b)(1) to reclassify areas of Indian country geographically located in the SJV nonattainment area. Section 188(b)(1) broadly authorizes EPA to reclassify a nonattainment area—including any area of Indian country located within such area—that EPA determines cannot practicably attain the relevant standard by the applicable attainment date.

Elevated $PM_{2.5}$ levels are a pervasive pollution problem throughout the SJV area. Directly-emitted $PM_{2.5}$ and its precursor pollutants (NO_X, SO_X, VOC, and ammonia) are emitted throughout a nonattainment area and can be transported throughout that nonattainment area. Therefore, boundaries for nonattainment areas are drawn to encompass both areas with direct sources of the pollution problem as well as nearby areas in the same airshed. Initial classifications of nonattainment areas are coterminous with, that is, they match exactly, their boundaries. EPA believes this approach best ensures public health protection from the adverse effects of $PM_{2.5}$ pollution. Therefore, it is generally counterproductive from an air quality and planning perspective to have a disparate classification for an area located within the boundaries of a larger nonattainment area, such as the areas of Indian country contained within the SJV $PM_{2.5}$ nonattainment area. Moreover, violations of the 1997 $PM_{2.5}$ standards, which are measured and modeled throughout the nonattainment area, as well as shared meteorological conditions, would dictate the same conclusion. Furthermore, emissions increases in portions of a $PM_{2.5}$ nonattainment area that are left classified as Moderate could counteract the effects of efforts to attain the standards within the overall area because less stringent requirements would apply in those Moderate portions relative to those that would apply in the portions of the area reclassified to Serious.

Uniformity of classification throughout a nonattainment area is thus a guiding principle and premise when an area is being reclassified. Equally, if EPA believes it is likely that a given nonattainment area will not attain the $PM_{2.5}$ standards by the applicable attainment date, then it may be an additional reason why it is appropriate to maintain a uniform classification within the area and thus to reclassify the Indian country together with the balance of the nonattainment area. In this particular case, we are proposing to determine, based on the State's demonstration and current ambient air quality trends, that the SJV nonattainment area in its entirety cannot practicably attain the 1997 $PM_{2.5}$ standards by the applicable area attainment date of April 5, 2015.

In light of the considerations outlined above that support retention of a uniformly-classified $PM_{2.5}$ nonattainment area, and our finding that is impracticable for the area to attain by the applicable attainment date, we propose to reclassify the areas of Indian country areas within the San Joaquin Valley nonattainment area as Serious for the 1997 $PM_{2.5}$ standards.

The effect of reclassification would be to lower the applicable ''major source'' emissions threshold for purposes of the nonattainment new source review program and the Title V operating permit program from its current level of 100 tpy to 70 tpy (CAA sections 189(b)(3) and 501(2)(B)) thus subjecting more new or modified stationary sources to these requirements. The reclassification may also lower the *de minimis* threshold under the CAA's General Conformity requirements (40 CFR part 93, subpart B) from 100 tpy to 70 tpy. Under the General Conformity requirements, Federal agencies bear the responsibility of determining conformity of actions in nonattainment and maintenance areas that require Federal permits, approvals, or funding. Such permits, approvals or funding by Federal agencies for projects in these areas of Indian country may be more difficult to obtain because of the lower *de minimis* thresholds.

Given the potential implications of the reclassification, EPA has contacted tribal officials to invite government-to-government consultation on this rulemaking effort.[44] EPA specifically solicits additional comment on this proposed rule from tribal officials. We note that although eligible tribes may opt to seek EPA approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan to address this reclassification.

V. $PM_{2.5}$ Serious Area SIP Requirements

Upon reclassification as a Serious nonattainment area for the 1997 $PM_{2.5}$ NAAQS, California will be required to submit additional SIP revisions to satisfy the statutory requirements that apply to Serious areas, including the requirements of subpart 4 of part D, title I of the Act.

The Serious area SIP elements that California will be required to submit are as follows:

1. Provisions to assure that the best available control measures (BACM), including best available control technology (BACT) for stationary sources, for the control of direct $PM_{2.5}$ and $PM_{2.5}$ precursors shall be implemented no later than 4 years after the area is reclassified (CAA section 189(b)(1)(B));

2. a demonstration (including air quality modeling) that the plan provides for attainment as expeditiously as practicable but no later than December 31, 2015, or where the State is seeking an extension of the attainment date under section 188(e), a demonstration that attainment by December 31, 2015 is impracticable and that the plan provides for attainment by the most expeditious

[43] ''Indian country'' as defined at 18 U.S.C. 1151 refers to: ''(a) all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation, (b) all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state, and (c) all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.''

[44] We sent letters to tribal officials of seven tribes regarding government-to-government consultation on September 30, 2014. EPA inadvertently did not send a letter to the Tejon Indian Tribe, therefore, concurrently with this proposed action, EPA is sending a letter to the chairperson of the Tejon Indian Tribe inviting consultation on our proposed reclassification of the SJV $PM_{2.5}$ nonattainment area. All eight letters can be found in the docket for this proposed action.

alternative date practicable (CAA sections 188(c)(2) and 189(b)(1)(A));

3. plan provisions that require reasonable further progress (RFP) (CAA section 172(c)(2));

4. quantitative milestones which are to be achieved every 3 years until the area is redesignated attainment and which demonstrate RFP toward attainment by the applicable date (CAA section 189(c));

5. provisions to assure that control requirements applicable to major stationary sources of $PM_{2.5}$ also apply to major stationary sources of $PM_{2.5}$ precursors, except where the State demonstrates to EPA's satisfaction that such sources do not contribute significantly to $PM_{2.5}$ levels that exceed the standard in the area (CAA section 189(e));

6. a comprehensive, accurate, current inventory of actual emissions from all sources of $PM_{2.5}$ and $PM_{2.5}$ precursors in the area (CAA section 172(c)(3));

7. contingency measures to be implemented if the area fails to meet RFP or to attain by the applicable attainment date (CAA section 172(c)(9)); and

8. a revision to the nonattainment new source review (NSR) program to lower the applicable ''major stationary source'' [45] thresholds from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)).

Section 189(b)(2) states, in relevant part, that the State must submit the required BACM provisions ''no later than 18 months after reclassification of the area as a Serious Area'' and must submit the required attainment demonstration ''no later than 4 years after reclassification of the area to Serious.'' Thus, if a final reclassification of the area to Serious becomes effective in early 2015, the Act provides the State with up to 18 months after this date (*i.e.,* until late 2016) to submit a BACM demonstration and up to 4 years after this date (*i.e.,* until early 2019) to submit a Serious area attainment demonstration. Given the December 31, 2015 Serious area attainment date for the 1997 $PM_{2.5}$ standards in this area under CAA section 188(c)(2), however, EPA expects the State to adopt and submit a Serious area plan for the 1997 $PM_{2.5}$ standards well before the statutory SIP submittal deadlines in section 189(b)(2).

Additionally, in light of the available ambient air quality data and the short amount of time available before the December 31, 2015 attainment date under CAA section 188(c)(2), EPA anticipates that California may choose to submit a request for an extension of the Serious area attainment date pursuant to section 188(e) simultaneously with its submittal of a Serious area plan for the area. If California fails to submit a request for an extension of the Serious area attainment date that satisfies the requirements of section 188(e) and the SJV area fails to attain the 1997 $PM_{2.5}$ standards by December 31, 2015, under CAA section 189(d) the State would be required to submit, within 12 months after December 31, 2015, plan revisions which provide for attainment of the $PM_{2.5}$ standards and, from the date of such submission until attainment, for an annual reduction in emissions within the SJV area of not less than 5 percent of the amount of such emissions as reported in the most recent inventory prepared for the area (hereafter ''section 189(d) plan''). If, however, California submits and EPA approves a section 188(e) request for an extension of the Serious area attainment date prior to the December 31, 2015 attainment date for the SJV area, the requirement to submit a section 189(d) plan would not apply unless and until the SJV area fails to attain the 1997 $PM_{2.5}$ standards by the extended attainment date approved by EPA under section 188(e).

The Act does not specify a deadline for the State's submittal of nonattainment NSR program revisions to lower the ''major stationary source'' threshold from 100 tons per year (tpy) to 70 tpy (CAA section 189(b)(3)) following reclassification of a Moderate $PM_{2.5}$ nonattainment area as Serious nonattainment under subpart 4. Pursuant to EPA's gap-filling authority in CAA section 301(a) and to effectuate the statutory control requirements in section 189 of the Act, EPA proposes to require the State to submit these nonattainment NSR SIP revisions no later than 12 months from the effective date of final reclassification of the SJV area as Serious nonattainment for the 1997 $PM_{2.5}$ standards. We believe this timeframe will give the state sufficient time to make this relatively straightforward revision to its nonattainment NSR SIP while assuring that new or modified major sources locating in the SJV area will be subject to the lower statutory major source thresholds expeditiously. We are requesting comment on this proposed 12-month timeframe for submission of the nonattainment NSR SIP revisions. As noted above, however, if California intends to seek an extension of the Serious area attainment date, the State will need to submit a request that satisfies the requirements of CAA section 188(e), including NSR SIP provisions to implement the major stationary source threshold in CAA section 189(b)(3), in time for EPA to approve such an extension prior to the December 31, 2015 Serious area attainment date.

Given the short amount of time available for California's development of these SIP submittals, EPA anticipates that the Serious area attainment demonstration for the SJV area may rely to some extent on existing photochemical modeling analyses developed for previous $PM_{2.5}$ plan submittals. EPA commits to work with the District and CARB as they develop the necessary technical support for the Serious area plan and to provide guidance on the requirements that California must meet to qualify for an extension of the Serious area attainment date under CAA section 188(e).

EPA is currently developing a proposed rulemaking to provide guidance to states on the attainment planning requirements in subparts 1 and 4 of part D, title I of the Act that apply to areas designated nonattainment for $PM_{2.5}$. In the interim, EPA encourages the State to review the General Preamble and Addendum for guidance on how to implement these statutory requirements in the SJV $PM_{2.5}$ nonattainment area.[46]

VI. Summary of Proposed Action and Request for Public Comment

Pursuant to section 188(b)(1) of the Act, EPA is proposing to reclassify the SJV nonattainment area from Moderate to Serious nonattainment for the 1997 annual and 24-hour $PM_{2.5}$ standards based on EPA's determination that the area cannot practicably attain these NAAQS by the applicable attainment date of April 5, 2015. This proposed action is based upon EPA's evaluation of ambient air quality data for the 2003–2014 period indicating that it is not practicable for certain monitoring sites within the SJV to show $PM_{2.5}$ design values at or below the level of the 1997 $PM_{2.5}$ NAAQS by April 5, 2015. Upon reclassification as a Serious nonattainment area, California will be required to submit a Serious area plan that satisfies the requirements of part D of title I of the Act, including a demonstration that the plan provides for attainment of the 1997 annual and 24-hour $PM_{2.5}$ standards in the SJV area by the applicable attainment date, which is

[45] For any Serious area, the terms ''major source'' and ''major stationary source'' include any stationary source that emits or has the potential to emit at least 70 tons per year of PM_{10} (CAA section 189(b)(3)).

[46] *See generally* the General Preamble, 57 FR 13498 (April 16, 1992) and Addendum, 59 FR 41998 (August 16, 1994).

no later than December 31, 2015, or by the most expeditious alternative date practicable and no later than December 31, 2020, consistent with the requirements of CAA sections 189(b) and 188(e).

In addition, because EPA is proposing to similarly reclassify areas of Indian country within the SJV $PM_{2.5}$ nonattainment area as Serious nonattainment for the 1997 $PM_{2.5}$ standards, consistent with our proposed reclassification of the surrounding non-Indian country lands, EPA has invited consultation with interested tribes concerning this issue. We note that although eligible tribes may seek EPA approval of relevant tribal programs under the CAA, none of the affected tribes will be required to submit an implementation plan to address this reclassification.

EPA is requesting public comment on this proposed action.

VII. Statutory and Executive Order Reviews

Additional information about these statutes and Executive Orders can be found at *http://www2.epa.gov/laws-regulations/laws-and-executive-orders*.

A. Executive Order 12866: Regulatory Planning and Review, and Executive Order 13563: Improving Regulation and Regulatory Review

This action is not a significant regulatory action under the terms of Executive Order 12866 (58 FR 51735, October 4, 1993) and Executive Order 13563 (76 FR 3821, January 21, 2011), and therefore was not submitted to the Office of Management and Budget (OMB) for review. Reclassification does not itself create any new requirements, and does not impose a materially adverse impact under Executive Order 12866. With respect to lands under state jurisdiction, this proposed reclassification would trigger statutory deadlines for the state to submit Serious area plan elements. With respect to Indian country, reclassifications do not establish deadlines for air quality plans or plan revisions because tribes are not subject to implementation plan submittal deadlines that apply to states as a result of reclassifications.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3521) because it does not contain any information collection activities.

C. Regulatory Flexibility Act

I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. This action will not impose any requirements on small entities. The proposed rule would require the state to adopt and submit SIP revisions to satisfy the statutory requirements that apply to Serious areas, and would not itself directly regulate any small entities. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

This action does not contain any unfunded mandate of $100 million or more and does not significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1531–1538). This action itself imposes no enforceable duty on any state, local, or tribal governments, or the private sector. The proposed action would reclassify the SJV nonattainment area as Serious nonattainment for the 1997 $PM_{2.5}$ NAAQS, which would trigger existing statutory timeframes for the state to submit SIP revisions. Such a reclassification in and of itself does not impose any federal intergovernmental mandate. The proposed action would not require any tribes to submit implementation plans.

E. Executive Order 13132: Federalism

This action does not have federalism implications. It 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). The requirement to submit SIP revisions to meet the 1997 $PM_{2.5}$ NAAQS is imposed by the CAA. This proposed rule does not alter the distribution of power and responsibilities established in the CAA. Thus, Executive Order 13132 does not apply to this action.

In the spirit of Executive Order 13132 and consistent with EPA policy to promote communications between EPA and state and local governments, EPA specifically solicits comments on this proposed action from state and local officials.

F. Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' ''Policies that have Tribal implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and the Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes.''

Eight Indian tribes are located within the boundaries of the SJV nonattainment area for the 1997 $PM_{2.5}$ NAAQS: The Big Sandy Rancheria of Mono Indians of California, the Cold Springs Rancheria of Mono Indians of California, the North Fork Rancheria of Mono Indians of California, the Picayune Rancheria of Chukchansi Indians of California, the Santa Rosa Rancheria of the Tachi Yokut Tribe, the Table Mountain Rancheria of California, the Tejon Indian Tribe, and the Tule River Indian Tribe of the Tule River Reservation.

EPA has concluded that this proposed rule might have tribal implications for the purposes of Executive Order 13175, but that it would not impose substantial direct compliance costs upon the tribes, nor would it preempt tribal law. We note that none of the tribes located in the SJV nonattainment area has requested eligibility to administer programs under the Clean Air Act. The proposed rule would affect EPA's implementation of the new source review program because of the lower ''major source'' threshold triggered by reclassification (70 tons per year for direct $PM_{2.5}$ and precursors to $PM_{2.5}$). The proposed rule may also affect new or modified stationary sources proposed in these areas that require Federal permits, approvals, or funding. Such projects are subject to the requirements of EPA's General Conformity rule, and Federal permits, approvals, or funding for the projects may be more difficult to obtain because of the lower *de minimis* thresholds triggered by reclassification.

Given these potential implications, EPA contacted tribal officials during the process of developing this proposed rule to provide an opportunity for the tribes to have meaningful and timely input into its development. On September 30, 2014, we sent letters to leaders of the

seven tribes with areas of Indian country in the SJV nonattainment area inviting government-to-government consultation on the rulemaking effort. We requested that the tribal leaders, or their designated consultation representatives, provide input or request government-to-government consultation by October 27, 2014. We did not receive a response from any of the tribes. As noted above, EPA inadvertently did not send a letter to the Tejon Indian Tribe prior to this proposed action. We recognize that the proposed reclassification may be of interest to officials of the Tejon Indian Tribe and we are contacting them presently to offer them an opportunity for government-to-government consultation. We intend to continue communicating with all eight tribes located within the boundaries of the SJV nonattainment area for the 1997 $PM_{2.5}$ NAAQS as we move forward developing a final rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern environmental health or safety risks that EPA has reason to believe may disproportionately affect children, per the definition of ''covered regulatory action'' in section 2–202 of the Executive Order. This proposed action is not subject to Executive Order 13045 because it proposes only to reclassify the SJV nonattainment area as Serious nonattainment for the 1997 $PM_{2.5}$ NAAQS, which would trigger additional Serious area planning requirements under the CAA. This proposed action does not establish an environmental standard intended to mitigate health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This proposed rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

This action is not subject to the requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because it does not involve technical standards.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order 12898 (59 FR 7629, Feb. 16, 1994) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or the environment. This proposed action would only reclassify the SJV nonattainment area as Serious nonattainment for the 1997 $PM_{2.5}$ NAAQS, which would trigger additional Serious area planning requirements under the CAA.

List of Subjects in 40 CFR Part 81

Air pollution control, Incorporation by reference.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: December 18, 2014.

Jared Blumenfeld,

Regional Administrator, EPA Region 9.

[FR Doc. 2015–00309 Filed 1–9–15; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R1–ES–2014–0038; 4500030113]

RIN 1018–BA13

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for 21 Species and Proposed Threatened Status for 2 Species in Guam and the Commonwealth of the Northern Mariana Islands

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of public comment period and notice of public hearings.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), recently published a proposed listing for 21 plant and animal species from the Mariana Islands (U.S. Territory of Guam and the U.S. Commonwealth of the Northern Mariana Islands) as endangered species and 2 plant species from the Mariana Islands as threatened species under the Endangered Species Act of 1973, as amended (Act), and announced a 60-day public comment period on the proposed actions, ending December 1, 2014. We now reopen the public comment period for an additional 30 days, and announce two public hearings and four public information meetings on our proposed rule. We are taking these actions to allow all interested parties additional time and opportunity to comment on the proposed rule.

DATES: *Written Comments:* We will consider comments received or postmarked on or before February 11, 2015, or provided at the public hearings. Please note comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**) must be received by 11:59 p.m. Eastern Time on the closing date. Any comments that we receive after the closing date may not be considered in the final decision on the proposed rule.

Public Hearings and Information Meetings:

Public hearings	Public information meetings
Guam: Tuesday, January 27, 2015, from 6:00 p.m. to 8:00 p.m.	*Guam:* Tuesday, January 27, 2015, from 5:00 p.m. to 6:00 p.m.

Public hearings	Public information meetings
U.S. Commonwealth of the Northern Mariana Islands (CNMI): Wednesday, January 28, 2015, from 6:00 p.m. to 8:00 p.m. (island of Saipai)	*U.S. Commonwealth of the Northern Mariana Islands (CNMI):* • Wednesday, January 28, 2015, from 5:00 p.m. to 6:00 p.m. • Thursday, January 29, 2015, from 6:00 p.m. to 8:00 p.m. (island of Rota). • Saturday, January 31, 2015, from 9:00 a.m. to 11:00 a.m. (island of Tinian).

ADDRESSES:

Document Availability: You may obtain copies of the proposed rule at *http://www.regulations.gov* at Docket No. FWS–R1–ES–2014–0038; from the Pacific Islands Fish and Wildlife Office's Web site (*http://www.fws.gov/pacificislands*); or by contacting the Pacific Islands Fish and Wildlife Office directly (see **FOR FURTHER INFORMATION CONTACT**).

Comment Submission: You may submit written comments by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov*. Submit comments on the proposed listing rule to FWS–R1–ES–2014–0038.

(2) *By hard copy:* Submit comments on the proposed listing rule by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R1–ES–2014–0038; Division of Policy and Directives Management; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send comments only by the methods described above. We will post all comments on *http://www.regulations.gov*. This generally means that we will post any personal information you provide us (see the Public Comments section, below, for more information).

Locations of Public Hearings and Information Meetings:

Public hearings	Public information meetings
Guam: University of Guam, in the Leon Guerrero School of Business and Public Administration Building, Anthony Leon Guerrero Multi-Purpose Room 129, located at UOG Station, Mangilao, Guam 96923.	*Guam:* Same location as the public hearing.
U.S. Commonwealth of the Northern Mariana Islands (CNMI): Island of Saipan, at the Multi-Purpose Center, located at Beach Road, Susupe, Saipan.	*U.S. Commonwealth of the Northern Mariana Islands (CNMI):* • Island of Saipan, at the same location as the public hearing. • Island of Rota, at the Sinapalo Elementary School Cafeteria, located at Sinapalo I, Songsong Village, Rota, MP 96951. • Island of Tinian, at the Tinian Elementary School Cafeteria, located at San Jose Village, Tinian, MP 96952.

People needing reasonable accommodation in order to attend and participate in either public hearing should contact Kristi Young, Deputy Field Supervisor, Pacific Islands Fish and Wildlife Office, as soon as possible (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Kristi Young, Deputy Field Supervisor, Pacific Islands Fish and Wildlife Office, 300 Ala Moana Boulevard, Honolulu, HI 96850; telephone 808–792–9400; or facsimile 808–792–9581. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We are reopening the public comment period for 30 days on our proposed rule to list 23 Mariana Islands species that was published in the **Federal Register** on October 1, 2014 (79 FR 59364), to allow all interested parties additional time to comment on the proposed rule. We will accept written comments and information until the date specified in the **DATES** section, above, or at the public hearings. We will consider all information and recommendations from all interested parties.

For details on specific information we are requesting, please see the Information Requested section of our proposed rule (79 FR 59364; October 1, 2014).

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

If you submit a comment via *http://www.regulations.gov*, your entire comment—including any personal identifying information—will be posted on the Web site. We will post all hardcopy comments on *http://www.regulations.gov* as well. If you submit a hardcopy comment 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.

Comments and materials we receive, as well as supporting documentation we used in preparing the proposed rule, will be available for public inspection on *http://www.regulations.gov* at Docket No. FWS–R1–ES–2014–0038 or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Pacific Islands Fish and Wildlife Office (see **FOR FURTHER INFORMATION CONTACT**).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: December 19, 2014.

Rowan W. Gould,

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

[FR Doc. 2015–00259 Filed 1–9–15; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register

Vol. 80, No. 7

Monday, January 12, 2015

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

January 5, 2015.

The Department of Agriculture has submitted the following information collection requirement(s) to Office of Management and Budget (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, 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. 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) 720–8681.

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

Rural Utilities Service

Title: Accounting Requirements for RUS Electric and Telecommunications Borrowers.

OMB Control Number: 0572–0003.

Summary of Collection: Rural Utilities Service (RUS) is a credit agency of the U.S. Department of Agriculture that makes loans (direct and guaranteed) to finance electric and telecommunications facilities in rural areas. This collection is primarily a recordkeeping requirement. 7 CFR parts 1767 and 1770 set forth basic accounting requirements for maintaining financial accounting records on an accrual basis that are unique to RUS borrowers. The agency is requiring borrowers to establish an index of records. RUS does not own or operate rural electric facilities. Its function is to provide, through self-liquidating loans and technical assistance, adequate and dependable electric and telecommunications service to rural people under rates and conditions that permit productive use of these utility services. RUS borrowers, as all businesses, need accounting systems for their own internal use as well as external use. Such records are maintained as part of normal business practices. Without systems, no records would exist, for example, or what they own or what they owe. Such records systems provide borrowers with information that is required by the manager and board of directors to operate on a daily basis, to complete their tax returns, and to support requests to state regulatory commissions for rate approvals.

Need and Use of the Information: Currently there are approximately 650 active electric borrowers and 400 RUS telecommunications borrowers. Borrowers may utilize any information technology that meets their records management needs. RUS uses the information to evaluate a borrower's financial performance, to determine whether current loans are at risk, and to determine the credit worthiness of future loans. If basic financial records were not maintained, the borrower, its investors, and RUS would be unable to evaluate a borrower's financial performance.

Description of Respondents: Not-for-profit institutions.

Number of Respondents: 1,050.

Frequency of Responses: Recordkeeping; Reporting: On Occasion.

Total Burden Hours: 28,350.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–00246 Filed 1–9–15; 8:45 am]

BILLING CODE 3410–15–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 5, 2015.

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 February 11, 2015 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 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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

National Agricultural Statistics Service

Title: Agricultural Labor Survey.

OMB Control Number: 0535–0109.

Summary of Collection: The 1938 Agricultural Adjustment Act, as amended in 1948, requires USDA to compute parity prices of farm products. This computation uses an index of Prices Paid by Farmers which in turn is composed of five indexes, one of which is an index of wage rates. These estimates measure actual agricultural wage rates and the year-to-year changes. General authority for these data collection activities is granted under U.S. Code title 7, section 2204. Agricultural labor statistics are an integral part of National Agricultural Statistics Service (NASS) primary function of collecting, processing, and disseminating current state, regional, and national agricultural statistics. Comprehensive and reliable agricultural labor data are also needed by the Department of Labor in the administration of the ''H–2A'' program (non-immigrants who enter the United States for temporary or seasonal agricultural labor) and for setting ''Adverse Effect Wage Rates.'' The Agricultural Labor Survey is the only timely and reliable source of information on the size of the farm worker population. NASS will collect information using a survey.

Need and Use of the Information: NASS will collect information on wage rate estimates and the year-to-year changes in these rates and how changes in wage rates help measure the changes in costs of production of major farm commodities. NASS will also collect Standard Occupational Classifications data information for field workers, livestock workers, supervisors and other workers to measure the availability of national farm workers. The information is used by farm worker organizations to help set wage rates and negotiate labor contracts as well as determine the need for additional workers and to help ensure federal assistance for farm worker assistance programs supported with government funding.

Description of Respondents: Farms.

Number of Respondents: 13,000.

Frequency of Responses: Reporting: Quarterly; Annually.

Total Burden Hours: 12,634.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2015–00245 Filed 1–9–15; 8:45 am]

BILLING CODE 3410–20–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Sensors and Instrumentation Technical Advisory Committee; Meeting Notice

The Sensors and Instrumentation Technical Advisory Committee (SITAC) will meet on January 27, 2015, 9:30 a.m., in the Herbert C. Hoover Building, Room 6087B, 14th Street between Constitution and Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on technical questions that affect the level of export controls applicable to sensors and instrumentation equipment and technology.

Agenda

Public Session:

1. Welcome and Introductions.
2. Remarks from the Bureau of Industry and Security Management.
3. Industry Presentations.
4. New Business.

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than January 21, 2015.

A limited number of seats will be available during the public session of the meeting.

Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to the Committee members, the Committee suggests that the materials be forwarded before the meeting to Ms. Springer.

For more information contact Yvette Springer on (202) 482–2813.

Dated: January 6, 2015.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2015–00240 Filed 1–9–15; 8:45 am]

BILLING CODE 3510–JT–P

THE COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Deletions

AGENCY: The Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Deletions from the Procurement List.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled is proposing to delete products from the Procurement List that were furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

Comments Must Be Received on Or Before: 2/9/2015.

ADDRESSES: The Committee for Purchase From People Who Are Blind or Severely Disabled, 1401 S. Clark Street, Suite 10800, Arlington, Virginia 22202–4149.

For Further Information Or to Submit Comments Contact: Patricia Briscoe, Telephone: (703) 603–7740, Fax: (703) 603–0655, or email *CMTEFedReg@AbilityOne.gov.*

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 8503 (a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Deletions

The following products are proposed for deletion from the Procurement List:

Products:

NSN: 7510–01–455–0020—Steno Pad Holder, Vinyl
NPA: The Arkansas Lighthouse for the Blind, Little Rock, AR
Contracting Activity: General Services Administration, New York, NY

NSN: 7520–01–454–7996—Pen, Ergonomic, Ballpoint, ''The Constitution''
NSN: 7520–01–454–7997—Pen, ''Patriot'' Ergonomic
NSN: 7520–01–454–7998—Pen, Ball Point, Liberty Writer, Retractable, Cushion Grip, Black Ink, Fine Point
NSN: 7520–01–454–7999—Pen, Ball Point, Liberty Writer, Retractable, Cushion Grip, Black Ink, Medium Point
NSN: 7520–01–439–3393—Pen & Pencil Set, ''The Liberty''
NSN: 7520–01–439–3407—Pen, Ball Point, Retractable, Stealth Writer, Woodland Green Camouflage, Black Ink, Medium Point
NSN: 7520–01–439–3408—Pen, Ball Point, Retractable, Stealth Writer, Desert Tan Camouflage, Black Ink, Medium Point
NPA: Industries for the Blind, Inc., West Allis, WI
Contracting Activity: General Services Administration, New York, NY

Clock, Atomic, Standard, Thermometer

NSN: 6645–01–491–9819
NSN: 6645–01–491–9826

Clock, Wall

NSN: 6645–01–421–6899
NSN: 6645–01–456–6029—Customized

Slimline Workstation Clocks

NSN: 6645–01–516–9623—6″ Federal Logo—Brown
NSN: 6645–01–516–9624—6″ Black Case
NSN: 6645–01–516–9625—6″ Brown Case
NSN: 6645–01–516–9628—6″ Federal Logo—Black
NPA: The Chicago Lighthouse for People Who Are Blind or Visually Impaired, Chicago, IL
Contracting Activity: General Services Administration, New York, NY

NSN: 7510–01–544–0840—Use in Canon printers BJC3000/6000/6200/6500/S400/
NSN: 7510–01–555–6172—Inkjet printer cartridge/compatible with Epson Part No. T029201. Tri color
NSN: 7510–01–555–6174—Cartridge, Inkjet, Compatible with Canon BCI–15BK, Black, 185 Page Yield
NSN: 7510–01–555–6175—Inkjet printer cartridge
NSN: 7510–01–555–6176—Inkjet printer cartridge
NSN: 7510–01–555–6177—Inkjet printer cartridge
NPA: Alabama Industries for the Blind, Talladega, AL
Contracting Activity: General Services Administration, New York, NY

NSN: 7520–01–424–4858—Marker, Tube Type, Broad Tip
NPA: Dallas Lighthouse for the Blind, Inc., Dallas, TX
Contracting Activity: General Services Administration, New York, NY
NSN: 7920–01–452–2028—Handle, Mop, Lockjaw, Wood
NPA: Alphapointe, Kansas City, MO
Contracting Activity: General Services Administration, Fort Worth, TX

Bag, Plastic

NSN: 8105–00–NIB–0011
NSN: 8105–00–NIB–0012
NSN: 8105–00–NIB–0013
NSN: 8105–00–NIB–0014
NSN: 8105–00–NIB–0015
NSN: 8105–00–NIB–0016
NSN: 8105–00–NIB–0017
NSN: 8105–00–NIB–0018
NSN: 8105–00–NIB–0019
NSN: 8105–00–NIB–0020
NPA: Unknown
Contracting Activity: U.S. Fleet Forces Command, Norfolk, VA

Flexible Erasable Wall Planners

NSN: 7510–01–600–8032—Dated 2014 18-month Paper Wall Planner, 24″ x 37″
NSN: 7510–01–600–8042—Dated 2014 12-Month 2-Sided Laminated Wall Planner, 24″ x 37″
NSN: 7520–01–585–0982—Planner, Flexible, Erasable, Undated, Vacation
NPA: The Chicago Lighthouse for People Who Are Blind or Visually Impaired, Chicago, IL
Contracting Activity: General Services Administration, FSS Household and Industrial Furniture, Arlington, VA

NSN: 7530–01–600–7567—Daily Desk Planner, Dated 2014, Wire bound, Non-refillable, Black Cover
NSN: 7510–01–600–7570—Wall Calendar, Dated 2014, Wire Bound w/Hanger, 12″ x 17″
NSN: 7530–01–600–7598—Monthly Desk Planner, Dated 2014, Wire Bound, Non-refillable, Black cover
NSN: 7530–01–600–7609—Weekly Desk Planner, Dated 2014, Wire Bound, Non-refillable, Black cover
NSN: 7510–01–600–7623—Monthly Wall Calendar, Dated 2014, Jan-Dec, 8½″ x 11″
NSN: 7530–01–600–7624—Weekly Planner Book, Dated 2014, 5″ x 8″, Digital Camouflage
NSN: 7510–01–600–7636—Wall Calendar, Dated 2014, Wire Bound w/hanger, 15.5″ × 22″
NPA: The Chicago Lighthouse for People Who Are Blind or Visually Impaired, Chicago, IL
Contracting Activity: General Services Administration, New York, NY

NSN: 7530–00–285–3072—Paper, Mimeograph and Duplicating
NSN: 7530–00–285–3073—Paper, Mimeograph and Duplicating
NSN: 7530–00–285–5836—Paper, Writing
NSN: 7530–00–616–7284—Paper, Bond & Writing
NPA: Louisiana Association for the Blind, Shreveport, LA
Contracting Activity: General Services Administration, New York, NY

Patricia Briscoe,

Deputy Director, Business Operations (Pricing and Information Management).

[FR Doc. 2015–00262 Filed 1–9–15; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF EDUCATION

Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant programs; 2015–2016 Award Year Deadline Dates

AGENCY: Federal Student Aid, Department of Education.

ACTION: Notice.

Catalog Federal Domestic Assistance (CFDA) Numbers: 84.038 Federal Perkins Loan Program; 84.033 Federal Work-Study Program; and 84.007 Federal Supplemental Educational Opportunity Grant Program.

SUMMARY: The Secretary announces the 2015–2016 award year deadline dates for the submission of requests and documents from postsecondary institutions for the Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) programs (collectively, the ''campus-based programs'').

FOR FURTHER INFORMATION CONTACT: Pat Stephenson, Manager, Campus-Based Programs, U.S. Department of Education, Federal Student Aid, 830 First Street NE., Union Center Plaza, Room 64F2, Washington, DC 20202–5453. Telephone: (202) 377–3782 or via email: *pat.stephenson@ed.gov.*

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

SUPPLEMENTARY INFORMATION: The Federal Perkins Loan program encourages institutions to make low-interest, long-term loans to needy undergraduate and graduate students to help pay for their education.

The FWS program encourages the part-time employment of needy undergraduate and graduate students to help pay for their education and to involve the students in community service activities.

The FSEOG program encourages institutions to provide grants to exceptionally needy undergraduate students to help pay for their education.

The Federal Perkins Loan, FWS, and FSEOG programs are authorized by parts E and C, and part A, subpart 3, respectively, of title IV of the Higher Education Act of 1965, as amended.

Throughout the year, in its ''Electronic Announcements,'' the Department will continue to provide additional information for the individual deadline dates listed in the table under the DEADLINE DATES section of this notice. You will also find the information on the Information for Financial Aid Professionals (IFAP) Web site at: *www.ifap.ed.gov.*

Deadline Dates: The following table provides the 2015–2016 award year deadline dates for the submission of applications, reports, waiver requests, and other documents for the campus-based programs. Institutions must meet the established deadline dates to ensure consideration for funding or waiver, as appropriate.

2015–2016 AWARD YEAR DEADLINE DATES

What does an institution submit?	How is it submitted?	What is the deadline for submission?
1. The Campus-Based Reallocation Form designated for the return of 2014–2015 funds and the request for supplemental FWS funds for the 2015–2016 award year.	The Reallocation Form is located on the ''Setup'' tab of the Fiscal Operations Report and Application to Participate (FISAP) at the eCampus-Based Web site: *www.cbfisap.ed.gov*. The Reallocation Form must be submitted electronically through the eCampus-Based Web site.	Monday, August 17, 2015.
2. The 2016–2017 FISAP(reporting 2014–2015 expenditure data and requesting funds for 2016–2017).	The FISAP is located at the eCampus-Based Web site: *www.cbfisap.ed.gov*. The FISAP must be submitted electronically through the eCampus-Based Web site. The FISAP's signature page must be signed by the institution's Chief Executive Officer (CEO), either electronically or on a printed copy with an original signature. If mailing the FISAP signature page, it must be mailed to: FISAP Administrator, 8405 Greensboro Drive, Suite 1020, McLean, VA 22102.	Thursday, October 1, 2015.
3. The Work Colleges Program Report of 2014–2015 award year expenditures.	The Work Colleges Program Report is located on the ''Setup'' tab of the FISAP at the eCampus-Based Web site: *www.cbfisap.ed.gov.* The report must be submitted electronically through the eCampus-Based Web site. It must be signed by the institution's Chief Executive Officer (CEO), either electronically or on a printed copy with an original signature. If mailing the Work Colleges Program Report signature page, it must be submitted by one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, 830 First Street NE., Room 64F2, ATTN: Work Colleges Coordinator, Washington, DC 20002, or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	Thursday, October 1, 2015.
4. The 2014–2015 Financial Assistance for Students with Intellectual Disabilities Expenditure Report.	The Financial Assistance for Students with Intellectual Disabilities Expenditure Report is located on the ''Setup'' tab of the FISAP at the eCampus-Based Web site: *www.cbfisap.ed.gov.* The report must be submitted electronically through the eCampus-Based Web site. It must be signed by the institution's Chief Executive Officer (CEO), either electronically or on a printed copy with an original signature. If mailing the Financial Assistance for Students with Intellectual Disabilities Expenditure Report signature page, it must be submitted by one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, CTP Program, 830 First Street NE., Room 64F2 Washington, DC 20002, or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	Thursday, October 1, 2015.
5. The 2016–2017 FISAP Edit Corrections and Perkins Cash on Hand Update as of October 31, 2015.	The FISAP is located at the eCampus-Based Web site: *www.cbfisap.ed.gov*. The FISAP Edit Corrections and Perkins Cash on Hand Update must be submitted electronically through the eCampus-Based Web site.	Tuesday, December 15, 2015.
6. Request for a waiver of the 2016–2017 award year penalty for the underuse of 2014–2015 award year funds.	The request for a waiver is located in Part II, Section C of the FISAP at the eCampus-Based Web site: *www.cbfisap.ed.gov*. The request and justification must be submitted electronically through the eCampus-Based Web site.	Monday, February 8, 2016.

2015–2016 AWARD YEAR DEADLINE DATES—Continued

What does an institution submit?	How is it submitted?	What is the deadline for submission?
7. The Institutional Application and Agreement for Participation in the Work Colleges Program for the 2016–2017 award year.	The Institutional Application and Agreement for Participation in the Work Colleges Program can be found on the "Setup" tab of the FISAP at the eCampus-Based Web site: *www.cbfisap.ed.gov*. The application and agreement must be submitted electronically through the eCampus-Based Web site. It must be signed by the institution's Chief Executive Officer (CEO), either electronically or on a printed copy with an original signature. If mailing the Institutional Application and Agreement for Participation in the Work Colleges Program signature page, it must be submitted by one of the following methods: Hand deliver to: U.S. Department of Education, Federal Student Aid, Grants & Campus-Based Division, 830 First Street NE., Room 64F2 ATTN: Work Colleges Coordinator, Washington, DC 20002, or Mail to: The address listed above for hand delivery. However, please use ZIP Code 20202–5453.	Monday, March 7, 2016.
8. Request for a waiver of the FWS Community Service Expenditure Requirement for the 2016–2017 award year.	The FWS Community Service waiver request is located on the "Setup" tab of the FISAP at the eCampus-Based Web site: *www.cbfisap.ed.gov*. The request and justification must be submitted electronically through the eCampus-Based Web site.	Monday, April 25, 2016.

Notes:

- The deadline for electronic submissions is 11:59:00 p.m. (Washington, DC time) on the applicable deadline date. Transmissions must be completed and accepted by 12:00:00 midnight to meet the deadline.
- Paper documents that are sent through the U.S. Postal Service must be postmarked or you must have a mail receipt stamped by the applicable deadline date.
- Paper documents that are delivered by a commercial courier must be received no later than 4:30:00 p.m. (Washington, DC time) on the applicable deadline date.
- The Secretary may consider on a case-by-case basis the effect that a major disaster, as defined in section 102(2) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5122(2)), or another unusual circumstance has on an institution in meeting the deadlines.

Proof of Mailing or Hand Delivery of Paper Documents

If you submit paper documents when permitted by mail or by hand delivery (or from a commercial courier), we accept as proof one of the following:

(1) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(2) A legibly dated U.S. Postal Service postmark.

(3) A legibly dated shipping label, invoice, or receipt from a commercial courier.

(4) Other proof of mailing or delivery acceptable to the Secretary.

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

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

An institution should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an institution should check with its local post office. All institutions are encouraged to use certified or at least first-class mail.

The Department accepts hand deliveries from you or a commercial courier between 8:00:00 a.m. and 4:30:00 p.m., Washington, DC time, Monday through Friday except Federal holidays.

Sources for Detailed Information on These Requests

A more detailed discussion of each request for funds or waiver is provided in specific "Electronic Announcements," which are posted on the Department's IFAP Web site (*www.ifap.ed.gov*) at least 30 days before the established deadline date for the specific request. Information on these items is also found in the Federal Student Aid Handbook, which is also posted on the Department's IFAP Web site.

Applicable Regulations: The following regulations apply to these programs:

(1) Student Assistance General Provisions, 34 CFR part 668.

(2) General Provisions for the Federal Perkins Loan Program, Federal Work-Study Program, and Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 673.

(3) Federal Perkins Loan Program, 34 CFR part 674.

(4) Federal Work-Study Programs, 34 CFR part 675.

(5) Federal Supplemental Educational Opportunity Grant Program, 34 CFR part 676.

(6) Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600.

(7) New Restrictions on Lobbying, 34 CFR part 82.

(8) Governmentwide Requirements for Drug-Free Workplace (Financial Assistance), 34 CFR part 84.

(9) Governmentwide Debarment and Suspension (Nonprocurement), 2 CFR part 3485.

(10) Drug and Alcohol Abuse Prevention, 34 CFR part 86.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed in this section.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can

view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at this site.

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

Program Authority: 20 U.S.C. 1070b *et seq.* and 1087aa *et seq.;* 42 U.S.C. 2751 *et seq.*

Dated: January 6, 2015.

James W. Runcie,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 2015–00196 Filed 1–9–15; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2916–038]

East Bay Municipal Utility District; 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:* Amend Recreation Plan pursuant to Article 38.

b. *Project No:* 2916–038.

c. *Date Filed:* November 28, 2014.

d. *Applicant:* East Bay Municipal Utility District.

e. *Name of Project:* Lower Mokelumne Hydroelectric Project.

f. *Location:* The project is located on the Mokelumne River in Amador, Calaveras, and San Joaquin Counties in California.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Ms. Priyanka K. Jain, P.E., Senior Civil Engineer, Water Resources Planning Division, East Bay Municipal Utility District, P.O. Box 24055, 375 Eleventh Street, Oakland, CA 94607–4246, (510) 287–1153.

i. *FERC Contact:* Mary Karwoski at (202) 502–6543, *mary.karwoski@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* February 5, 2015.

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–2916–038) 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 renovate and repair the Pardee Recreation Area Recreational Vehicle (RV) Park to bring the park up to current State of California codes and to replace the sanitary sewer system in the recreation area. The filing requests to amend the project recreation plan to reduce the total number of RV spaces in the RV Park from a total of 87 spaces to a total of 56 spaces. The new spaces will be larger and the re-built RV Park will feature new road alignments, utilities with increased capacity, roadway and site lighting, drought resistant landscaping, hardscaping, and required fire safety clearances.

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: January 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00250 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER10–2063–001.
Applicants: Otter Tail Power Company.
Description: Updated Market Power Analysis for Central Region of Otter Tail Power Company.
Filed Date: 12/31/14.
Accession Number: 20141231–5311.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER10–3199–002.
Applicants: MDU Resources Group, Inc.
Description: Updated Market Power Analysis of MDU Resources Group, Inc. under ER10–3199 [complete filing that replaces submission20141231–5313].
Filed Date: 12/31/14.
Accession Number: 20141231–5316.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–819–000.
Applicants: PJM Interconnection, L.L.C.
Description: PJM Interconnection, L.L.C. submits 2014 Annual RTEP Allocation Filing.
Filed Date: 12/31/14.
Accession Number: 20141231–5315.
Comments Due: 5 p.m. ET 1/21/15.

Take notice that the Commission received the following land acquisition reports:

Docket Numbers: LA14–3–000.
Applicants: Otter Tail Power Company.
Description: Quarterly Land Acquisition Report of Otter Tail Power Company..
Filed Date: 12/31/14.
Accession Number: 20141231–5307.
Comments Due: 5 p.m. ET 1/21/15.

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: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00189 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER10–2265–004; ER14–1818–004; ER10–2339–006; ER10–2338–006; ER10–2340–006; ER11–2062–013; ER10–1291–014; ER11–2508–012; ER11–4307–013; ER12–261–012; ER10–2888–013; ER13–1791–005; ER13–1965–007; ER11–4308–013; ER11–2805–012.
Applicants: NRG Power Marketing LLC, Boston Energy Trading and Marketing LLC, CP Power Sales Seventeen, L.L.C., CP Power Sales Nineteen, L.L.C., CP Power Sales Twenty, L.L.C., Energy Plus Holdings LLC, GenConn Energy LLC, GenOn Energy Management, LLC, Green Mountain Energy Company, Independence Energy Group LLC, Norwalk Power LLC, NRG Florida LP, NRG Wholesale Generation LP, Reliant Energy Northeast LLC, RRI Energy Services, LLC.
Description: Updated Market Power Analysis in Southeast Region of NRG MBR Entities under ER10–2265, et. al.
Filed Date: 12/31/14.
Accession Number: 20141231–5297.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER10–3077–004; ER10–3071–004; ER10–3074–004; ER10–3075–004; ER10–3076–004; ER11–4050–003; ER11–4027–005; ER14–1342–001; ER11–4028–005; ER10–3126–001.
Applicants: CalPeak Power LLC, CalPeak Power—Border LLC, CalPeak Power—Enterprise LLC, CalPeak Power—Panoche LLC, CalPeak Power—Vaca Dixon LLC, Cogentrix of Alamosa, LLC, James River Genco, LLC, Midway Peaking, LLC, Portsmouth Genco, LLC, Red Oak Power, LLC.
Description: Notice of Non-Material Change in Status of the Carlyle Group affiliate MBR Sellers.
Filed Date: 12/31/14.
Accession Number: 20141231–5305.
Comments Due: 5 p.m. ET 1/21/15.

Docket Numbers: ER10–3125–009; ER10–3102–009; ER10–3100–009; ER10–3107–009; ER10–3109–009.
Applicants: AL Sandersville, LLC, Effingham County Power, LLC, MPC Generating, LLC, Walton County Power, LLC, Washington County Power, LLC.
Description: Notice of Non-Material Change in Status of AL Sandersville, LLC, et. al.
Filed Date: 12/31/14.
Accession Number: 20141231–5306.
Comments Due: 5 p.m. ET 1/21/15.

Docket Numbers: ER15–808–000.
Applicants: Entergy Texas, Inc.
Description: Compliance filing per 35.37: Triennial Market Power Update of Entergy Texas, Inc. to be effective N/A.
Filed Date: 12/31/14.
Accession Number: 20141231–5244.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–809–000.
Applicants: Entergy Nuclear Palisades, LLC.
Description: Compliance filing per 35.37: Market Power Update of Entergy Nuclear Palisades, LLC to be effective N/A.
Filed Date: 12/31/14.
Accession Number: 20141231–5246.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–810–000.
Applicants: Entergy Power, LLC.
Description: Compliance filing per 35.37: Triennial Market Power Update of Entergy Power, LLC to be effective N/A.
Filed Date: 12/31/14.
Accession Number: 20141231–5247.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–811–000.
Applicants: EWO Marketing, LLC.
Description: Compliance filing per 35.37: Triennial Market Power Update of EWO Marketing, LLC to be effective N/A.
Filed Date: 12/31/14.
Accession Number: 20141231–5248.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–812–000.
Applicants: Northern Iowa Windpower, LLC.
Description: Compliance filing per 35.37: Triennial Market Power Update of Northern Iowa Windpower, LLC to be effective N/A.
Filed Date: 12/31/14.
Accession Number: 20141231–5249.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–813–000.
Applicants: EAM Nelson Holding, LLC.
Description: Compliance filing per 35.37: Triennial Market Power Update of EAM Nelson Holding, LLC to be effective N/A.

Filed Date: 12/31/14.
Accession Number: 20141231–5250.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–814–000.
Applicants: RS Cogen, LLC.
Description: Compliance filing per 35.37: Triennial Market Power Update of RS Cogen, LLC to be effective N/A.
Filed Date: 12/31/14.
Accession Number: 20141231–5254.
Comments Due: 5 p.m. ET 3/2/15.

Docket Numbers: ER15–815–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) rate filing per 35.13(a)(2)(iii): 1166R22 Oklahoma Municipal Power Authority NITSA and NOA to be effective 12/1/2014.
Filed Date: 12/31/14.
Accession Number: 20141231–5259.
Comments Due: 5 p.m. ET 1/21/15.

Docket Numbers: ER15–816–000.
Applicants: Nevada Power Company.
Description: Initial rate filing per 35.12 Rate Schedule No. 148 NPC Concurrence with SCE RS 495 to be effective 8/13/2013.
Filed Date: 12/31/14.
Accession Number: 20141231–5268.
Comments Due: 5 p.m. ET 1/21/15.

Docket Numbers: ER15–817–000.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing per 35: 2014–12–31 Further EIM Petition for Limited Waiver to be effective N/A.
Filed Date: 12/31/14.
Accession Number: 20141231–5269.
Comments Due: 5 p.m. ET 1/21/15.

Docket Numbers: ER15–818–000.
Applicants: Nevada Power Company.
Description: Tariff Withdrawal per 35.15: Rate Schedule No. 135 Cancellation to be effective 8/13/2013.
Filed Date: 12/31/14.
Accession Number: 20141231–5285.
Comments Due: 5 p.m. ET 1/21/15.

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: January 2, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00188 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: ER13–62–003.
Applicants: NorthWestern Corporation.
Description: Compliance filing per 35: Order No 1000 Compliance Filing—South Dakota to be effective 1/2/2015.
Filed Date: 1/2/15.
Accession Number: 20150102–5218.
Comments Due: 5 p.m. ET 2/2/15.

Docket Numbers: ER15–704–001.
Applicants: Pacific Gas and Electric Company.
Description: Tariff Amendment per 35.17(b): Amendment to WDT SA, Request for Immediate Deletion of Tariff Records and Other to be effective 7/1/2015.
Filed Date: 1/2/15.
Accession Number: 20150102–5223.
Comments Due: 5 p.m. ET 1/23/15.

Docket Numbers: ER15–820–000.
Applicants: Zone One Energy, LLC.
Description: Initial rate filing per 35.12 Baseline New to be effective 2/1/2015.
Filed Date: 1/5/15.
Accession Number: 20150105–5013.
Comments Due: 5 p.m. ET 1/26/15.

Docket Numbers: ER15–821–000.
Applicants: New York State Reliability Council, L.L.C., WHITEMAN, OSTERMAN & HANNA (NY)
Description: Informational filing of Installed Capacity Requirement for the New York Control Area of the New York State Reliability Council, L.L.C.
Filed Date: 1/5/15.
Accession Number: 20150105–5096.
Comments Due: 5 p.m. ET 1/26/15.

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: January 5, 2015.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2015–00190 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL15–33–000]

TDI USA Holdings Corp. v. New York Independent System Operator, Inc.; Notice of Complaint

Take notice that on December 16, 2014, pursuant to section 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206 and sections 206 and 306 of the Federal Power Act, 16 U.S.C. 824(e) and 825(e), TDI USA Holding Corp. (Complainant) filed a formal complaint against the New York Independent System Operator, Inc. (Respondent) alleging that certain tariff provisions impose buyer-side mitigation on Complainant's Champlain Hudson Power Express Project. Complainant asserts that such imposition is unjust and unreasonable, as more fully explained in the complaint.

The Complainant certifies that copies of the complaint were served on the contacts for the Respondent as listed on the Commission's list of Corporate Officials.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to

intervene, and protests must be served on the Complainants.

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 electronic review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on January 15, 2015.

Dated: December 19, 2014.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00254 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER15–303–000]

PJM Interconnection, L.L.C. American Transmission Systems, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On December 31, 2014, the Commission issued an order in Docket No. ER15–303–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into the justness and reasonableness of American Transmission Systems, Inc.'s (ATSI) 12.38 percent return on equity in conjunction with ATSI's October 31, 2014 section 205 filing proposing revisions to its with transmission formula rate and Protocols. *PJM Interconnection, L.L.C. et al.,* 149 FERC ¶ 61,292 (2014).

The refund effective date in Docket No. ER15–303–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Dated: January 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00249 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD15–4–000]

Technical Conference on Environmental Regulations and Electric Reliability, Wholesale Electricity Markets, and Energy Infrastructure

Supplemental Notice of Technical Conferences

As announced in the Notice of Technical Conferences issued on December 9, 2014,[1] the Federal Energy Regulatory Commission (Commission) will hold a series of technical conferences to discuss implications of compliance approaches to the Clean Power Plan proposed rule, issued by the Environmental Protection Agency (EPA) on June 2, 2014.[2] The technical conferences will focus on issues related to electric reliability, wholesale electric markets and operations, and energy infrastructure. The Commission will hold a National Overview technical conference on February 19, 2015, from approximately 10:00 a.m. to 5:45 p.m. in the Commission Meeting Room at the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. This conference is free of charge and open to the public. The agenda for the National Overview technical conference is attached to this Supplemental Notice of Technical Conferences.

Following the National Overview technical conference, the Commission will hold three regional technical conferences on the following dates:

Western Region[3]	February 25, 2015	Denver, CO.
Eastern Region[4]	March 11, 2015	Washington, DC.
Central Region[5]	March 31, 2015	St. Louis, MO.

The National Overview technical conference will be Commission-led. The regional technical conferences will be staff-led. Commission members may participate in the regional technical conferences. The Commission will issue subsequent notices detailing the list of speakers at the National Overview technical conference and the specific location, agenda, and topics for discussion at each regional technical conference.

Registration for the National Overview technical conference is available at *https://www.ferc.gov/whats-new/registration/02-19-15-form.asp.* Those interested in attending the National Overview conference are encouraged to register by close of business on February 13, 2015. The Commission will provide details on

[1] Technical Conference on Environmental Regulations and Electric Reliability, Wholesale Electricity Markets, and Energy Infrastructure, Docket No. AD15–4–000, (Dec. 9, 2014) (Notice of Technical Conferences), *available at http://www.ferc.gov/CalendarFiles/20141209165657-AD15-4-000TC.pdf.*

[2] Carbon Pollution Emission Guidelines for Existing Stationary Sources: Electric Utility Generating Units, **Federal Register**, 79 FR 34,830 (2014) (Proposed Rule), *available at http://www.gpo.gov/fdsys/pkg/FR-2014-06-18/pdf/2014-13725.pdf.*

[3] For purposes of this conference, the Western Region includes all the areas with the Western Interconnection, including the California Independent System Operator (CAISO).

[4] For purposes of this conference, the Eastern Region includes the following Commission-approved Order No. 1000 planning regions: ISO New England, Inc. (ISO–NE), PJM Interconnection, LLC (PJM), New York Independent System Operator (NYISO), Southeastern Regional Transmission Planning (SERTP), South Carolina Regional Transmission Planning (SCRTP), and Florida Reliability Coordinating Council (FRCC). This region also includes the Northern Maine Independent System Administrator (NMISA).

[5] For purposes of this conference, the Central Region includes the following Commission-approved Order No. 1000 planning regions: Midcontinent Independent System Operator Inc. (MISO) and Southwest Power Pool (SPP). This region also includes the Electric Reliability Council of Texas (ERCOT).

registration for the regional technical conferences in subsequent notices.

The Commission will post information on the technical conferences on the Calendar of Events on the Commission's Web site, *http://www.ferc.gov,* prior to the conferences. The National Overview technical conference will also be webcast and transcribed. The webcast of the National Overview technical conference will be available through a link on the Commission's Calendar of Events available at *http://www.ferc.gov.* The event within the Calendar of Events will contain a link to the webcast. The Capitol Connection provides technical support for webcasts and offers the option of listening to the meeting via phone-bridge for a fee. If you have any questions, visit *http://www.CapitolConnection.org* or call (703) 993–3100. Transcripts of the technical conference will be available for a fee from Ace-Federal Reporters, Inc. ((202) 347–3700 or 1 (800) 336–6646).

Commission conferences are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations, please send an email to *accessibility@ferc.gov* or call toll free 1 (866) 208–3372 (voice) or (202) 208–1659 (TTY), or send a FAX to (202) 208–2106 with the required accommodations.

For more information about the technical conferences, please contact:

Logistical Information

Sarah McKinley, Office of External Affairs, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8368, *sarah.mckinley@ferc.gov.*

Legal Information

Alan Rukin, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8502, *alan.rukin@ferc.gov.*

Technical Information

Matthew Jentgen, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8725, *matthew.jentgen@ferc.gov.*

Technical Information

Michael Gildea, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8420, *michael.gildea@ferc.gov.*

Dated: January 6, 2015.

Kimberly D. Bose,

Secretary.

[FR Doc. 2015–00248 Filed 1–9–15; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL –9919–94–OEI]

Agency Information Collection Activities OMB Responses

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This document announces the Office of Management and Budget (OMB) responses to Agency Clearance Requests, in compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*). 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. The OMB control numbers for EPA regulations are listed in 40 CFR part 9 and 48 CFR chapter 15.

FOR FURTHER INFORMATION CONTACT: Courtney Kerwin (202) 566–1669, or email at *kerwin.courtney@epa.gov* and please refer to the appropriate EPA Information Collection Request (ICR) Number.

SUPPLEMENTARY INFORMATION:

OMB Responses to Agency Clearance Requests

OMB Approvals

EPA ICR Number 2380.02; Renewable Fuels Standard Program (RFS2-Supplemental) (Renewal); 40 CFR part 80, and 40 CFR 80.1450(b)(1) and 80.1450(b)(2) ; was approved on 10/20/2014; OMB Number 2060–0637; expires on 10/31/2017; Approved with change.

EPA ICR Number 2333.03; Renewable Fuels Standard (RFS2) (Renewal); 40 CFR part 80, subpart M; was approved on 10/20/2014; OMB Number 2060–0640; expires on 10/31/2017; Approved with change.

EPA ICR Number 2060.07; Cooling Water Intake Structures at Existing Facilities (Final Rule); 40 CFR parts 122 and 125; was approved on 10/15/2014; OMB Number 2040–0257; expires on 10/31/2017; Approved with change.

Comment Filed

EPA ICR Number 1907.08; Recordkeeping and Reporting Requirements Regarding the Sulfur Content of Motor Vehicle Gasoline Under the Tier 2 Rule (40 CFR part 80, subpart H) (Proposed Rule for Tier 3)); in 40 CFR part 80, subpart O; and 40 CFR 80.210; 80.270; 80.330; 80.340; 80.370; 80.380; 80.400; and 80.415. OMB filed comment on 10/28/2014.

Courtney Kerwin,

Acting Director, Collections Strategies Division.

[FR Doc. 2015–00242 Filed 1–9–15; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2014–0523; FRL–9921–59–OEI]

Information Collection Request Submitted to OMB for Review and Approval; Comment Request; Air Stationary Source Compliance and Enforcement Information Reporting (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The Environmental Protection Agency has submitted an information collection request (ICR), ''Air Stationary Source Compliance and Enforcement Information Reporting'' (EPA ICR No. 0107.11, OMB Control No. 2060–0096) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). This is a proposed extension of the ICR, which is currently approved through January 30, 2015. Public comments were previously requested via the **Federal Register** (79 FR 49511) on August 21, 2014 during a 60-day comment period. This notice allows for an additional 30 days for public comments. A fuller description of the ICR is given below, including its estimated burden and cost to the public. 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.

DATES: Additional comments may be submitted on or before February 11, 2015.

ADDRESSES: Submit your comments, referencing Docket ID Number EPA–HQ–OECA–2014–0523, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *docket.oeca@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB via email to *oira_submission@omb.eop.gov.* Address comments to OMB Desk Officer for EPA.

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: David A. Meredith, Enforcement Targeting and Data Division, Office of Compliance, (2222A), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 564–4152; email address: *meredith.david@epa.gov*.

SUPPLEMENTARY INFORMATION: Supporting documents, which explain in detail the information that the EPA will be collecting, are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Abstract: Air Stationary Source Compliance and Enforcement Information Reporting is an activity whereby State, Local, Tribal, Territorial and Commonwealth governments (hereafter referred to as ''delegated agencies'') report air stationary source compliance and enforcement information to the U.S. Environmental Protection Agency (the EPA or the Agency) on a regular basis. The information is provided to the EPA via input to the Integrated Compliance Information System (ICIS). ICIS replaced the Air Facility System (AFS) as the database of record for this information. The modules within ICIS that are used to report Air related data are collectively referred to as ICIS-Air. The majority of delegated agencies maintain their own data systems and extract data from it and report it to ICIS either electronically or manually. A small number of delegated agencies use ICIS as their only data system. The information provided to the EPA includes source information, compliance monitoring activities, violation determinations, and enforcement activities. The EPA uses this information to assess the health of the compliance and enforcement program established under the Clean Air Act (CAA).

Form Numbers: None.

Respondents/affected entities: The respondents for the information collection activity are state, local, territorial, and tribal delegated agencies. These agencies are classified in NAICS 924110. Source compliance data assembled by delegated agencies covers numerous NAICS categories. The total number of respondents is 99 (50 states, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Mariana Protectorate and 43 local air pollution control agencies).

Respondent's obligation to respond: Mandatory. The CAA calls for state, local, federal and tribal governments to implement the Act in partnership to reduce pollution. It is well understood that working closely with government partners leads to better programs that are more effective and efficient. For regulatory programs, EPA often has discussions early in the rulemaking process with government partners (federal, state, local and tribal) and with interested parties such as affected industries, environmental groups, and communities. After a rule is complete, EPA works with government partners and stakeholders to achieve effective implementation. This ICR supports the partnership established for CAA program implementation by facilitating regular information exchange. Section 114(a)(1) of the CAA, 42 U.S.C. 7414(a)(1), establishes that EPA may request information on a one-time, periodic or continuous basis for the purpose of carrying out any provision of the Act. Individually, certain provisions of the Act and its implementing regulations include specific language for the collection of some of the information requested by this ICR. For example, 110(p) of the CAA, 42 U.S.C. 7410(p), establishes that EPA may request information to assess the implementation of any state implementation plan. 40 CFR 70.4(j)(1) (title V) requires that any information obtained or used in the administration of a title V permit program be available to EPA. This ICR encompasses this information in addition to information that assists with carrying out additional provisions of the Act. Related provisions include but are not limited to New Source Performance Standards (NSPS) in 40 CFR part 60, National Emission Standards for Hazardous Air Pollutants (NESHAP) in 40 CFR part 61 and part 63, and New Source Review (NSR) permitting regulations in 40 CFR part 51 and part 52. The periodic reporting of regulated source information, compliance monitoring, violation determination, and enforcement information is the subject of this renewal ICR.

Estimated number of respondents: 99.

Frequency of response: Every 60 days at minimum.

Total estimated burden: 51,413 hours (per year). Burden is defined at 5 CFR 1320.03(b).

Total estimated cost: $2,688,900 (per year).

Changes in the Estimates: There is a decrease of 2,971 hours in the total estimated respondent burden compared with the ICR currently approved by OMB. This decrease is as a result of slight shifts in the distribution of agencies by size, due to a continued reduction in the universe of major air sources.

Courtney Kerwin,

Acting Director, Collection Strategies Division.

[FR Doc. 2015–00243 Filed 1–9–15; 8:45 am]

BILLING CODE P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE & TIME: Thursday, January 15, 2015 At 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes for December 11, 2014

Correction and Approval of Minutes for December 17, 2014

Welcome and Opening Remarks by Chair Ann M. Ravel

2015 Meeting Dates (July–December)

Draft Advisory Opinion 2014–19: ActBlue

Draft Advisory Opinion 2014–20: Make Your Laws PAC, Inc.

Management and Administrative Matters

Individuals who plan to attend and require special assistance, such as sign language interpretation or other reasonable accommodations, should contact Shawn Woodhead Werth, Secretary and Clerk, at (202) 694–1040, at least 72 hours prior to the meeting date.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Shelley E. Garr,

Deputy Secretary of the Commission.

[FR Doc. 2015–00367 Filed 1–8–15; 4:15 pm]

BILLING CODE 6715–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–15–14KE]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. The notice for the proposed information collection is published to obtain comments from the public and affected agencies.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address any of the following: (a) 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; (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) Enhance the quality, utility, and clarity of the information to be collected; (d) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses; and (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639–7570 or send an email to *omb@cdc.gov*. Written comments and/or suggestions regarding the items contained in this notice should be directed to the Attention: CDC Desk Officer, Office of Management and Budget, Washington, DC 20503 or by fax to (202) 395–5806. Written comments should be received within 30 days of this notice.

Proposed Project

A Comprehensive Evaluation of a Paid Social Media and Mass Media Gynecologic Cancer Campaign—New—National Center for Chronic Disease Prevention and Health Promotion (NCCDPHP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

As authorized by The Gynecologic Cancer Education and Awareness Act, CDC currently manages the ''Inside Knowledge: Get the Facts About Gynecologic Cancer'' media campaign. The campaign seeks to increase women's intentions to seek medical attention for symptoms that could be indicative of gynecologic cancer.

CDC plans to conduct an evaluation of the Inside Knowledge (IK) campaign by collecting information from the target audience of women ages 40–65 in four cities (Milwaukee, Wisconsin; Cincinnati, Ohio; Las Vegas, Nevada and San Antonio, Texas). In two of the cities (Milwaukee and San Antonio), the national IK campaign will be augmented by an additional paid media campaign. Evaluation information will be collected at two time points in each city (a pre-campaign survey plus one additional post-campaign survey after the media intervention). Separate cross-sectional samples of new respondents will participate at each point in time. This will allow CDC to assess exposure to campaign messages as a function of media ''dose'' and to assess whether women who reside in cities with additional paid media have higher awareness of the campaign, higher knowledge of gynecological cancers, and greater intentions to seek medical attention for gynecologic cancer symptoms and/or to discuss symptoms with their doctor. CDC initially considered a more complex evaluation strategy that involved four waves of data collection in each city coinciding with the release of various combinations of digital media and traditional media. The current campaign evaluation strategy is based on a simplified design that allows CDC to assess main campaign effects with a smaller number of respondents.

Respondents will be recruited from a national opt-in online survey panel that prescreens participants and increases the likelihood that they meet eligibility criteria and live within the cities where the media campaigns are implemented. The total number of respondents in each study location is approximately 606 (303 respondents who participate in the pre-campaign information collection, and 303 respondents who participate in the post-campaign information collection). The target number of completed responses for the overall campaign evaluation study is 2,424. The estimated number of incomplete responses (individuals who drop out during or after completion of the Screening Section of the survey) is 606.

Potential respondents will receive an email invitation that describes the study and provides a link to the survey Web site. Information will then be collected through self-administered, Web-based surveys. Survey items will include measures of audience recall of the campaign; perceptions of campaign messages; gynecologic health related knowledge, attitudes, and beliefs; intentions to seek care for symptoms associated gynecologic cancers; and sociodemographic characteristics.

Results of this evaluation study will be used to inform CDC, policymakers, prevention practitioners, researchers, and the general U.S. population about the reach and impact of the Inside Knowledge gynecologic health awareness campaign, and to inform the development and implementation of future health communication efforts.

OMB approval is requested for one year. The same survey instrument will be used for all information collection. Participation is voluntary and there are no costs to respondents other than their time. The total estimated burden hours are 838.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
Women Ages 45–60 in Milwaukee, Cincinnati, Las Vegas, or San Antonio.	Women's Health Survey (Screening Section only).	606	1	3/60
	Women's Health Survey (complete)	2,424	1	20/60

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–00230 Filed 1–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day–15–0792]

Proposed Data Collections Submitted for Public Comment and Recommendations

The Centers for Disease Control and Prevention (CDC), as part of its continuing effort to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. To request more information on the below proposed project or to obtain a copy of the information collection plan and instruments, call 404–639–7570 or send comments to LeRoy Richardson, 1600 Clifton Road, MS–D74, Atlanta, GA 30333 or send an email to *omb@cdc.gov.*

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget (OMB) approval. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information. Written comments should be received within 60 days of this notice.

Proposed Project

Environmental Health Specialists Network (EHS-NET) Program (OMB No. 0920–0792, expires 2/28/2015)—Revision—National Center for Environmental Health (NCEH), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

The CDC is requesting OMB approval for three additional years to use this generic clearance for a research program focused on identifying the environmental causes of foodborne illness.

To date, EHS-Net has conducted four studies under this generic clearance. The first study collected data on improper cooling of hot foods, a food handling practice associated with foodborne illness and outbreaks. The second study collected data on the relationship between kitchen manager food safety certification and foodborne illness risk factors in restaurants. Public health agencies are increasingly encouraging or requiring certification as a foodborne illness prevention measure, yet little is known about its effectiveness. The third study collected data on the environmental factors associated with contamination of the retail deli environment with *Listeria,* a foodborne illness pathogen ranked 3rd in terms of the number of deaths it causes. The fourth study collected data on restaurant managers' and workers' food allergen knowledge, attitudes, and practices. Food allergens are an important food safety issue for restaurants.

The data from the first two studies have been disseminated to environmental public health/food safety regulatory programs and the food industry in the form of presentations at conferences and meetings, scientific journal publications, and Web site postings. We will continue to analyze and present the data from all four studies, and expect that they will continue to provide valuable and useful data about environmental factors associated with foodborne illness outbreaks and food safety issues.

This revision will provide OMB clearance for EHS-Net data collections conducted in 2015 through 2018 (approximately one per year). The program is revising the generic information collection request (ICR) in the following ways:

(1) Because of the re-announcement and re-competition of the EHS-Net cooperative agreement in 2015, it is likely that the sites in which data will be collected will differ from the sites in which data were collected previously.

(2) We revised the estimated study sample size and burden downward. Thus, the estimated burden has been reduced.

(3) We have eliminated proposed sample weighting analyses.

Reducing foodborne illness first requires identification and understanding of the environmental factors that cause these illnesses. We need to know how and why food becomes contaminated with foodborne illness pathogens. This information can then be used to determine effective food safety prevention methods. Ultimately, these actions can lead to increased regulatory program effectiveness and decreased foodborne illness. The purpose of this food safety research program is to identify and understand environmental factors associated with foodborne illness and outbreaks. This program is conducted by the Environmental Health Specialists Network (EHS-Net), a collaborative project of CDC, FDA, USDA, and local and state sites.

Environmental factors associated with foodborne illness include both food safety practices (*e.g.,* inadequate cleaning practices) and the factors in the environment associated with those practices (*e.g.,* worker and retail food establishment characteristics). To understand these factors, we need to continue to collect data from those who prepare food (*i.e.,* food workers) and on the environments in which the food is prepared (*i.e.,* retail food establishment kitchens). Thus, data collection methods for this generic package include: (1) Manager and worker interviews/surveys, and (2) observation of kitchen environments. Both methods allow data collection on food safety practices and environmental factors associated with those practices.

For each data collection, we will collect data in approximately 47 retail food establishments per site. Thus, there will be approximately 376 establishments per data collection (an estimated 8 sites × 47 establishments). We expect a manager/establishment

response rate of approximately 60 percent; thus, we will need to attempt to recruit 627 managers/establishments via telephone in order to meet our goal of 376 establishments. Each manager will respond to the recruiting script only once for approximately 3 minutes. Thus, the maximum burden for the manager recruiting attempts will be 31.35 hours (627 managers × 3 minutes). We will collect interview/survey data from a manager in each establishment. Each manager will respond only once for approximately 30 minutes. Thus, the maximum burden for the manager interview/survey will be 188 hours (376 managers × 30 minutes). In total, the average burden for managers will be 219.35 hours (31.35 hours for recruiting plus 188 hours for the interview/survey).

For each data collection, we will recruit a worker from each participating establishment to provide interview/survey data. Each worker will respond to the recruiting script only once for approximately 3 minutes. Thus, the maximum burden for the worker recruiting attempts will be 18.8 hours (376 workers × 3 minutes). We expect a worker response rate of 90 percent (339 workers). Each worker will respond only once for approximately 10 minutes. Thus, the maximum burden for the worker interview/survey will be 56.5 hours (339 workers × 10 minutes). In total, the average burden per worker response will be 75.3 hours (18.8 hours for recruiting + 56.5 hours for the interview/survey).

There is no cost to respondents other than their time. The total estimated annual burden for the data collection will be 295 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden hours
Retail managers	Manager Telephone Recruiting Script	627	1	3/60	31
Retail managers	Manager Interview/survey	376	1	30/60	188
Retail food workers	Worker Recruiting Script	376	1	3/60	19
Retail food workers	Worker Interview/survey	339	1	10/60	57
Total					295

Leroy A. Richardson,

Chief, Information Collection Review Office, Office of Scientific Integrity, Office of the Associate Director for Science, Office of the Director, Centers for Disease Control and Prevention.

[FR Doc. 2015–00241 Filed 1–9–15; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2008–N–0543]

Agency Information Collection Activities; Proposed Collection; Comment Request; Waiver of In Vivo Demonstration of Bioequivalence of Animal Drugs in Soluble Powder Oral Dosage Form Products and Type A Medicated Articles

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 current burden hours on regulated industry of complying with the guidance underlying this collection of information.

DATES: Submit electronic or written comments on the collection of information by March 13, 2015.

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.

Waiver of In Vivo Demonstration of Bioequivalence of Animal Drugs in Soluble Powder Oral Dosage Form Products and Type A Medicated Articles—21 CFR 514.1(b)(7–8) (OMB Control No. 0910–0575)—Extension

In the **Federal Register** of February 17, 2006 (79 FR 8596), FDA's Center for Veterinary Medicine issued a guidance entitled ''Guidance for Industry # 171, Waivers of In Vivo Demonstration of Bioequivalence of Animal Drugs in Soluble Powder Oral Dosage Form Products and Type A Medicated Articles'' to address a perceived need for Agency guidance in its work with the animal health industry. This guidance describes the procedures that the Agency recommends for the review of requests for waiver of in vivo demonstration of bioequivalence for generic soluble powder oral dosage form products and Type A medicated articles.

The Generic Animal Drug and Patent Term Registration Act of 1988 (Pub. L. 100–670) permitted generic drug manufacturers to copy those pioneer drug products that were no longer subject to patent or other marketing exclusivity protection. The approval for marketing these generic products is based, in part, upon a demonstration of bioequivalence between the generic product and pioneer product. This guidance clarifies circumstances under which FDA believes the demonstration of bioequivalence required by the statute does not need to be established on the basis of in vivo studies for soluble powder oral dosage form products and Type A medicated articles. The data submitted in support of the waiver request are necessary to validate the waiver decision. The requirement to establish bioequivalence through in vivo studies (blood level bioequivalence or clinical endpoint bioequivalence) may be waived for soluble powder oral dosage form products or Type A medicated articles in either of two alternative ways. A biowaiver may be granted if it can be shown that the generic soluble powder oral dosage form product or Type A medicated article contains the same active and inactive ingredient(s) and is produced using the same manufacturing processes as the approved comparator product or article. Alternatively, a biowaiver may be granted without direct comparison to the pioneer product's formulation and manufacturing process if it can be shown that the active pharmaceutical ingredient(s) (API) is the same as the pioneer product, is soluble, and that there are no ingredients in the formulation likely to cause adverse pharmacologic effects. For the purpose of evaluating soluble powder oral dosage form products and Type A medicated articles, solubility can be demonstrated in one of two ways: ''USP definition'' approach or ''Dosage adjusted'' approach. The respondents for this collection of information are pharmaceutical companies manufacturing animal drugs. FDA estimates the burden for this collection of information as shown in tables 1 and 2 of this document. The source of the data is records of generic drug applications over the past 10 years.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN FOR WATER SOLUBLE POWDERS [1]

	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Same formulation/manufacturing process approach	1	1	1	5	5
Same API/solubility approach	5	5	5	10	50
Total					55

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL REPORTING BURDEN FOR TYPE A MEDICATED ARTICLES [1]

	No. of respondents	No. of responses per respondent	Total annual responses	Average burden per response	Total hours
Same formulation/manufacturing process approach	2	2	2	5	10
Same API/solubility approach	10	10	10	20	200
Total					210

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

Dated: January 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–00207 Filed 1–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2009–N–0505]

Agency Information Collection Activities; Announcement of Office of Management and Budget Approval; Reporting and Recordkeeping Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Reporting and Recordkeeping Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

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: On September 30, 2014, the Agency submitted a proposed collection of information entitled ''Reporting and Recordkeeping Requirements for Human Food and Cosmetics Manufactured From, Processed With, or Otherwise Containing, Material From Cattle'' to OMB for review and clearance under 44 U.S.C. 3507. 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. OMB has now approved the information collection and has assigned OMB control number 0910–0623. The approval expires on November 30, 2017. A copy of the supporting statement for this information collection is available on the Internet at *http://www.reginfo.gov/public/do/PRAMain.*

Dated: January 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–00204 Filed 1–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–D–0092]

Study Data Technical Conformance Guide and Data Standards Catalog; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the availability of a Study Data Technical Conformance Guide, Version 2.0 (Guide), and an update to the Data Standards Catalog (Catalog). The Guide supplements the final guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Standardized Study Data'' (eStudy Data guidance) and provides specifications and recommendations for, as well as general considerations on, submitting standardized study data using FDA-supported data standards specified in the Catalog. The Guide is intended to complement and promote interactions between sponsors and FDA review divisions.

DATES: Submit either electronic or written comments on these documents at any time.

ADDRESSES: Submit written requests for a copy of the Study Data Technical Conformance Guide and the Data Standards Catalog to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 2201, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests.

Submit electronic comments on the guidance to *http://www.regulations.gov*. Submit written comments to the Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Ron Fitzmartin, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1192, Silver Spring, MD 20993–0002, 301–796–5333, *ronald.fitzmartin@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of Version 2.0 of the Guide and an update to the Catalog. The Guide supplements the final guidance for industry entitled ''Providing Regulatory Submissions in Electronic Format—Standardized Study Data'' (available at *http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm*), and provides technical recommendations to sponsors for the electronic submission of standardized animal and human study data and related information contained in certain submissions to new drug applications (NDAs), abbreviated new drug applications (ANDAs), biologic license applications (BLAs), and investigational new drug applications (INDs). The eStudy Data guidance implements the electronic submission requirements of section 745A(a) of the Federal Food, Drug, and Cosmetic Act (which was added by section 1136 of the Food and Drug Administration Safety and Innovation Act (Pub. L. 112–144)) for standardized study data contained in NDA, ANDA, BLA, and IND submissions.

The Guide is intended to complement and promote interactions between sponsors and FDA review divisions. It is not intended to replace the need for sponsors to communicate directly with review divisions regarding data standards implementation approaches or issues.

The Guide is organized as follows:

Section 1: ''Introduction''—provides information on regulatory policy and guidance background, purpose, and document control.

Section 2: ''Planning and Providing Standardized Study Data''—recommends and provides details on preparing an overall study data standardization plan, a study data reviewer's guide, and an analysis data reviewer's guide.

Section 3: ''Exchange Format—Electronic Submissions''—presents the specifications, considerations, and recommendations for the file formats currently supported by FDA.

Section 4: ''Study Data Submission Format: Clinical and Nonclinical''—presents general considerations and specifications for sponsors using, for example, the following standards for the submission of study data: Study Data Tabulation Model (SDTM), Analysis Data Model (ADaM), and Standard for Exchange of Nonclinical Data (SEND).

Section 5: ''Therapeutic Area Standards''—presents supplemental considerations and specific recommendations when sponsors submit study data using FDA-supported therapeutic area standards.

Section 6: ''Terminology''—presents general considerations and specific recommendations when using controlled terminologies/vocabularies for clinical trial data.

Section 7: ''Electronic Submission Format''—provides specifications and recommendations on submitting study data using the electronic Common Technical Document format.

Section 8: ''Data Validation and Traceability''—provides general recommendations on conformance to standards, data validation rules, data traceability expectations, and legacy data conversion.

In the **Federal Register** of February 6, 2014 (79 FR 7201), FDA announced the availability of Version 1.0 of the Study Data Technical Conformance Guide. The comment period on the Guide ended on May 7, 2014. We reviewed all comments received and revised it accordingly. Updates to Version 2.0 include, but are not limited to:

Section 2: Added a subsection to include an Analysis Data Reviewer's Guide.

Section 3: Clarified dataset sizes, column lengths, special characters for variables, and datasets.

Section 4: Clarified general considerations and domain specifications for SDTM and ADaM.

Section 6: Clarified a number of subsections, including controlled terminology, medications, pharmacologic class, and indication, and added a World Health Organization Drug Dictionary.

Section 7: Clarified the electronic submission format and the folder structure for study datasets.

Section 8: Renamed the section ''Data Validation and Traceability'' from ''Data Fitness'' and clarified several of the subsections, including Traceability Issues and Legacy Data Conversion.

II. Comments

Interested persons may submit either electronic comments regarding this document to *http://www.regulations.gov* or written comments to the Division of Dockets Management (see **ADDRESSES**). It is only necessary to send one set of comments. Identify comments with the docket number found in brackets in the heading of this document. 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*.

III. Electronic Access

Persons with access to the Internet may obtain the Guide and the Catalog at either *http://www.fda.gov/forindustry/datastandards/studydatastandards/default.htm* or *http://www.regulations.gov*.

Dated: January 6, 2015.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2015–00206 Filed 1–9–15; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

[CBP Dec. No. 15–01]

Expansion of Global Entry Eligibility to Citizens of the Republic of Panama

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: U.S. Customs and Border Protection (CBP) has established the Global Entry international trusted traveler program at most major U.S. airports. Global Entry allows pre-approved, low-risk participants expedited entry into the United States using Global Entry kiosks located at designated airports. Currently, eligibility for participation in Global Entry is limited to U.S. citizens, U.S. nationals, U.S. lawful permanent residents, Mexican nationals, and certain eligible citizens of the Netherlands, the Republic of Korea, the Federal Republic of Germany, the State of Qatar, and the United Kingdom. Additionally, participants in the NEXUS trusted traveler program and certain participants in the Secure Electronic Network for Travelers Rapid Inspection (SENTRI) trusted traveler program are permitted to use the Global Entry kiosks as part of their membership in those programs.[1] This document announces that CBP is expanding eligibility for Global Entry to include citizens of the Republic of Panama. All of these individuals must otherwise satisfy the requirements for participation in the Global Entry program. Additionally, this document announces that U.S. citizens who participate in Global Entry or U.S. citizens who can utilize Global Entry kiosks as NEXUS or SENTRI participants have the option to apply for membership in Panama Global Pass, the Republic of Panama's trusted traveler program.

DATES: The expansion of eligibility to citizens of the Republic of Panama will occur on January 12, 2015. Applications will be accepted from citizens of the Republic of Panama beginning January 12, 2015.

FOR FURTHER INFORMATION CONTACT: Larry Panetta, Office of Field Operations, (202) 344–1253, *Larry.A.Panetta@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Global Entry Program

Global Entry is a voluntary program that allows for the expedited clearance of pre-approved, low-risk travelers arriving in the United States at Global Entry kiosks located at designated airports. CBP issued the final rule that promulgated the regulation to establish Global Entry as an ongoing voluntary regulatory program in the **Federal Register** (77 FR 5681) on February 6, 2012. The final rule contains a detailed description of the program, the eligibility criteria, the application and selection process, and the initial airport locations. *See* 8 CFR 235.12. Travelers who wish to participate in Global Entry must apply via the Global On-Line Enrollment System (GOES) Web site, *https://goes-app.cbp.dhs.gov,* and pay the applicable fee. Applications for Global Entry must be completed and submitted electronically.

Eligibility for participation in Global Entry is limited to U.S. citizens, U.S. nationals, U.S. lawful permanent residents, and certain nonimmigrant aliens from countries that have entered into arrangements with CBP regarding international trusted traveler programs. Specifically, the regulation provides that certain nonimmigrant aliens from countries that have entered into arrangements with CBP concerning international trusted traveler programs may be eligible to apply for participation in Global Entry after CBP announces the arrangement by publication of a notice in the **Federal Register**. The notice will include the country, the scope of eligibility of nonimmigrant aliens from that country (*e.g.,* whether only citizens of the foreign country or citizens and non-citizens are eligible) and other conditions that may apply based on the terms of the arrangement. *See* 8 CFR 235.12(b)(1)(ii). In the preamble of the Global Entry final rule, CBP recognized the existence of previous arrangements it had with Mexico and the Netherlands regarding the international trusted traveler programs and announced that Mexican nationals and certain citizens of the Netherlands were eligible to apply for the Global Entry program. It further specified that Mexican nationals and citizens of the Netherlands who were existing participants in the Global Entry pilot would be automatically enrolled in the ongoing Global Entry program. Additionally, in the preamble of the Global Entry final rule, CBP recognized that pursuant to a previous **Federal Register** notice,[2] participants in NEXUS and certain participants in SENTRI would still be allowed to use the Global Entry kiosks.

In a notice published in the **Federal Register** (78 FR 48706) on August 9, 2013, CBP expanded Global Entry eligibility to include citizens of the Republic of Korea who are participants in the Smart Entry System (SES), a trusted traveler program for pre-approved, low-risk travelers at designated airports in the Republic of Korea via the use of e-gates; a limited number of citizens of the Federal Republic of Germany who are participants in the Automated and Biometrics-Supported Border Controls (ABG) Plus, a trusted traveler program in the Federal Republic of Germany; a limited number of citizens of the State of Qatar; and a limited number of citizens of the United Kingdom who frequently travel to the United States.

This document announces the further expansion of the Global Entry trusted

[1] See the Utilization of Global Entry Kiosks by NEXUS and SENTRI Participants **Federal Register** notice, December 29, 2010 (75 FR 82202) for further information.

[2] See the Utilization of Global Entry Kiosks by NEXUS and SENTRI Participants **Federal Register** notice, December 29, 2010 (75 FR 82202) for further information.

traveler program to citizens of the Republic of Panama.

The Republic of Panama

On February 29, 2012, the U.S. Department of Homeland Security, CBP and the Ministry of Public Security of the Republic of Panama signed a Joint Statement regarding the development of an international trusted traveler initiative. As CBP and the Republic of Panama have negotiated the operational details and completed the necessary infrastructure updates, CBP is now ready to announce that, based on the Joint Statement, citizens of the Republic of Panama are eligible to apply for participation in Global Entry.

In order to participate, citizens of the Republic of Panama who apply for Global Entry will be required to complete the on-line application located on the GOES Web site, pay the non-refundable Global Entry fee, and satisfy all the requirements of Global Entry. These applicants will be permitted to participate in Global Entry only upon successful completion of a thorough risk assessment by both CBP and the Republic of Panama's Ministry of Public Security and completion of an interview with CBP. The vetting criteria were mutually developed and are consistent with each agency's applicable domestic laws and policies. Once the risk assessment has been completed, CBP will notify the applicants regarding whether or not they have been accepted into Global Entry.

Applicants may be denied enrollment in the Global Entry program for various reasons. An individual who is inadmissible to the United States under U.S. immigration law or has, at any time, been granted a waiver of inadmissibility or parole is ineligible to participate in Global Entry. Applications from such individuals will automatically be rejected. Applications for Global Entry may also be rejected if the applicant has ever been arrested for, or convicted of, a criminal offense, or if the individual has ever been found in violation of customs or immigration laws, or of any criminal law. Additionally, an applicant will not be accepted for participation in Global Entry if CBP determines that the applicant presents a potential risk of terrorism, or criminality (including smuggling), or if CBP cannot sufficiently determine that the applicant meets all the program eligibility criteria. The eligibility criteria are set forth in more detail in the Global Entry final rule and 8 CFR 235.12. *See also http://www.globalentry.gov.*

U.S. Citizens' Participation in Panama Global Pass

Pursuant to the Joint Statement, U.S. citizens who are Global Entry participants or U.S. citizens who can utilize Global Entry kiosks as NEXUS or SENTRI participants have the option to apply for Panama Global Pass membership. Panama Global Pass is a trusted traveler program in the Republic of Panama that uses self-service kiosks to offer expedited processing for air travelers through clearance formalities when entering the Republic of Panama. All U.S. applicants must apply for Panama Global Pass directly with the Government of Panama, be thoroughly vetted by both CBP and the Republic of Panama and be interviewed by the National Immigration Service of Panama in the Republic of Panama to complete the enrollment process. U.S. applicants are required to pay the Panama Global Pass non-refundable $100 fee for a five-year membership. The Republic of Panama will notify the U.S. applicant directly about whether he or she was approved for Panama Global Pass. More information about how to apply for Panama Global Pass membership is available at *http://www.globalentry.gov.*

Dated: January 7, 2015.

John P. Wagner,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 2015–00258 Filed 1–9–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[CBP Dec. No. 15–02]

Expansion of Global Entry to Seven Additional Airports

AGENCY: U.S. Customs and Border Protection; Department of Homeland Security.

ACTION: General notice.

SUMMARY: The Global Entry international trusted traveler program allows pre-approved, low-risk participants expedited entry into the United States using Global Entry kiosks located at designated airports. U.S. Customs and Border Protection (CBP) previously announced in the **Federal Register** thirty-two designated Global Entry airports. This document announces the expansion of the program to include seven additional designated airports.

DATES: Global Entry will be available at all seven airport locations on or before July 13, 2015. The exact starting date for each airport location will be announced on the CBP Global Entry Web site, *http://www.globalentry.gov.*

FOR FURTHER INFORMATION CONTACT: Larry Panetta, Office of Field Operations, (202) 344–1253, *Larry.A.Panetta@cbp.dhs.gov.*

SUPPLEMENTARY INFORMATION:

Background

Global Entry Program

Global Entry is a voluntary program that allows for the expedited clearance of pre-approved, low-risk travelers arriving in the United States at Global Entry kiosks located at designated airports. The Global Entry final rule, published in the **Federal Register** on February 6, 2012 (77 FR 5681), promulgated the regulation to establish Global Entry as an ongoing regulatory program and contains a detailed description of the program, the eligibility criteria, the application and selection process, and the initial twenty designated airports. *See* 8 CFR 235.12. Global Entry was expanded to include four additional designated airports in a notice published in the **Federal Register** on March 26, 2012. (77 FR 17492) Additionally, Global Entry was expanded to include eight additional designated airports in a notice published in the **Federal Register** on June 25, 2013. (78 FR 38069) Travelers who wish to participate in Global Entry must apply via the CBP Global Entry Web site, *http://www.globalentry.gov* or through the Global On-Line Enrollment System (GOES) Web site, *https://goes-app.cbp.dhs.gov.* Applications must be completed and submitted electronically.

The thirty-two airports previously designated for Global Entry, listed alphabetically by state, and then city, include:

- Phoenix Sky Harbor International Airport, Phoenix, Arizona (PHX);
- Los Angeles International Airport, Los Angeles, California (LAX);
- San Diego International Airport, San Diego, California (SAN);
- San Francisco International Airport, San Francisco, California (SFO);
- John Wayne Airport, Santa Ana, California (SNA);
- Denver International Airport, Denver, Colorado (DEN);
- Ft. Lauderdale Hollywood International Airport, Fort Lauderdale, Florida (FLL), including the General Aviation Facility private aircraft terminal;
- Miami International Airport, Miami, Florida (MIA);
- Orlando International Airport, Orlando, Florida (MCO);

• Sanford-Orlando International Airport, Sanford, Florida (SFB);
• Tampa International Airport, Tampa, Florida (TPA);
• Hartsfield-Jackson Atlanta International Airport, Atlanta, Georgia (ATL);
• Honolulu International Airport, Honolulu, Hawaii (HNL);
• Chicago O'Hare International Airport, Chicago, Illinois (ORD);
• Baltimore/Washington International Thurgood Marshall Airport, Baltimore, Maryland (BWI);
• Boston-Logan International Airport, Boston, Massachusetts (BOS);
• Detroit Metropolitan Wayne County Airport, Romulus, Michigan (DTW);
• Minneapolis-St. Paul International Airport, Minneapolis, Minnesota (MSP);
• Las Vegas-McCarran International Airport, Las Vegas, Nevada (LAS);
• Newark Liberty International Airport, Newark, New Jersey (EWR);
• John F. Kennedy International Airport, Jamaica, New York (JFK);
• Charlotte Douglas International Airport, Charlotte, North Carolina (CLT);
• Raleigh-Durham International Airport, Morrisville, North Carolina (RDU);
• Portland International Airport, Portland, Oregon (PDX);
• Philadelphia International Airport, Philadelphia, Pennsylvania (PHL);
• San Juan-Luis Munoz Marin International Airport, San Juan, Puerto Rico (SJU);
• Dallas Fort Worth International Airport, Dallas, Texas (DFW);
• George Bush Intercontinental Airport, Houston, Texas (IAH);
• San Antonio International Airport, San Antonio, Texas (SAT);
• Salt Lake City International Airport, Salt Lake City, Utah (SLC);
• Washington Dulles International Airport, Sterling, Virginia (IAD);
• Seattle-Tacoma International Airport-SEATAC, Seattle, Washington (SEA).

The preamble to the Global Entry final rule states that when CBP is ready to expand Global Entry to additional airports and has selected the airports, CBP will publish an announcement in the **Federal Register** and post the information on the Web site, *http://www.globalentry.gov.*

Expansion of Global Entry Program to Seven Additional Airports

CBP is designating seven additional airports for Global Entry. Each of these airports will have Global Entry kiosks for the use of participants. The additional airports, listed alphabetically by state, are:
• Ted Stevens Anchorage International Airport, Anchorage, Alaska (ANC);
• Chicago Midway International Airport, Chicago, Illinois (MDW);
• Cincinnati/Northern Kentucky International Airport, Hebron, Kentucky (CVG);
• Cleveland Hopkins International Airport, Cleveland, Ohio (CLE);
• Pittsburgh International Airport, Pittsburgh, Pennsylvania (PIT);
• Austin-Bergstrom International Airport, Austin, Texas (AUS);
• General Mitchell International Airport, Milwaukee, Wisconsin (MKE).

Global Entry will become operational at all seven airports on or before July 13, 2015. The exact starting dates of Global Entry at each airport location will be announced on the Web site, *http://www.globalentry.gov.*

Dated: January 7, 2015.

John P. Wagner,

Acting Assistant Commissioner, Office of Field Operations.

[FR Doc. 2015–00256 Filed 1–9–15; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5807–N–04]

Final Fair Market Rents for the Housing Choice Voucher Program and Moderate Rehabilitation Single Room Occupancy Program Fiscal Year 2015; Revised

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Notice of Final Fiscal Year (FY) 2015 Fair Market Rents (FMRs), Update.

SUMMARY: Today's notice updates the FY 2015 FMRs for Seattle-Belleview, WA, HUD Metro FMR Area (HMFA), based on surveys conducted in October 2014 by the area public housing agencies (PHAs). The FY 2015 FMRs for these areas reflect the estimated 40th percentile rent levels trended to April 1, 2015.

DATES: *Effective Date:* The FMRs published in this notice are effective on January 12, 2015.

FOR FURTHER INFORMATION CONTACT: For technical information on the methodology used to develop FMRs or a listing of all FMRs, please call the HUD USER information line at 800–245–2691 or access the information on the HUD USER Web site: *http://www.huduser.org/portal/datasets/fmr.html.* FMRs are listed at the 40th or 50th percentile in Schedule B. For informational purposes, 40th percentile recent-mover rents for the areas with 50th percentile FMRs will be provided in the HUD FY 2015 FMR documentation system at *http://www.huduser.org/portal/datasets/fmr/fmrs/docsys.html&data=fmr15* and 50th percentile rents for all FMR areas are published at *http://www.huduser.org/portal/datasets/50per.html.*

Questions related to use of FMRs or voucher payment standards should be directed to the respective local HUD program staff. Questions on how to conduct FMR surveys or concerning further methodological explanations may be addressed to Marie L. Lihn or Peter B. Kahn, Economic and Market Analysis Division, Office of Economic Affairs, Office of Policy Development and Research, telephone 202–708–0590. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339. (Other than the HUD USER information line and TDD numbers, telephone numbers are not toll-free.)

SUPPLEMENTARY INFORMATION: The FMRs appearing in the following table supersede the values found in Schedule B that became effective on October 1, 2014, and were printed in the October 3, 2014 (79 FR 59786) **Federal Register** (available from HUD at: *http://www.huduser.org/portal/datasets/fmr/fmr2015f/FR_Published_Preamble_FY2015F.pdf*).

The FMRs for the affected area are revised as follows:

2015 Fair Market Rent Area	FMR by number of bedrooms in unit				
	0 BR	1 BR	2 BR	3 BR	4 BR
Seattle-Belleview, WA HMFA	972	1150	1415	2085	2506

Dated: January 5, 2015.

Katherine M. O'Regan,

Assistant Secretary for Policy Development & Research.

[FR Doc. 2015–00198 Filed 1–9–15; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[FWS–R2–FHC–2014–N178; FVHC98120208440–XXX–FF02ETTX00]

Texas City Y Oil Spill; Notice of Intent To Conduct Restoration Planning

AGENCY: Interior.

ACTION: Notice of Intent.

SUMMARY: Under the Oil Pollution Act (OPA), Federal and State trustees for natural resources are authorized to assess natural resource injuries resulting from an oil discharge or the substantial threat of discharge, as well those injuries that result from response activities. The trustees develop and implement a restoration plan to identify and quantify injuries to natural resources and the restoration required to compensate for those injuries. This notice announces the intent of the Federal and State trustees to conduct restoration planning regarding the discharge of oil from the Kirby Barge 27706 resulting from the collision with an inbound bulk carrier, the M/V SUMMER WIND, an incident that occurred in the Houston Ship Channel near Texas City, Texas on March 22, 2014.

FOR FURTHER INFORMATION CONTACT: Benjamin Tuggle, Regional Director, Southwest Region, U.S. Fish and Wildlife Service, ((505) 248–6911).

SUPPLEMENTARY INFORMATION: The Texas City Y Oil Spill occurred on March 22, 2014, in Galveston Bay in the vicinity of the Houston Ship Channel near Texas City, Texas, when the inbound bulk carrier M/V SUMMER WIND collided with the oil tank-barge KIRBY 27706. At the time of the collision, the M/V MISS SUSAN was towing the oil tank-barges KIRBY 27705 and KIRBY 27706. As a result of the collision, the number 2 starboard tank of KIRBY 27706 was punctured discharging approximately 168,000 gallons (4,000 barrels) of intermediate fuel oil (IFO–380) into Galveston Bay and subsequently entered the waters of the Gulf of Mexico (referred to as the ''Texas City Incident'').

Pursuant to Section 1006 of the Oil Pollution Act of 1990 (OPA), 33 U.S.C. 2706, Federal and State trustees for natural resources are authorized to (1) assess natural resource injuries resulting from a discharge of oil or the substantial threat of a discharge and from response activities, and (2) develop and implement a plan for restoration of such injured resources and their services. The Federal trustees are designated pursuant to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300.600) and Executive Order 12777. State trustees are designated by the governors of each State pursuant to the NCP, 40 CFR 300.605, OPA 33 U.S.C. 2706(b)(3), Clean Water Act (CWA), 33 U.S.C. 1321(f)(5), and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA; 42 U.S.C. 9607(f)(2)(B)). The following agencies are designated natural resources trustees under OPA and are currently acting as trustees for this Incident: The United States Department of the Interior (DOI), as represented by the United States Fish and Wildlife Service and the National Park Service; the National Oceanic and Atmospheric Administration (NOAA) on behalf of the United States Department of Commerce; and the Texas Parks and Wildlife Department (TPWD), Texas Commission on Environmental Quality (TCEQ) and Texas General Land Office (GLO) for the State of Texas (collectively, the Trustees). In addition to acting as Trustees for this Incident under OPA, the State of Texas is also acting pursuant to its applicable state laws and authorities, including the Texas Oil Spill Prevention and Response Act of 1991, Tex. Nat. Res. Code Chapter 40.

The Responsible Party (RP) identified for this Incident thus far is Kirby Inland Marine, LP (''Kirby''), owner of the M/V MISS SUSAN, KIRBY 27705 and KIRBY 27706. Pursuant to 15 CFR 990.14(c), the Trustees have invited the RP identified above to participate in a cooperative Natural Resource Damage Assessment (NRDA) process. To date, the Trustees have coordinated with Kirby representatives on activities undertaken as part of the NRDAR process.

The Trustees initiated the Preassessment Phase of the NRDA in accordance with 15 CFR 990.40 to determine if they have jurisdiction to pursue restoration under OPA and, if so, whether it is appropriate to do so. During the Preassessment Phase, the Trustees collected and analyzed the following: (1) Data reasonably expected to be necessary to make a determination of jurisdiction and a determination to conduct restoration planning, (2) ephemeral data, and (3) information needed for assessment activities as part of the Restoration Planning Phase. The collection and analysis of the data and information listed above continues to date.

Under the NRDA regulations applicable to OPA, 15 CFR part 990 (NRDA regulations), the Trustees prepare and issue a notice of intent to conduct restoration planning (notice) to demonstrate that conditions have been met that establish that the Trustees have jurisdiction over this matter and that restoration of natural resources is feasible and appropriate.

Pursuant to 15 CFR 990.44, this notice announces that the Trustees have determined to proceed with restoration planning to fully evaluate, assess, quantify and develop plans for restoring, replacing or acquiring the equivalent of injured natural resources and services losses resulting from the Texas City Y Incident. The restoration planning process will include collection of information for evaluating and quantifying injuries, and use of that information to determine the need for, and type and scale of restoration actions.

Determination of Jurisdiction

The Trustees have made the following findings pursuant to 15 CFR 990.41:

1. The Texas City Y Incident resulted in discharges of oil into and upon navigable waters of the United States, including the Gulf of Mexico, as well as adjoining shorelines, all of which constitute an ''incident'' within the meaning of 15 CFR 990.30.

2. The discharge(s) are not permitted pursuant to federal, state, or local law; are not from a public vessel; and are not from an onshore facility subject to the Trans-Alaska Pipeline Authority Act, (43 U.S.C. 1651 *et seq.*).

3. Natural resources under the trusteeship of the Trustees have been and continue to be injured or threatened as a result of discharged oil and associated removal efforts. The discharged oil is harmful to natural resources exposed to the oil, including aquatic organisms, birds, wildlife, vegetation, and habitats. Discharged oil and the response activities to address the discharges of oil have resulted in adverse effects on natural resources in and around the coastal waters of Texas and along its adjoining shorelines, and impaired services that those resources provide. The full extent of potential injuries is currently unknown; however current natural resources and resource services that have been impacted due to the discharged oil include but are not limited to the following:

- Over 160 miles of shoreline habitats, including salt marshes, sandy beaches, and mangroves.

• A variety of wildlife, including birds, and marine mammals.
• Lost human use opportunities associated with various natural resources in the Gulf region, including fishing, swimming, beach-going, and viewing of birds and wildlife.
• Waters of the Gulf of Mexico and adjoining coastal waters of the State.
• Various other biota, including benthic communities and fish.
• Water column habitat.

Accordingly, the Trustees have determined they have jurisdiction to pursue restoration under OPA.

Determination To Conduct Restoration Planning

1. The Trustees have made the following findings pursuant to 15 CFR 990.42. Observations and data collected pursuant to 15 CFR 990.43 demonstrate that injuries to natural resources and the services they provide have resulted from the Texas City Y incident; however, the nature and extent of such injuries has not been fully determined at this time. The Trustees have identified numerous categories of impacted and potentially impacted resources, including marine mammals and birds, as well as their habitats. Potentially or actually impacted habitats include but are not limited to wetlands, marshes, sand beaches, bottom sediments and the water. Impacts to these resources have or are anticipated to affect human use of these affected resources or habitats. The Trustees have been conducting, and continue to conduct, activities to evaluate injuries and potential injuries within these categories. More information on these resource categories, including assessment work plans developed jointly by the Trustees and the RP, if any, and information gathered during the Preassessment Phase, will be available in the Administrative Record (AR), as discussed below. The full nature and extent of injuries will be determined during the injury assessment conducted as part of the Restoration Planning Phase.

2. Response actions employed for this spill included containment, skimming of oil and other removal operations. These response actions have not addressed and are not expected to address all injuries resulting from the discharges of oil. Although response actions were initiated soon after the spill, they were unable to prevent injuries to many natural resources. In addition, some of these response actions have caused or are likely to cause injuries to natural resources and the services they provide, including the impairment of sensitive marshes, beaches, and other habitats and impacts to human uses of the resources. While injured natural resources may eventually recover naturally to the condition they would have been in had the discharges not occurred, interim losses did occur and will persist until baseline conditions are achieved. In addition, there have been losses of and diminution of human uses of the resources resulting from the impacts to the natural resources and from the response actions themselves.

3. Feasible restoration actions exist to address the natural resource injuries and losses, including lost human uses, resulting from the discharges of oil. Assessment procedures are available to scale the appropriate amount of restoration required to offset these ecological and human use service losses. During the restoration planning phase, the Trustees will evaluate potential projects, determine the scale of restoration actions needed to make the environment and the public whole, and release a draft Restoration Plan for public review and comment.

Based upon these determinations, the Trustees intend to proceed with restoration planning for the Texas City Y Incident.

Administrative Record

The Department of the Interior, acting on behalf of the Trustees, has opened an Administrative Record (AR) in compliance with 15 CFR 990.45 and applicable state authorities. The AR is publicly accessible and includes documents considered by the Trustees during the NRDA and restoration planning performed in connection with the Incident. The AR will be augmented with additional information over the course of the NRDA process. The administrative record is available through the following location in electronic format: *http://www.cerc.usgs.gov/orda_docs/DamageCase.aspx?DamageCaseId=388.*

Opportunity To Comment

In accordance with 15 CFR 990.14(d) and state authorities, the Trustees will provide opportunities for public involvement in the restoration planning for the Incident. The opportunities for public involvement will be addressed in future notices and announcements.

Author

The primary author of this notice is Chip Wood.

Authority

The authority of this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 et seq.) and the implementing Natural Resource Damage Assessment found at 15 CFR part 990.

Joy E. Nicholopoulos,
Acting Regional Director.

[FR Doc. 2015–00231 Filed 1–9–15; 8:45 am]
BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW183863]

Notice of Invitation To Participate; Coal Exploration License; Application WYW183863, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Black Butte Coal Company on a pro rata cost-sharing basis, in a program for the exploration of coal deposits owned by the United States of America in Sweetwater County, Wyoming.

DATES: This notice of invitation was published in the *Rock Springs Rocket-Miner* once each week for 2 consecutive weeks beginning the week of November 10, 2014. Any party electing to participate in this exploration program must send written notice to both the BLM and Black Butte Coal Company, as provided in the **ADDRESSES** section below, no later than February 11, 2015. Such written notice must refer to serial number WYW183863.

ADDRESSES: Copies of the exploration plan submitted by Black Butte Coal Company (serialized under number WYW183863) are available for review during normal business hours in the following offices: BLM, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; and, BLM, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901. Any party electing to participate in this exploration shall send written notice to the following addresses: Black Butte Coal Company, c/o Ambre Energy North America, Inc., Attn: Jeremey Kerly, 170 South Main St., Ste. 700, Salt Lake City, UT 84101 and the BLM Wyoming State Office, Branch of Solid Minerals, Attn: Jackie Madson, P.O. Box 1828, Cheyenne, WY 82003.

FOR FURTHER INFORMATION CONTACT: Jackie Madson, Land Law Examiner, at

307–775–6258. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Black Butte Coal Company has applied to the BLM for a coal exploration license on public lands in the Salt Wells area near the existing Black Butte Coal Mine located near Point of Rocks, Wyoming. The purpose of the exploration program is to obtain geologic knowledge of the coal underlying the exploration area for the purpose of assessing the coal resources there. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register.** The Federal coal resources included in the exploration license application are located in the following described lands in Wyoming:

Sixth Principal Meridian, Wyoming

T. 15 N., R. 102 W.,
Sec. 4.
T. 16 N., R. 101 W.,
Sec. 2, 4, 6, 8, 10, 18, 20, and 30.
T. 16 N., R. 102 W.,
Sec. 2, 10, 12, 14, 22, 24, 26, and 28;
Sec. 34, NE1/4, N1/2NW1/4, SE1/4NW1/4, and S1/2.
T. 17 N., R. 100 W.,
Sec. 4, 8, 18, and 30.
T. 17 N., R. 101 W.,
Sec. 2, lots 1 and 2, S1/2NE1/4, SE1/4NW1/4, and S1/2;
Sec. 8;
Sec. 10, E1/2 and S1/2SW1/4;
Sec. 12, 14, 18, 20, 22, 24, 26, 28, 30, 32, and 34.
T. 17 N., R. 102 W.,
Sec. 24 and 26.

The areas described aggregate 23,232.28 acres.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM. The plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate.

Authority: 43 CFR 3410.2–1(c)(1)

Mary Jo Rugwell,

Associate State Director.

[FR Doc. 2015–00238 Filed 1–9–15; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLWY922000–L13200000–EL0000, WYW183864]

Notice of Invitation To Participate; Coal Exploration License Application WYW183864, Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to the Mineral Leasing Act of 1920, as amended by the Federal Coal Leasing Amendments Act of 1976, and to Bureau of Land Management (BLM) regulations, all interested parties are hereby invited to participate with Black Butte Coal Company on a pro rata cost-sharing basis, in a program for the exploration of coal deposits owned by the United States of America in Sweetwater County, Wyoming.

DATES: This notice of invitation was published in the *Rock Springs Rocket-Miner* once each week for 2 consecutive weeks beginning the week of November 10, 2014. Any party electing to participate in this exploration program must send written notice to both the BLM and Black Butte Coal Company, as provided in the **ADDRESSES** section below, no later than February 11, 2015. Such written notice must refer to serial number WYW183864.

ADDRESSES: Copies of the exploration plan submitted by Black Butte Coal Company (serialized under number WYW183864) are available for review during normal business hours in the following offices: BLM, Wyoming State Office, 5353 Yellowstone Road, Cheyenne, Wyoming 82009; and, BLM, Rock Springs Field Office, 280 Highway 191 North, Rock Springs, Wyoming 82901. Any party electing to participate in this exploration program shall send written notice to the following addresses: Black Butte Coal Company, c/o Ambre Energy North America, Inc., Attn: Jeremey Kerly, 170 South Main St., Ste. 700, Salt Lake City, UT 84101 and the BLM Wyoming State Office, Branch of Solid Minerals, Attn: Jackie Madson, P.O. Box 1828, Cheyenne, WY 82003.

FOR FURTHER INFORMATION CONTACT: Jackie Madson, Land Law Examiner, at 307–775–6258. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: Black Butte Coal Company has applied to the BLM for a coal exploration license on public lands near the Black Butte Coal Mine located near Point of Rocks, Wyoming. The purpose of the exploration program is to obtain geologic knowledge of the coal underlying the exploration area for the purpose of assessing the coal resources there. The BLM regulations at 43 CFR 3410 require the publication of an invitation to participate in the coal exploration in the **Federal Register.** The Federal coal resources included in the exploration license application are located in the following described lands in Sweetwater County, Wyoming:

Sixth Principal Meridian, Wyoming

T. 18 N., R. 100 W.,
Sec. 14, 26, and 34.
T. 18 N., R. 101 W.,
Sec. 4.
T. 19 N., R. 100 W.,
Sec. 6, 12, 18, and 20;
Sec. 24, NE1/4, E1/2NE1/4NW1/4, SE1/4NW1/4, S1/2SW1/4NW1/4, and S1/2;
Sec. 26.
T. 19 N., R. 101 W.,
Secs. 2, 12, 14, 22, 24, 26, 28, and 34.

The areas described aggregate 11,468.77 acres.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the BLM. The plan may be modified to accommodate the legitimate exploration needs of persons seeking to participate.

Authority: 43 CFR 3410.2–1(c)(1).

Mary Jo Rugwell,

Associate State Director.

[FR Doc. 2015–00239 Filed 1–9–15; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[15X L1109AF LLUTY01000 L12200000.MA0000 24–1A]

Notice of Motorized Vehicle Temporary Restrictions for Specified Routes on Public Land During the Annual Moab Jeep Safari, Utah

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice restricts motorized use on 10 popular vehicle routes located on public land used by

the Moab Jeep Safari during its annual Moab Jeep Safari organized-group event, authorized under a Special Recreation Permit (SRP). The action is in effect for the Jeep Safari event which takes place annually, during the 9-day period prior to and including Easter. The dates for the Moab Jeep Safari and the dates of the temporary restrictions will be posted at the Moab Field Office and on the Moab Field Office's Web site at the addresses provided below every year at least 30 days prior to the event. The dates are also available upon request.

DATES: This notice is effective upon publication and shall remain in effect for the length of the Red Rock 4-Wheelers SRP, which expires on December 31, 2022.

FOR FURTHER INFORMATION CONTACT: Rock Smith, Recreation Branch Chief, BLM-Moab Field Office, 82 East Dogwood Avenue, Moab, Utah 84532, or telephone 435–259–2100. Also see the Moab Field Office Web site at: *www.blm.gov/ut/st/en/fo/moab.html.*

SUPPLEMENTARY INFORMATION: On December 28, 2012, the Decision Record authorizing the Jeep Safari SRP was signed. This permit authorizes the Red Rock 4-Wheelers to utilize a set of 38 routes known as the Jeep Safari routes, for 9 days per year during an annual organized group event. The event traditionally includes Easter Sunday and the previous 8 days. The permit is authorized from 2013 through 2022. The Environmental Assessment analyzing these routes (EA #DOI–BLM–UT–Y010–2011–0189) concluded that allowing permitted motorized users exclusive use of 7 of the more popular routes listed in the below summary, and managing for one-way travel on the 3 additional routes listed in the below summary for the 9-day period of the Moab Jeep Safari, would mitigate environmental damage by lessening the amount of traffic concentrated on these narrow dirt routes. These routes receive the most intense and concentrated use during the annual 9-day event. The following two components of the action apply only to the use of motorized vehicles.

Exclusive Use: The following routes will be for the exclusive use of Moab Jeep Safari participants and other motorized users authorized under an SRP on days that the routes are utilized by the Moab Jeep Safari: Behind the Rocks, Cliff Hanger, Gold Bar Rim, Golden Spike, Moab Rim, Poison Spider Mesa, and Pritchett Canyon. For the routes listed above, motorized users without an SRP authorizing use of these routes are prohibited from using them. Non-motorized uses are not restricted.

One-Way Travel: The following routes are restricted to one-way travel for the entire nine days of the Moab Jeep Safari: Hell's Revenge, Kane Creek Canyon and Steelbender. For the Hell's Revenge route, motorized use must occur one-way from east to west (*i.e.,* from the Sand Flats Recreation Area entrance booth west to the end of the route west of the Lion's Back Rock). This action is consistent with Grand County's travel management which allows the Lion's Back access to be used only as an exit for general recreational travel. For the Kane Creek Canyon route, motorized use must occur one-way from north to south (*i.e.,* from the Hurrah Pass/Kane Creek junction south to the end of the route at U.S. Highway 191). For the Steelbender route, motorized use must occur one-way from north to south (*i.e.,* from the Moab Golf Club area entry south to the southern end of the route near Flat Pass and Kens Lake). This restriction applies to all motorized users.

Exclusive motorized use of seven of the more popular routes listed above, by permittees only, would minimize damage to wilderness study areas, water quality, soils, visual resources and vegetation by reducing the amount of travel. In addition, restricting motorized use of these routes reduces user conflicts and provides for a more enjoyable experience during the well-attended annual Jeep Safari.

One-way use of three routes listed above would reduce impacts to water quality, soils, visual resources, and vegetation by eliminating passing, which results in road widening along these narrow routes. In addition, one-way travel mitigates crowding along these three routes, reduces user conflict and provides for a more enjoyable experience for event participants.

This action will be posted at the BLM-Moab Field Office as well as on the Moab Field Office Web site at: *www.blm.gov/ut/st/en/fo/moab.html.* The restrictions will also be posted at each of the trailheads affected during the Jeep Safari. Enforcement of these restrictions will be in accordance with 43 CFR 8360.0–7 and 18 U.S.C. 3571.

Exceptions

The use of motorized vehicles for emergency, official United States military and law enforcement purposes, or for official duties, or as otherwise authorized by the BLM are exempt from these restrictions. Use of motorized wheelchairs is also exempt.

Authority: 43 CFR 8364.1.

Kent Hoffman,

Acting State Director.

[FR Doc. 2015–00235 Filed 1–9–15; 8:45 am]

BILLING CODE 4310–DQ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLNVS030000.L71220000.ES0000 241A; Nev-57750; 12–08807; MO#4500074390; TAS: 14X5232]

Notice of Realty Action: Recreation and Public Purposes Lease for Change of Use and Conveyance of Public Lands in Nye County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management (BLM) Pahrump Field Office has examined and proposes to change the use of a 400-acre Recreation and Public Purposes (R&PP) Lease from a buffer zone to a landfill located in Nye County, Nevada. The land has been leased by the Nevada Division of State Lands (NDSL) since 1962, and it surrounds an existing 80-acre landfill. The conveyance would be offered pursuant to the Recreation and Public Purposes (R&PP) Act of 1926. The NDSL proposes to use the land for a Resource Conservation and Recovery Act (RCRA) Subtitle C landfill and disposal site.

DATES: Interested persons may submit written comments regarding the proposed change of use, Environmental Assessment (EA) and conveyance of public lands until February 26, 2015.

ADDRESSES: Send written comments to the BLM, Pahrump Field Office, 4701 N. Torrey Pines Drive, Las Vegas, NV 89130.

FOR FURTHER INFORMATION CONTACT: Erica Pionke, Realty Specialist, by telephone at 702–515–5059, or by email at *epionke@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION: The parcel of public land that is proposed for the change of use and conveyance of an R&PP Lease is described as:

Mount Diablo Meridian, Nevada

T. 13 S., R. 47 E.,

Sec. 26, S½SW¼, S½SE¼;
Sec. 35, NW¼NW¼, S½NW¼, S½NE¼, NE¼NE¼.
The area described contains 400 acres more or less.

Upon publication of this notice, only written comments submitted within 45 days from publication will be considered properly filed.

The BLM has prepared EA, DOI–BLM–NV–S030–2014–0012–EA for the proposed change of use and conveyance of the public lands. The NEPA review period will run consecutively with this notice. Comments to this notice and the above referenced EA will be addressed in the final EA. The EA is available for review at the Southern Nevada District Office Web site at: *http://www.blm.gov/nv/st/en.html.* The notice will be published once a week for three weeks in the Tonopah Times-Bonanza.

The NDSL has not applied for more than the 640-acre annual limitation for public purposes other than recreation use, and has submitted a statement in compliance with regulation at 43 CFR 2741.4(b). The NDSL is a qualified applicant under the R&PP Act.

A conveyance will be subject to the provisions of the R&PP Act and applicable regulations set by the Secretary of the Interior, including but not limited to the terms required by 43 CFR 2741.9.

1. A reservation to the United States for ditches and canals constructed by the authority of the United State pursuant to the Act of August 30, 1890 (43 U.S.C. 945);

2. A reservation to the United States for all minerals shall be reserved to the United States, together with the right to prospect for, mine, and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe;

3. Conveyance of the public land shall be subject to valid existing rights and reservation of record;

4. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or operations on the patented lands;

5. No portion of the land patented shall revert back to the United States under any circumstance. In addition, the patentee will comply with all Federal and State law applicable to the disposal, placement, or release of hazardous substances (substance as defined in 40 CFR part 302); and

6. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal land and interests therein. Subject to limitations prescribed by law and regulations, prior to conveyance, a holder of any right-of-way (ROW) within the lease area may be given the opportunity to amend the ROW for conversion to a new term, including perpetuity, if applicable.

Detailed information about this R&PP Lease change of use and conveyance, including, but not limited to documentation relating to compliance with applicable environmental and cultural resource laws, is available for review at the BLM Pahrump Field Office at the address above.

Upon publication of this notice in the **Federal Register,** the land described above will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease and/or conveyance under the R&PP Act, leasing under the mineral leasing laws and disposal under the mineral material disposal laws.

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 any 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.

Any adverse comments regarding the proposed conveyance will be reviewed by the BLM Nevada State Director or other authorized official of the Department of the Interior, who may sustain, vacate, or modify this realty action. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2741.5)

Mark Tanaka-Sanders,

Acting Pahrump Field Manager.

[FR Doc. 2015–00236 Filed 1–9–15; 8:45 am]

BILLING CODE 4310–HC–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–15–003]

Government in the Sunshine Act Meeting Notice

Corrections to Government in the Sunshine Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

DATE: January 12, 2015.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

In accordance with 19 CFR 201.35(d)(2)(i), the Commission hereby gives notice the correct investigation number for the meeting of January 12, 2015 at 11:00 a.m. is 731–TA–1153 (Review) and the correct title is Certain Tow-Behind Lawn Groomers and Parts Thereof from China.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting. Earlier notification of this change was not possible.

By order of the Commission:

Issued: January 8, 2015.

William R. Bishop,

Supervisory Hearings and Information Officer.

[FR Doc. 2015–00340 Filed 1–8–15; 4:15 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1110—NEW]

Agency Information Collection Activities: Proposed eCollection; eComments Requested; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: As part of a Federal Government-wide effort to streamline the process to seek feedback from the public on service delivery, Department of Justice will be submitting a Generic Information Collection Request (Generic ICR): ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' to OMB for approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*).

DATES: The purpose of this notice is to allow for an additional 30 days for public comment until February 11, 2015.

FOR FURTHER INFORMATION CONTACT: If you have additional comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact John Kane, National Data Exchange (N–DEx) Program Office, FBI-Criminal Justice Information Services (CJIS) Division, at 1 (304) 625–3568, or email *john.kane@ic.fbi.gov.* Written comments

and/or suggestions can also be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20530 or sent to *OIRA_submissions@omb.eop.gov.*

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The information collection activity will garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Feedback collected under this generic clearance will provide useful information, but it will not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: the target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

The Agency received no comments in response to the 60-day notice published in the **Federal Register** of Volume 79, Number 214, page 65701–65702, on November 5, 2014, allowing for a 60 day comment period.

Below we provide Federal Bureau of Investigation's projected average estimates for the next three years: [1]

Current Actions: New collection of information.

Type of Review: New Collection.

Affected Public: Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Average Expected Annual Number of Activities: 2.

Respondents: 2,000.

Annual Responses: 4,000.

Frequency of Response: Once per request.

Average Minutes per Response: 10.

Burden Hours: 667.

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 Office of Management and Budget control number.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE., Room 3E–405B, Washington, DC 20530.

Dated: January 7, 2015.

Jerri Murray,

Department Clearance Officer for PRA, U.S. Department of Justice.

[FR Doc. 2015–00233 Filed 1–9–15; 8:45 am]

BILLING CODE 4410–02–P

[1] The 60-day notice included the following estimate of the aggregate burden hours for this generic clearance federal-wide:

Average Expected Annual Number of activities: 25,000.

Average Number of Respondents per Activity: 200.

Annual Responses: 5,000,000.

Frequency of Response: Once per request.

Average Minutes per Response: 30.

Burden Hours: 2,500,000.

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 8:30 a.m., Thursday, January 15, 2015.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed Merger under NCUA's Rules and Regulations. Closed pursuant to Exemption (8).
2. Creditor Claim Appeal. Closed pursuant to Exemption (6).
3. Consideration of Personnel Matters and Supervisory Activities. Closed pursuant to Exemptions (6) and (8).

RECESS: 9:45 a.m.

TIME AND DATE: 10:00 a.m., Thursday, January 15, 2015.

PLACE: Board Room, 7th Floor, Room 7047, 1775 Duke Street (All visitors must use Diagonal Road Entrance), Alexandria, VA 22314–3428.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. NCUA's 2015–2016 Annual Performance Plan.
2. NCUA's Rules and Regulations, Capital Planning and Stress Testing Schedules.
3. Community Charter Request, 360 Federal Credit Union (Windsor Locks, CT).
4. NCUA's Rules and Regulations, Prompt Corrective Action and Risk-Based Capital Measures.

FOR FURTHER INFORMATION CONTACT: Gerard Poliquin, Secretary of the Board, Telephone: 703–518–6304.

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2015–00331 Filed 1–8–15; 4:15 pm]

BILLING CODE 7535–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collection for OMB Review; Comment Request; Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for OMB approval of revised collection of information.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is modifying the collection of information under its regulation on Payment of Premiums (OMB control number 1212–0009; expires April 30, 2017) and is requesting that the Office of Management and Budget (OMB) approve the revised collection of information under the Paperwork Reduction Act for three years. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments must be submitted by February 11, 2015.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory

Affairs, Office of Management and Budget, Attention: Desk Officer for the Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to 202–395–6974.

The OMB submission (including the collection of information, comments, and supporting statement) will be posted at *http://www.pbgc.gov/prac/laws-and-regulations/information-collections-under-omb-review.html.* Copies of the collection of information and comments may also be obtained without charge by writing to the Disclosure Division, Office of General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; visiting the Disclosure Division; faxing a request to 202–326–4042; or calling 202–326–4040 during normal business hours. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4040.) The premium payment regulation and the premium instructions (including illustrative forms) for 2014 are available at *www.pbgc.gov* .

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Deputy Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4024. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4024.)

SUPPLEMENTARY INFORMATION: Section 4007 of Title IV of the Employee Retirement Income Security Act of 1974 (ERISA) requires pension plans covered under Title IV pension insurance programs to pay premiums to PBGC. All plans covered by Title IV pay a flat-rate per-participant premium. An underfunded single-employer plan also pays a variable-rate premium based on the value of the plan's unfunded vested benefits.

Pursuant to section 4007, PBGC has issued its regulation on Payment of Premiums (29 CFR part 4007). Under § 4007.3 of the premium payment regulation, the plan administrator of each pension plan covered by Title IV of ERISA is required to file a premium payment and information prescribed by PBGC for each premium payment year. Premium information must be filed electronically using ''My Plan Administration Account'' (''My PAA'') through PBGC's Web site except to the extent PBGC grants an exemption for good cause in appropriate circumstances, in which case the information must be filed using an approved PBGC form. Under § 4007.10 of the premium payment regulation, plan administrators are required to retain records about premiums and information submitted in premium filings.

Premium filings report (i) the flat-rate premium and related data (all plans), (ii) the variable-rate premium and related data (single-employer plans), and (iii) additional data such as identifying information and miscellaneous plan-related or filing-related data (all plans). PBGC needs this information to identify the plans for which premiums are paid, to verify whether the amounts paid are correct, to help PBGC determine the magnitude of its exposure in the event of plan termination, to help track the creation of new plans and transfer of participants and plan assets and liabilities among plans, and to keep PBGC's insured-plan inventory up to date. That information and the retained records are also needed for audit purposes.

PBGC is revising the 2015 filing procedures and instructions to require after-the-fact reporting of certain risk transfers through lump sum windows and annuity purchases. Risk transfers can substantially reduce the premiums that plans otherwise would pay to PBGC. Because PBGC premiums and the investment income earned on them are a major source of income for PBGC, information about risk transfers is critical to PBGC's ability to assess its future financial condition. There is currently no available comprehensive, detailed, and reliable source for information on risk transfers.

PBGC is also changing certain premium declaration certification procedures, offering the option for a plan to provide a telephone number specifically for inclusion in PBGC's Search Plan List on PBGC's Web site, updating the premium rates (including to reflect the Consolidated and Further Continuing Appropriations Act, 2015, Pub. L. 113–235), and making conforming, clarifying, and editorial changes.

On September 23, 2014 (at 79 FR 56831), PBGC gave public notice that it intended to submit the revised procedures and instructions to OMB for review. PBGC received nine comment letters from representatives of employers, pension practitioners, annuity providers, and participants.[1] The comments focused almost exclusively on the new risk transfer items. PBGC has made changes to the new items (both the questions themselves and the instructions) in response to some of the comments. The changes and other responses to the comments are discussed in detail in the supporting statement to the OMB submission.

The collection of information under the regulation has been approved through April 30, 2017, by OMB under control number 1212–0009. PBGC intends to request that OMB approve the revised collection of information for three years. 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.

PBGC estimates that it will receive 25,700 premium filings per year from 25,700 plan administrators under this collection of information. PBGC further estimates that the average annual burden of this collection of information is approximately 8,000 hours and $53,200,000.

Issued in Washington, DC, this 7th day of January, 2015.

Judith Starr,

General Counsel, Pension Benefit Guaranty Corporation.

[FR Doc. 2015–00253 Filed 1–9–15; 8:45 am]

BILLING CODE 7709–02–P

[1] The notice and comments are posted at *http://www.pbgc.gov/prac/pg/other/guidance/paperwork-notices.html.*

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE., Washington, DC 20549–2736.

Extension:

Rule 11a–3, SEC File No. 270–321, OMB Control No. 3235–0358.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), 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.

Section 11(a) of the Investment Company Act of 1940 (''Act'') (15 U.S.C. 80a–11(a)) provides that it is unlawful for a registered open-end investment company (''fund'') or its underwriter to make an offer to the fund's shareholders or the shareholders of any other fund to exchange the fund's securities for securities of the same or another fund

on any basis other than the relative net asset values (''NAVs'') of the respective securities to be exchanged, ''unless the terms of the offer have first been submitted to and approved by the Commission or are in accordance with such rules and regulations as the Commission may have prescribed in respect of such offers.'' Section 11(a) was designed to prevent ''switching,'' the practice of inducing shareholders of one fund to exchange their shares for the shares of another fund for the purpose of exacting additional sales charges.

Rule 11a–3 (17 CFR 270.11a–3) under the Act is an exemptive rule that permits open-end investment companies (''funds''), other than insurance company separate accounts, and funds' principal underwriters, to make certain exchange offers to fund shareholders and shareholders of other funds in the same group of investment companies. The rule requires a fund, among other things, (i) to disclose in its prospectus and advertising literature the amount of any administrative or redemption fee imposed on an exchange transaction, (ii) if the fund imposes an administrative fee on exchange transactions, other than a nominal one, to maintain and preserve records with respect to the actual costs incurred in connection with exchanges for at least six years, and (iii) give the fund's shareholders a sixty day notice of a termination of an exchange offer or any material amendment to the terms of an exchange offer (unless the only material effect of an amendment is to reduce or eliminate an administrative fee, sales load or redemption fee payable at the time of an exchange).

The rule's requirements are designed to protect investors against abuses associated with exchange offers, provide fund shareholders with information necessary to evaluate exchange offers and certain material changes in the terms of exchange offers, and enable the Commission staff to monitor funds' use of administrative fees charged in connection with exchange transactions.

The staff estimates that there are approximately 1,633 active open-end investment companies registered with the Commission as of March 2014. The staff estimates that 25 percent (or 408) of these funds impose a non-nominal administrative fee on exchange transactions. The staff estimates that the recordkeeping requirement of the rule requires approximately 1 hour annually of clerical time per fund, for a total of 408 hours for all funds.

The staff estimates that 5 percent of these 1,633 funds (or 82) terminate an exchange offer or make a material change to the terms of their exchange offer each year, requiring the fund to comply with the notice requirement of the rule. The staff estimates that complying with the notice requirement of the rule requires approximately 1 hour of attorney time and 2 hours of clerical time per fund, for a total of approximately 246 hours for all funds to comply with the notice requirement.[1] The staff estimates that such notices will be enclosed with other written materials sent to shareholders, such as annual shareholder reports or account statements, and therefore any burdens associated with mailing required notices are accounted for in the burdens associated with Form N–1A registration statements for funds. The recordkeeping and notice requirements together therefore impose a total burden of 654 hours on all funds.[2] The total number of respondents is 490, each responding once a year.[3] The burdens associated with the disclosure requirement of the rule are accounted for in the burdens associated with the Form N–1A registration statement for funds.

The estimate of average burden hours is made solely for the purposes of the Paperwork Reduction Act, and is not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. 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 requested on: (a) Whether the collection of information is necessary for the proper performance of the functions of the Commission, including whether the information has practical utility; (b) the accuracy of the Commission's estimate of the burden(s) 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 Pamela Dyson, Acting 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: January 6, 2015.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2015–00228 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

[1] This estimate is based on the following calculations: (1,633 (funds) × 0.05% = 82 funds); (82 × 1 (attorney hour) = 82 total attorney hours); (82 (funds) × 2 (clerical hours) = 164 total clerical hours); (82 (attorney hours) + 164 (clerical hours) = 246 total hours).

[2] This estimate is based on the following calculations: (246 (notice hours) + 408 (recordkeeping hours) = 654 total hours).

[3] This estimate is based on the following calculation: (408 funds responding to recordkeeping requirement + 82 funds responding to notice requirement = 490 total respondents).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31408; 812–14266]

Context Capital Advisers, LLC and Context Capital Funds; Notice of Application

January 6, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements.

SUMMARY OF APPLICATION: Applicants request an order that would permit them to enter into and materially amend subadvisory agreements without shareholder approval and would grant relief from certain disclosure requirements.

APPLICANTS: Context Capital Advisers, LLC (''Context Capital'' or the ''Adviser'') and Context Capital Funds (the ''Trust'' and collectively with Context Capital, the ''Applicants'').

FILING DATES: The application was filed January 14, 2014 and amended on May 21, 2014 and September 19, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 2, 2015 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a

hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Context Capital Funds, Three Canal Plaza, Suite 600, Portland, Maine 04101; Jason A. Myers, Context Capital Advisers, LLC, 401 City Avenue, Suite 800, Bala Cynwyd, PA 19004.

FOR FURTHER INFORMATION CONTACT: Barbara T. Heussler, Senior Counsel, at (202) 551–6990, or James M. Curtis, Branch Chief, at (202) 551–6712 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is organized as a Delaware statutory trust and is registered under the Act as an open-end management investment company. Currently, the Trust is comprised of one series, the Context Alternative Strategies Fund (''Alternative Strategies Fund'').[1] Each of the Trust's series will have its own investment objective, policies and restrictions.

2. Context Capital, a Delaware limited liability company, is registered as an investment adviser with the Commission under the Investment Advisers Act of 1940 (''Advisers Act''). Any future Adviser also will also be registered with the Commission as an investment adviser under the Advisers Act. Context Capital serves as the investment adviser of the Alternative Strategies Fund pursuant to an investment advisory agreement with the Trust (the ''Advisory Agreement'').[2] The Advisory Agreement was approved by the board of trustees of the Trust (the ''Board''), including a majority of the members of the board of trustees who are not ''interested persons,'' as defined in section 2(a)(19) of the Act, of the Trust, the Fund, or of the Adviser (''Independent Trustees'') and was approved by the initial shareholder of the Alternative Strategies Fund, in the manner required by sections 15(a) and 15(c) of the Act and rule 18f–2 under the Act.[3] Applicants are not seeking any exemptions with respect to the Advisory Agreement or Future Advisory Agreements.

3. Under the terms of the Advisory Agreement, and subject to the oversight of the Board, Context Capital is responsible for the overall management of the Alternative Strategies Fund's business affairs and selecting investments according to its investment objective, policies, and restrictions. For the investment management services that it provides to the Alternative Strategies Fund, Context Capital receives the fee specified in the Advisory Agreement based on average daily net assets. In addition, under the Advisory Agreement, Context Capital may retain one or more subadvisers, at Context Capital's own cost and expense, subject to approval of the Board, including approval by a majority of the Independent Trustees and the shareholders of the Fund (if required by applicable law), for the purpose of managing the investment of all or a portion of the assets of the Alternative Strategies Fund. Context Capital has entered into subadvisory agreements with eight subadvisers to provide investment advisory services to the Alternative Strategies Fund.[4] Each subadviser is an ''investment adviser'' as defined in section 2(a)(20) of the Act and registered as an investment adviser under the Advisers Act. The Adviser selects subadvisers based on the Adviser's evaluation of the subadviser's skills in managing assets pursuant to particular investment styles that are consistent with the investment objective of each Fund and recommends their hiring to the Board. For the investment advisory services subadvisers provide to the Funds, each subadviser receives annual fees from the Adviser calculated at an annual rate based on the average daily net assets of the respective Fund. The Adviser compensates each subadviser out of the fees that are paid to the Adviser under the Advisory Agreement.[5]

4. Applicants request an order to permit the Adviser, subject to approval of the Board, including a majority of the Independent Trustees, to do the following without obtaining shareholder approval: (a) Select an unaffiliated investment subadviser or subadvisers (each a ''Subadviser'') to manage all or a portion of the assets of the Alternative Strategies Fund or any other Fund pursuant to an investment subadvisory agreement with a Subadviser (each a ''Subadvisory Agreement''), and (b) materially amend Subadvisory Agreements. The requested relief will not extend to any subadviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of the Trust, a Fund or the Adviser, other than by reason of serving as a subadviser to one or more of the Funds (''Affiliated Subadviser'').

5. If a new Subadviser is hired, the Fund will inform shareholders of the hiring of a new Subadviser pursuant to the following procedures (''Modified Notice and Access Procedures''): (a) Within 90 days after a new Subadviser is hired for any Fund, that Fund will send its shareholders either a Multi-manager Notice or a Multi-manager Notice and Multi-manager Information Statement;[6] and (b) the Fund will make

[1] Applicants also request relief with respect to any existing or future series of the Trust and any other existing or future registered open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser or its successors (included in the term ''Adviser''); (b) uses the manager of managers structure (''Manager of Managers Structure'') described in the application; and (c) complies with the terms and conditions of the application (together with the Alternative Strategies Fund, the ''Funds'' and each individually, a ''Fund''). For purposes of the requested order, ''successor'' is limited to an entity that would result from a reorganization into another jurisdiction or a change in the type of business organization. The only existing registered open-end management investment company that currently intends to rely on the requested order is the Trust. If the name of any Fund contains the name of a Subadviser, the name of the Adviser will precede the name of the Subadviser. The term ''Board'' also includes the board of trustees or directors of a future Fund.

[2] The Adviser will enter into substantially similar investment advisory agreements to provide investment management services to future Funds (''Future Advisory Agreements''). The terms of Future Advisory Agreements will comply with section 15(a) of the Act, and Future Advisory Agreements will be approved by shareholders and by the Board, including a majority of the Independent Trustees, in the manner required by Sections 15(a) and 15(c) of the Act and rule 18f–2 thereunder. References to any Advisory Agreement(s) include Future Advisory Agreements as they pertain to future Funds.

[3] Context Asset Management, L.P. the parent company of the Adviser, is undergoing a reorganization resulting in the termination of the Fund's current advisory agreement and subadvisory agreements. At a meeting held on June 16, 2014, the Fund's Board unanimously approved a new advisory agreement and subadvisory agreements for the Fund. The new advisory agreement and subadvisory agreements become effective upon approval by the Fund's shareholders.

[4] All existing subadvisory agreements comply with sections 15(a) and (c) of the Act and rule 18f–2 thereunder.

[5] The reorganization will result in new subadvisory agreements that will become effective upon approval by the Fund's shareholders.

[6] A ''Multi-manager Notice'' will be modeled on a Notice of Internet Availability as defined in rule 14a–16 under the 1934 Act, and specifically will, among other things: (a) Summarize the relevant information regarding the new Subadviser; (b) inform shareholders that the Multi-manager Information Statement is available on a Web site; (c) provide the Web site address; (d) state the time period during which the Multi-manager Information Statement will remain available on that Web site; (e) provide instructions for accessing and printing the Multi-manager Information Statement; and (f)

the Multi-manager Information Statement available on the Web site identified in the Multi-manager Notice no later than when the Multi-manager Notice (or Multi-manager Notice and Multi-manager Information Statement) is first sent to shareholders, and will maintain it on that Web site for at least 90 days. Applicants assert that a proxy solicitation to approve the appointment of new Subadvisers provides no more meaningful information to shareholders than the proposed Multi-manager Information Statement. Moreover, as indicated above, the Board would comply with the requirements of sections 15(a) and 15(c) of the Act before entering into or amending Subadvisory Agreements.

6. Applicants also request an order exempting the Fund from certain disclosure provisions described below that may require the Applicants to disclose fees paid to each Subadviser by the Adviser. Applicants seek an order to permit each Fund to disclose (both as a dollar amount and a percentage of a Fund's net assets): (a) Aggregate fees paid to the Adviser and Affiliated Subadvisers; and (b) aggregate fees paid to Subadvisers other than Affiliated Subadvisers (''Aggregate Fee Disclosure''). For any Fund that employs Affiliated Subadvisers, the Fund will provide separate disclosure of any fees paid to such Affiliated Subadvisers.

Applicants' Legal Analysis

1. Section 15(a) of the Act provides, in relevant part, that it is unlawful for any person to act as an investment adviser of a registered investment company except pursuant to a written contract that has been approved by the vote of a majority of the company's outstanding voting securities of such registered company. Rule 18f–2 under the Act provides that each series or class of stock in a series investment company affected by a matter must approve that matter if the Act requires shareholder approval.

2. Form N–1A is the registration statement used by open-end investment companies. Item 19(a)(3) of Form N–1A requires disclosure of the method and amount of the investment adviser's compensation.

3. Rule 20a–1 under the Act requires proxies solicited with respect to a registered investment company to comply with Schedule 14A under the Securities Exchange Act of 1934 (''1934 Act''). Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A, taken together, require a proxy statement for a shareholder meeting at which the advisory contract will be voted upon to include the ''rate of compensation of the investment adviser,'' the ''aggregate amount of the investment adviser's fees,'' a description of the ''terms of the contract to be acted upon,'' and, if a change in the advisory fee is proposed, the existing and proposed fees and the difference between the two fees.

4. Regulation S–X sets forth the requirements for financial statements required to be included as part of a registered investment company's registration statement and shareholder reports filed with the Commission. Sections 6–07(2)(a), (b) and (c) of Regulation S–X require a registered investment company to include in its financial statement information about investment advisory fees.

5. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or from any rule thereunder, if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that the requested relief meets this standard for the reasons discussed below.

6. Applicants assert that the shareholders expect the Adviser, subject to the review and approval of the Board, to select the Subadvisers who are best suited to achieve each Fund's investment objective. Applicants assert that, from the perspective of the shareholder, the role of the Subadvisers is substantially equivalent to the role of the individual portfolio managers employed by an investment adviser to a traditional investment company. Applicants state that requiring shareholder approval of each Subadvisory Agreement would impose unnecessary delays and expenses on the Funds and may preclude the Funds from acting promptly when the Adviser and Board consider it appropriate to hire Subadvisers or amend Subadvisory Agreements. Applicants note that the Advisory Agreements and Subadvisory Agreements with Affiliated Subadvisers (if any) will remain subject to the shareholder approval requirements of section 15(a) of the Act and rule 18f–2 under the Act.

7. Applicants assert that the requested disclosure relief will benefit shareholders to the extent that it will facilitate lower overall investment advisory fees. Applicants state that if the Adviser is not required to disclose the Subadvisers' fees to the public, the Adviser may be able to negotiate rates that are below a Subadviser's ''posted'' amounts. Applicants state that the requested relief will encourage Subadvisers to negotiate lower advisory fees with the Adviser if the lower fees are not required to be made public.

Applicants' Conditions

Applicants agree that any order granting the requested relief will be subject to the following conditions:

1. Before a Fund may rely on the requested order, the operation of the Fund in the manner described in the Application will be approved by a majority of the Fund's outstanding voting securities, as defined in the Act, or in the case of a Fund whose public shareholders purchase shares on the basis of a prospectus containing the disclosure contemplated by condition 2 below, by the initial shareholder(s) before offering shares of that Fund to the public.

2. The prospectus for each Fund will disclose the existence, substance, and effect of any order granted pursuant to the Application. Each Fund will hold itself out to the public as utilizing the Manager of Managers Structure. The prospectus will prominently disclose that the Adviser has ultimate responsibility (subject to oversight by the Board) to oversee the Subadvisers and recommend their hiring, termination, and replacement.

3. Funds will inform shareholders of the hiring of a new Subadviser within 90 days after the hiring of the new Subadviser, pursuant to the Modified Notice and Access Procedures.

4. The Adviser will not enter into a subadvisory agreement with any Affiliated Subadviser without such agreement, including the compensation to be paid thereunder, being approved by the shareholders of the applicable Fund.

5. At all times, at least a majority of the Board will be Independent Trustees, and the selection and nomination of new or additional Independent Trustees will be placed within the discretion of the then-existing Independent Trustees.

6. Whenever a subadviser change is proposed for a Fund with an Affiliated Subadviser, the Board, including a majority of the Independent Trustees, will make a separate finding, reflected

instruct the shareholder that a paper or email copy of the Multi-manager Information Statement may be obtained, without charge, by contacting the Funds. A ''Multi-manager Information Statement'' will meet the requirements of Regulation 14C, Schedule 14C and Item 22 of Schedule 14A under the 1934 Act for an information statement, except as modified by the requested order to permit Aggregate Fee Disclosure. Multi-manager Information Statements will be filed electronically with the Commission via the EDGAR system.

in the applicable Board minutes, that such change is in the best interests of the Fund and its shareholders, and does not involve a conflict of interest from which the Adviser or the Affiliated Subadviser derives an inappropriate advantage.

7. Independent legal counsel, as defined in rule 0–1(a)(6) under the Act, will be engaged to represent the Independent Trustees. The selection of such counsel will be within the discretion of the then-existing Independent Trustees.

8. The Adviser will provide the Board, no less frequently than quarterly, with information about the profitability of the Adviser on a per Fund basis. The information will reflect the impact on profitability of the hiring or termination of any Subadviser during the applicable quarter.

9. Whenever a Subadviser is hired or terminated, the Adviser will provide the Board with information showing the expected impact on the profitability of the Adviser.

10. The Adviser will provide general management services to each Fund, including overall supervisory responsibility for the general management and investment of each Fund's assets, and, subject to review and approval of the Board, will: (a) Set each Fund's overall investment strategies; (b) evaluate, select, and recommend Subadvisers to manage all or a portion of the each Fund's assets; (c) allocate and, when appropriate, reallocate each Fund's assets among one or more Subadvisers; (d) monitor and evaluate the performance of Subadvisers; and (e) implement procedures reasonably designed to ensure that Subadvisers comply with each Fund's investment objective, policies and restrictions.

11. No trustee or officer of the Trust or a Fund, or director, manager or officer of the Adviser, will own, directly or indirectly (other than through a pooled investment vehicle that is not controlled by such person), any interest in a Subadviser, except for (a) ownership of interests in the Adviser or any entity that controls, is controlled by, or is under common control with the Adviser; or (b) ownership of less than 1% of the outstanding securities of any class of equity or debt of any publicly traded company that is either a Subadviser or an entity that controls, is controlled by or is under common control with a Subadviser.

12. In the event the Commission adopts a rule under the Act providing substantially similar relief to that in the order requested in the Application, the requested order will expire on the effective date of that rule.

13. Each Fund will disclose the Aggregate Fee Disclosure in its registration statement.

14. Any new Subadvisory Agreement or any amendment to a Fund's existing Advisory Agreement or Subadvisory Agreement that directly or indirectly results in an increase in the aggregate advisory rate payable by the Fund will be submitted to the Fund's shareholders for approval.

For the Commission, by the Division of Investment Management, under delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2015–00227 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 31407; 812–14355]

Forum Funds II, et al.; Notice of Application

January 6, 2015.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''1940 Act'') for exemptions from sections 12(d)(1)(A), (B), and (C) of the 1940 Act, under sections 6(c) and 17(b) of the 1940 Act for an exemption from section 17(a) of the 1940 Act, and under section 6(c) of the 1940 Act for an exemption from rule 12d1–2(a) under the 1940 Act.

SUMMARY OF THE APPLICATION: Applicants request an order that would (a) permit certain registered open-end management investment companies that operate as ''funds of funds'' to acquire shares of certain registered open-end management investment companies, registered closed-end management investment companies, business development companies as defined by section 2(a)(48) of the 1940 Act (''business development companies''), and registered unit investment trusts that are within or outside the same group of investment companies as the acquiring investment companies and (b) permit certain registered open-end management investment companies relying on rule 12d1–2 under the 1940 Act to invest in certain financial instruments.

APPLICANTS: Forum Funds II (''Trust''), Full Circle Advisors, LLC (''Initial Advisor'') and Foreside Fund Services, LLC (the ''Distributor'').

FILING DATES: The application was filed August 29, 2014, and amended on November 4, 2014, November 12, 2014, December 17, 2014, and December 24, 2014.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 2, 2015, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the 1940 Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Forum Funds II, Three Canal Plaza, Suite 600, Portland, Maine 04101; Full Circle Advisors, LLC, 102 Greenwich Avenue, 2nd Floor, Greenwich, CT 06830; Foreside Fund Services LLC, Three Canal Plaza, Suite 300, Portland, ME 04101.

FOR FURTHER INFORMATION CONTACT: Jill Ehrlich, Senior Counsel, at (202) 551–6819, or David P. Bartels, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the ''Company'' name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations

1. The Trust is an open-end management company registered under the 1940 Act and organized as a Delaware statutory trust. The Trust may offer multiple series.[1]

[1] The Applicants request that the order apply not only to the series of the Trust advised by the Initial Adviser, The BDC Income Fund, but also to any future series of the Trust and any other existing or future registered open-end management investment companies and any series thereof that are part of the same ''group of investment companies'', as defined

2. The Initial Advisor, a Delaware limited liability company, is a registered investment adviser under the Investment Advisers Act of 1940 (the ''Advisers Act''). The Initial Advisor, or an entity controlling, controlled by, or under common control with the Initial Advisor, serves, or will serve, as the investment adviser to each of the Funds.[2] The Advisor may enter into sub-advisory agreements with one or more additional investment advisers to act as ''Sub-Advisers'' with respect to particular Funds (each, a ''Sub-Adviser''). The Distributor is a Broker (as defined below) and serves as the existing Fund's principal underwriter and distributor.

3. Applicants request relief to the extent necessary to permit: (a) Each Fund (each, a ''Fund of Funds,'' and collectively, the ''Funds of Funds'') to acquire shares of registered open-end management investment companies (each an ''Unaffiliated Open-End Investment Company''), registered closed-end management investment companies, business development companies (each registered closed-end management investment company and each business development company, an ''Unaffiliated Closed-End Investment Company'' and, together with the Unaffiliated Open-End Investment Companies, the ''Unaffiliated Investment Companies''), and registered unit investment trusts (''UITs'') (the ''Unaffiliated Trusts,'' collectively with the Unaffiliated Investment Companies, the ''Unaffiliated Funds''), in each case, that are not part of the same ''group of investment companies'' as the Funds of Funds;[3] (b) the Unaffiliated Funds, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 (the ''1934 Act'') (''Broker'') to sell shares of such Unaffiliated Funds to the Funds of Funds; (c) the Funds of Funds to acquire shares of other registered investment companies, including open-end management investment companies and series thereof, closed-end management investment companies and UITs, as well as business development companies (if any), in the same group of investment companies as the Funds of Funds (collectively, the ''Affiliated Funds,'' and, together with the Unaffiliated Funds, the ''Underlying Funds'');[4] and (d) the Affiliated Funds, their principal underwriters and any Broker to sell shares of the Affiliated Funds to the Funds of Funds.[5] Applicants also request an order under sections 6(c) and 17(b) of the 1940 Act to exempt applicants from section 17(a) to the extent necessary to permit Underlying Funds organized as open-end investment companies (''Underlying Open-End Investment Companies'') and UITs (''Underlying UITs'') to sell their shares to Funds of Funds and redeem their shares from Funds of Funds.

4. Applicants also request an exemption under section 6(c) from rule 12d1–2 under the 1940 Act to permit any existing or future Fund of Funds that relies on section 12(d)(1)(G) of the 1940 Act (''Section 12(d)(1)(G) Fund of Funds'') and that otherwise complies with rule 12d1–2 under the 1940 Act, to also invest, to the extent consistent with its investment objective(s), policies, strategies and limitations, in other financial instruments that may not be securities within the meaning of section 2(a)(36) of the 1940 Act (''Other Investments'').

Applicants' Legal Analysis

A. Section 12(d)(1)

1. Section 12(d)(1)(A) of the 1940 Act, in relevant part, prohibits a registered investment company from acquiring shares of an investment company if the securities represent more than 3% of the total outstanding voting stock of the acquired company, more than 5% of the total assets of the acquiring company, or, together with the securities of any other investment companies, more than 10% of the total assets of the acquiring company. Section 12(d)(1)(B) of the 1940 Act prohibits a registered open-end investment company, its principal underwriter, and any Broker from selling the investment company's shares to another investment company if the sale will cause the acquiring company to own more than 3% of the acquired company's voting stock, or if the sale will cause more than 10% of the acquired company's voting stock to be owned by investment companies generally. Section 12(d)(1)(C) prohibits an investment company from acquiring any security issued by a registered closed-end investment company if such acquisition would result in the acquiring company, any other investment companies having the same investment adviser, and companies controlled by such investment companies, collectively, owning more than 10% of the outstanding voting stock of the registered closed-end investment company.

2. Section 12(d)(1)(J) of the 1940 Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Applicants request an exemption under section 12(d)(1)(J) of the 1940 Act from the limitations of sections 12(d)(1)(A), (B) and (C) to the extent necessary to permit: (i) The Funds of Funds to acquire shares of Underlying Funds in excess of the limits set forth in section 12(d)(1)(A) and (C) of the 1940 Act; and (ii) the Underlying Funds, their principal underwriters and any Broker to sell shares of the Underlying Funds to the Funds of Funds in excess of the limits set forth in section 12(d)(1)(B) of the 1940 Act.

3. Applicants state that the proposed arrangement will not give rise to the policy concerns underlying sections

in section 12(d)(1)(G)(ii) of the 1940 Act, as The BDC Income Fund and are, or may in the future be, advised by the Initial Advisor or any other investment adviser controlling, controlled by, or under common control with the Initial Advisor (together with The BDC Income Fund, each series a ''Fund,'' and collectively, ''Funds''). All entities that currently intend to rely on the requested order are named as applicants. Any other entity that relies on the order in the future will comply with the terms and conditions of the application.

[2] All references to the term ''Full Circle Advisors, LLC'' include any successors in interest to Full Circle Advisors, LLC. A successor is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. The term ''Advisor'' includes (i) the Initial Advisor and (ii) any entity controlling, controlled by, or under common control with the Initial Advisor that serves as investment adviser to the Funds.

[3] For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies and BDCs, that hold themselves out to investors as related companies for purposes of investment and investor services.

[4] Certain of the Underlying Funds may be registered under the 1940 Act as either UITs or open-end management investment companies and have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as exchange-traded funds (collectively, ''ETFs'' and each, an ''ETF''). In addition, certain of the Underlying Funds may in the future pursue their investment objectives through a master-feeder arrangement in reliance on section 12(d)(1)(E) of the 1940 Act. In accordance with condition 12, a Fund of Funds may not invest in an Underlying Fund that operates as a feeder fund unless the feeder fund is part of the same ''group of investment companies'' as its corresponding master fund or the Fund of Funds. If a Fund of Funds invests in an Affiliated Fund that operates as a feeder fund and the corresponding master fund is not within the same ''group of investment companies'' as the Fund of Funds and Affiliated Fund, the master fund would be an Unaffiliated Fund for purposes of the application and its conditions.

[5] Applicants state that they do not believe that investments in business development companies present any particular considerations or concerns that may be different from those presented by investments in registered closed-end investment companies. In addition, Applicants represent that the Funds of Funds will not invest in reliance on the order in BDCs or closed-end investment companies that are not listed and traded on a national securities exchange.

12(d)(1)(A), (B), and (C), which include concerns about undue influence by a fund of funds over underlying funds, excessive layering of fees, and overly complex fund structures. Accordingly, applicants believe that the requested exemption is consistent with the public interest and the protection of investors.

4. Applicants submit that the proposed structure will not result in the exercise of undue influence by a Fund of Funds or its affiliated persons over the Underlying Funds. Applicants assert that the concern about undue influence does not arise in connection with a Fund of Funds' investment in the Affiliated Funds because they are part of the same group of investment companies. To limit the control a Fund of Funds or Fund of Funds Affiliate [6] may have over an Unaffiliated Fund, applicants propose a condition prohibiting the Advisor and any person controlling, controlled by or under common control with the Advisor, and any investment company and any issuer that would be an investment company but for section 3(c)(1) or section 3(c)(7) of the 1940 Act advised or sponsored by the Advisor or any person controlling, controlled by or under common control with the Advisor (collectively, the ''Group'') from controlling (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The same prohibition would apply to any Sub-Adviser and any person controlling, controlled by or under common control with the Sub-Adviser, and any investment company or issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act (or portion of such investment company or issuer) advised or sponsored by the Sub-Adviser or any person controlling, controlled by or under common control with the Sub-Adviser (collectively, the ''Sub-Adviser Group'').

5. With respect to closed-end Underlying Funds, applicants note that although closed-end funds may not be unduly influenced by a holder's right of redemption, closed-end Underlying Funds may be unduly influenced by a holder's ability to vote a large block of stock. To address this concern, applicants submit that, with respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. Applicants state that, in this way, an Unaffiliated Closed-End Investment Company will be protected from undue influence by a Fund of Funds through the voting of the Unaffiliated Closed-End Investment Company's shares.

6. Applicants propose other conditions to limit the potential for undue influence over the Unaffiliated Funds, including that no Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in an offering of securities during the existence of any underwriting or selling syndicate of which a principal underwriter is an Underwriting Affiliate (''Affiliated Underwriting'').[7]

7. To further ensure that an Unaffiliated Investment Company understands the implications of a Fund of Funds' investment under the requested exemptive relief, prior to its investment in the shares of an Unaffiliated Investment Company in excess of the limit of section 12(d)(1)(A)(i) of the 1940 Act, a Fund of Funds and the Unaffiliated Investment Company will execute an agreement stating, without limitation, that each of their boards of directors or trustees (for any entity, the ''Board'') and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order (the ''Participation Agreement''). Applicants note that an Unaffiliated Investment Company (including an ETF or an Unaffiliated Closed-End Investment Company) would also retain its right to reject any initial investment by a Fund of Funds in excess of the limits in section 12(d)(1)(A)(i) of the 1940 Act by declining to execute the Participation Agreement with the Fund of Funds. In addition, an Unaffiliated Investment Company (other than an ETF or closed-end fund whose shares are purchased by a Fund of Funds in the secondary market) will retain its right at all times to reject any investment by a Fund of Funds. Finally, subject solely to the giving of notice to a Fund of Funds and the passage of a reasonable notice period, an Unaffiliated Fund (including an ETF or an Unaffiliated Closed-End Investment Company) could terminate a Participation Agreement with the Fund of Funds.

8. Applicants state that they do not believe that the proposed arrangement will result in excessive layering of fees. The Board of each Fund of Funds, including a majority of the trustees who are not ''interested persons'' within the meaning of section 2(a)(19) of the 1940 Act (the ''Independent Trustees''), will find that the management or advisory fees charged under a Fund of Funds' advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. In addition, the Advisor will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company under rule 12b–1 under the 1940 Act) received from an Unaffiliated Fund by the Advisor, or an affiliated person of the Advisor, other than any advisory fees paid to the Advisor or an affiliated person of the Advisor by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund.

9. Applicants further state that any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in in rule 2830 of the Conduct Rules of the NASD (''NASD Conduct Rule 2830'').[8]

10. Applicants submit that the proposed arrangement will not create an overly complex fund structure. Applicants note that no Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of

[6] A ''Fund of Funds Affiliate'' is the Advisor, any Sub-Adviser, promoter or principal underwriter of a Fund of Funds, as well as any person controlling, controlled by or under common control with any of those entities. An ''Unaffiliated Fund Affiliate'' is an investment adviser(s), sponsor, promoter or principal underwriter of any Unaffiliated Fund or any person controlling, controlled by or under common control with any of those entities.

[7] An ''Underwriting Affiliate'' is a principal underwriter in any underwriting or selling syndicate that is an officer, director, trustee, advisory board member, investment adviser, sub-adviser or employee of the Fund of Funds, or a person of which any such officer, director, trustee, investment adviser, sub-adviser, member of an advisory board or employee is an affiliated person. An Underwriting Affiliate does not include any person whose relationship to an Unaffiliated Fund is covered by section 10(f) of the 1940 Act.

[8] Any references to NASD Conduct Rule 2830 include any successor or replacement FINRA rule to NASD Conduct Rule 2830.

the 1940 Act in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except in certain circumstances identified in condition 12 below.

B. Section 17(a)

1. Section 17(a) of the 1940 Act generally prohibits sales or purchases of securities between a registered investment company and any affiliated person of the company. Section 2(a)(3) of the 1940 Act defines an ''affiliated person'' of another person to include (a) any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote by the other person; and (c) any person directly or indirectly controlling, controlled by, or under common control with the other person.

2. Applicants state that the Funds of Funds and the Affiliated Funds may be deemed to be under the common control of the Advisor and, therefore, affiliated persons of one another. Applicants also state that the Funds of Funds and the Underlying Funds may also be deemed to be affiliated persons of one another if a Fund of Funds owns 5% or more of the outstanding voting securities of one or more of such Underlying Funds. Applicants state that the sale of shares by the Underlying Open-End Investment Companies or Underlying UITs to the Funds of Funds and the purchase of those shares from the Funds of Funds by the Underlying Open-End Investment Companies or Underlying UITs (through redemptions) could be deemed to violate section 17(a).[9]

3. Section 17(b) of the 1940 Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (i) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (ii) the proposed transaction is consistent with the policies of each registered investment company concerned; and (iii) the proposed transaction is consistent with the general purposes of the 1940 Act. Section 6(c) of the 1940 Act permits the Commission to exempt any person or transactions from any provision of the 1940 Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act.

4. Applicants submit that the proposed transactions satisfy the standards for relief under sections 17(b) and 6(c) of the 1940 Act. Applicants state that the terms of the transactions are reasonable and fair and do not involve overreaching. Applicants state that the terms upon which an Underlying Fund will sell its shares to or purchase its shares from a Fund of Funds will be in accordance with the rules and regulations under the 1940 Act.[10] Applicants also state that the proposed transactions will be consistent with the policies of each Fund of Funds and any Underlying Fund, and with the general purposes of the 1940 Act.

C. Other Investments by Section 12(d)(1)(G) Funds of Funds

1. Section 12(d)(1)(G) of the 1940 Act provides that section 12(d)(1) will not apply to securities of an acquired company purchased by an acquiring company if: (i) The acquiring company and acquired company are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the 1940 Act; (ii) the acquiring company holds only securities of acquired companies that are part of the same ''group of investment companies,'' as defined in section 12(d)(1)(G)(ii) of the 1940 Act, government securities, and short-term paper; (iii) the aggregate sales loads and distribution-related fees of the acquiring company and the acquired company are not excessive under rules adopted pursuant to section 22(b) or section 22(c) of the 1940 Act by a securities association registered under section 15A of the 1934 Act or by the Commission; and (iv) the acquired company has a policy that prohibits it from acquiring securities of registered open-end management investment companies or registered UITs in reliance on section 12(d)(1)(F) or (G) of the 1940 Act.

2. Rule 12d1–2 under the 1940 Act permits a registered open-end investment company or a registered UIT that relies on section 12(d)(1)(G) of the 1940 Act to acquire, in addition to securities issued by another registered investment company in the same group of investment companies, government securities, and short-term paper: (1) Securities issued by an investment company that is not in the same group of investment companies, when the acquisition is in reliance on section 12(d)(1)(A) or 12(d)(1)(F) of the 1940 Act; (2) securities (other than securities issued by an investment company); and (3) securities issued by a money market fund, when the investment is in reliance on rule 12d1–1 under the 1940 Act. For the purposes of rule 12d1–2, ''securities'' means any security as defined in section 2(a)(36) of the 1940 Act.

3. Applicants state that the proposed arrangement would comply with rule 12d1–2 under the 1940 Act, but for the fact that the Section 12(d)(1)(G) Funds of Funds may invest a portion of their assets in Other Investments. Applicants request an order under section 6(c) of the 1940 Act for an exemption from rule 12d1–2(a) to allow the Section 12(d)(1)(G) Funds of Funds to invest in Other Investments. Applicants assert that permitting a Section 12(d)(1)(G) Fund of Funds to invest in Other Investments as described in the application would not raise any of the concerns that section 12(d)(1) of the 1940 Act was intended to address.

4. Consistent with its fiduciary obligations under the 1940 Act, a Section 12(d)(1)(G) Fund of Funds' Board will review the advisory fees charged by the Section 12(d)(1)(G) Fund of Funds' investment adviser(s) to ensure that the fees are based on services provided that are in addition to, rather than duplicative of, services provided pursuant to the advisory agreement of any investment company in which the Section 12(d)(1)(G) Fund of Funds may invest.

Applicants' Conditions

Investments by Funds of Funds in Underlying Funds

Applicants agree that the order granting the requested relief to permit Funds of Funds to invest in Underlying Funds shall be subject to the following conditions:

[9] Applicants acknowledge that receipt of any compensation by (a) an affiliated person of a Fund of Funds, or an affiliated person of such person, for the purchase by the Fund of Funds of shares of an Underlying Fund or (b) an affiliated person of an Underlying Fund, or an affiliated person of such person, for the sale by the Underlying Fund of its shares to a Fund of Funds may be prohibited by section 17(e) (1) of the 1940 Act. The Participation Agreement also will include this acknowledgement.

[10] Applicants note that a Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF or a closed-end fund through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the 1940 Act, of an ETF or a closed-end fund to purchase or redeem shares from the ETF or closed-end fund. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF or a closed-end fund could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF or closed-end fund is also an investment adviser to the Fund of Funds.

1. The members of the Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. The members of a Sub-Adviser Group will not control (individually or in the aggregate) an Unaffiliated Fund within the meaning of section 2(a)(9) of the 1940 Act. With respect to a Fund's investment in an Unaffiliated Closed-End Investment Company, (i) each member of the Group or Sub-Adviser Group that is an investment company or an issuer that would be an investment company but for section 3(c)(1) or 3(c)(7) of the 1940 Act will vote its shares of the Unaffiliated Closed-End Investment Company in the manner prescribed by section 12(d)(1)(E) of the 1940 Act and (ii) each other member of the Group or Sub-Adviser Group will vote its shares of the Unaffiliated Closed-End Investment Company in the same proportion as the vote of all other holders of the same type of such Unaffiliated Closed-End Investment Company's shares. If, as a result of a decrease in the outstanding voting securities of any other Unaffiliated Fund, the Group or a Sub-Adviser Group, each in the aggregate, becomes a holder of more than 25 percent of the outstanding voting securities of such Unaffiliated Fund, then the Group or the Sub-Adviser Group will vote its shares of the Unaffiliated Fund in the same proportion as the vote of all other holders of the Unaffiliated Fund's shares. This condition will not apply to a Sub-Adviser Group with respect to an Unaffiliated Fund for which the Sub-Adviser or a person controlling, controlled by, or under common control with the Sub-Adviser acts as the investment adviser within the meaning of section 2(a)(20)(A) of the 1940 Act (in the case of an Unaffiliated Investment Company) or as the sponsor (in the case of an Unaffiliated Trust).

2. No Fund of Funds or Fund of Funds Affiliate will cause any existing or potential investment by the Fund of Funds in an Unaffiliated Fund to influence the terms of any services or transactions between the Fund of Funds or a Fund of Funds Affiliate and the Unaffiliated Fund or an Unaffiliated Fund Affiliate.

3. The Board of each Fund of Funds, including a majority of the Independent Trustees, will adopt procedures reasonably designed to ensure that the Advisor and any Sub-Adviser to the Fund of Funds is conducting the investment program of the Fund of Funds without taking into account any consideration received by the Fund of Funds or Fund of Funds Affiliate from an Unaffiliated Fund or an Unaffiliated Fund Affiliate in connection with any services or transactions.

4. Once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, the Board of the Unaffiliated Investment Company, including a majority of the Independent Trustees, will determine that any consideration paid by the Unaffiliated Investment Company to a Fund of Funds or a Fund of Funds Affiliate in connection with any services or transactions: (a) Is fair and reasonable in relation to the nature and quality of the services and benefits received by the Unaffiliated Investment Company; (b) is within the range of consideration that the Unaffiliated Investment Company would be required to pay to another unaffiliated entity in connection with the same services or transactions; and (c) does not involve overreaching on the part of any person concerned. This condition does not apply with respect to any services or transactions between an Unaffiliated Investment Company and its investment adviser(s), or any person controlling, controlled by, or under common control with such investment adviser(s).

5. No Fund of Funds or Fund of Funds Affiliate (except to the extent it is acting in its capacity as an investment adviser to an Unaffiliated Investment Company or sponsor to an Unaffiliated Trust) will cause an Unaffiliated Fund to purchase a security in any Affiliated Underwriting.

6. The Board of an Unaffiliated Investment Company, including a majority of the Independent Trustees, will adopt procedures reasonably designed to monitor any purchases of securities by the Unaffiliated Investment Company in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of the Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, including any purchases made directly from an Underwriting Affiliate. The Board of the Unaffiliated Investment Company will review these purchases periodically, but no less frequently than annually, to determine whether the purchases were influenced by the investment by the Fund of Funds in the Unaffiliated Investment Company. The Board of the Unaffiliated Investment Company will consider, among other things: (a) Whether the purchases were consistent with the investment objectives and policies of the Unaffiliated Investment Company; (b) how the performance of securities purchased in an Affiliated Underwriting compares to the performance of comparable securities purchased during a comparable period of time in underwritings other than Affiliated Underwritings or to a benchmark such as a comparable market index; and (c) whether the amount of securities purchased by the Unaffiliated Investment Company in Affiliated Underwritings and the amount purchased directly from an Underwriting Affiliate have changed significantly from prior years. The Board of the Unaffiliated Investment Company will take any appropriate actions based on its review, including, if appropriate, the institution of procedures designed to ensure that purchases of securities in Affiliated Underwritings are in the best interest of shareholders.

7. Each Unaffiliated Investment Company will maintain and preserve permanently, in an easily accessible place, a written copy of the procedures described in the preceding condition, and any modifications to such procedures, and will maintain and preserve for a period of not less than six years from the end of the fiscal year in which any purchase in an Affiliated Underwriting occurred, the first two years in an easily accessible place, a written record of each purchase of securities in an Affiliated Underwriting once an investment by a Fund of Funds in the securities of an Unaffiliated Investment Company exceeds the limit of section 12(d)(1)(A)(i) of the 1940 Act, setting forth (1) the party from whom the securities were acquired, (2) the identity of the underwriting syndicate's members, (3) the terms of the purchase, and (4) the information or materials upon which the determinations of the Board of the Unaffiliated Investment Company were made.

8. Prior to its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i) of the 1940 Act, the Fund of Funds and the Unaffiliated Investment Company will execute a Participation Agreement stating, without limitation, that their Boards and their investment advisers understand the terms and conditions of the order and agree to fulfill their responsibilities under the order. At the time of its investment in shares of an Unaffiliated Investment Company in excess of the limit set forth in section 12(d)(1)(A)(i), a Fund of Funds will notify the Unaffiliated Investment Company of the investment. At such time, the Fund of Funds will also transmit to the Unaffiliated Investment Company a list of the names of each Fund of Funds Affiliate and Underwriting Affiliate. The Fund of Funds will notify the

Unaffiliated Investment Company of any changes to the list as soon as reasonably practicable after a change occurs. The Unaffiliated Investment Company and the Fund of Funds will maintain and preserve a copy of the order, the Participation Agreement, and the list with any updated information for the duration of the investment and for a period of not less than six years thereafter, the first two years in an easily accessible place.

9. Before approving any advisory contract under section 15 of the 1940 Act, the Board of each Fund of Funds, including a majority of the Independent Trustees, shall find that the advisory fees charged under the advisory contract are based on services provided that are in addition to, rather than duplicative of, services provided under the advisory contract(s) of any Underlying Fund in which the Fund of Funds may invest. Such finding, and the basis upon which the finding was made, will be recorded fully in the minute books of the appropriate Fund of Funds.

10. The Advisor will waive fees otherwise payable to it by a Fund of Funds in an amount at least equal to any compensation (including fees received pursuant to any plan adopted by an Unaffiliated Investment Company pursuant to rule 12b–1 under the 1940 Act) received from an Unaffiliated Fund by the Advisor, or an affiliated person of the Advisor, other than any advisory fees paid to the Advisor or its affiliated person by the Unaffiliated Investment Company, in connection with the investment by the Fund of Funds in the Unaffiliated Fund. Any Sub-Adviser will waive fees otherwise payable to the Sub-Adviser, directly or indirectly, by the Fund of Funds in an amount at least equal to any compensation received by the Sub-Adviser, or an affiliated person of the Sub-Adviser, from an Unaffiliated Fund, other than any advisory fees paid to the Sub-Adviser or its affiliated person by the Unaffiliated Investment Company in connection with the investment by the Fund of Funds in the Unaffiliated Fund made at the direction of the Sub-Adviser. In the event that the Sub-Adviser waives fees, the benefit of the waiver will be passed through to the Fund of Funds.

11. Any sales charges and/or service fees charged with respect to shares of a Fund of Funds will not exceed the limits applicable to funds of funds set forth in NASD Conduct Rule 2830.

12. No Underlying Fund will acquire securities of any other investment company or company relying on section 3(c)(1) or 3(c)(7) of the 1940 Act, in excess of the limits contained in section 12(d)(1)(A) of the 1940 Act, except to the extent that such Underlying Fund: (a) Acquires such securities in compliance with section 12(d)(1)(E) of the 1940 Act and is either an Affiliated Fund or is in the same ''group of investment companies'' as its corresponding master fund; (b) receives securities of another investment company as a dividend or as a result of a plan of reorganization of a company (other than a plan devised for the purpose of evading section 12(d)(1) of the 1940 Act); or (c) acquires (or is deemed to have acquired) securities of another investment company pursuant to exemptive relief from the Commission permitting such Underlying Fund to: (i) Acquire securities of one or more investment companies for short-term cash management purposes or (ii) engage in inter-fund borrowing and lending transactions.

Other Investments by Section 12(d)(1)(G) Funds of Funds

In addition, Applicants agree that the order granting the requested relief to permit Section 12(d)(1)(G) Funds of Funds to invest in Other Investments shall be subject to the following condition:

13. Applicants will comply with all provisions of rule 12d1–2 under the 1940 Act, except for paragraph (a)(2) to the extent that it restricts any Section 12(d)(1)(G) Fund of Funds from investing in Other Investments as described in the application.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2015–00226 Filed 1–9–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73993; File No. SR–NYSEArca–2014–147]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Fees for NYSE Arca Integrated Feed To Establish Eligibility Requirements for Redistribution

January 6, 2015.

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 December 24, 2014, NYSE Arca, Inc. (''NYSE Arca'' 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

The Exchange proposes to amend the fees for NYSE Arca Integrated Feed to establish eligibility requirements for redistribution on a managed non-display basis and to establish an access fee for managed non-display data recipients, operative on January 1, 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the fees for NYSE Arca Integrated Feed, as set forth on the NYSE Arca Equities Proprietary Market Data Fees Schedule (''Fee Schedule''), to establish eligibility requirements for redistribution of market data on a Managed Non-Display basis and establish an access fee for Managed Non-Display data recipients, operative on January 1, 2015.

Non-Display Use of NYSE Arca market data means accessing, processing, or consuming NYSE Arca market data delivered via direct and/or Redistributor[3] data feeds for a purpose

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Redistributor'' means a vendor or any other person that provides an NYSE Arca data product to a data recipient or to any system that a data

Continued

other than in support of a data recipient's display or further internal or external redistribution. A Redistributor approved for Managed Non-Display Services manages and controls the access to NYSE Arca Integrated Feed and does not allow for further internal distribution or external redistribution of NYSE Arca Integrated Feed by the data recipients. Managed Non-Display Services Fees apply when a data recipient's non-display applications are hosted by a Redistributor that has been approved for Managed Non-Display Services.

A Redistributor approved for Managed Non-Display Services is required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE Arca Integrated Feed through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE Arca Integrated Feed through a Redistributor's Managed Non-Display Service does not have any reporting requirements.

Currently, to be approved for Managed Non-Display Services, a Redistributor of the Managed Non-Display Services must be approved under the Unit-of-Count policy.[4]

The Exchange is proposing to retire the Unit-of-Count Policy, and as a result, eligibility for Managed Non-Display Services of NYSE Arca Integrated Feed would no longer be based on eligibility under the Unit-of-Count Policy. The Exchange proposes instead to establish eligibility requirements specifically for the redistribution of market data for Managed Non-Display Services. The Exchange also proposes to add an access fee that would apply to a data recipient that receives NYSE Arca Integrated Feed from an approved Redistributor of Managed Non-Display Services.

The proposed eligibility requirements for the provision of Managed Non-Display Services would be similar to the eligibility requirements for the Unit-of-Count Policy in that they would require the Redistributor to manage and control the access to NYSE Arca Integrated Feed for data recipients' non-display applications and not allow for further internal distribution or external redistribution of the information by data recipients. In addition, to be eligible to provide Managed Non-Display Services, the Redistributor would be required to (a) host the data recipients' non-display applications in equipment located in the Redistributor's data center and/or hosted space/cage and (b) offer NYSE Arca Integrated Feed in the Redistributor's own messaging formats (rather than using raw NYSE message formats) by reformatting and/or altering NYSE Arca Integrated Feed prior to retransmission without affecting the integrity of NYSE Arca Integrated Feed and without rendering NYSE Arca Integrated Feed inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. The proposed eligibility requirements are similar to data distribution models currently in use and align the Exchange with other markets.[5]

The reporting requirements associated with the Managed Non-Display Service would not change. A Redistributor approved for Managed Non-Display Service would be required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE Arca Integrated Feed through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE Arca Integrated Feed through a Redistributor's Managed Non-Display Service would continue not to have any reporting requirements.

In addition, the Exchange proposes to adopt an Access Fee of $1,500/month applicable only to data recipients that receive NYSE Arca Integrated Feed from an approved Redistributor of Managed Non-Display Services, operative January 1, 2015. Currently, data recipients, including recipients of Managed Non-Display Services, are required to pay an Access Fee of $3,000/month to receive NYSE Arca Integrated Feed. Because the purpose of an access fee is to charge data recipients for access to the Exchange's proprietary market data, the Exchange believes it is appropriate to charge an access fee to all data recipients, including recipients of Managed Non-Display Services.[6] In recognition that data recipients of Managed Non-Display Services receive NYSE Arca Integrated Feed in a controlled format, the Exchange proposes to establish an Access Fee that would be applicable only to data recipients of Managed Non-Display Services and that would be half the size of the current Access Fee. In connection with this change, the Exchange also proposes to amend the Fee Schedule to specify that the current Access Fee of $3,000/month is charged to data recipients other than those receiving data through Managed Non-Display Services. The proposed Managed Non-Display Access fee would be in addition to the current Managed Non-Display Services Fee of $2,500/month by each data recipient.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[7] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that revising the eligibility requirements for Managed Non-Display Services so that the requirements are more closely aligned with the nature of the services being provided is reasonable. The proposed additional requirements for hosting in the Redistributor's data center and for reformatting and/or altering the market data prior to retransmission are also consistent with similar requirements of other markets for the provision of managed data.[9]

The Exchange believes that the proposed Access Fee for Managed Non-Display Services is reasonable, because the data is of value to recipients, and it is reasonable to charge them a lower access fee because they are receiving the data through a Redistributor in a controlled form rather than from the Exchange in raw form. The Exchange believes that the proposed fee directly and appropriately reflects the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation

recipient uses, irrespective of the means of transmission or access.

[4] *See* Securities Exchange Act Release Nos. 69315 (Apr. 5, 2013), 78 FR 21668 (Apr. 11, 2013) (SR–NYSEArca–2013–37) and 73011 (Sept. 5, 2014), 79 FR 54315 (Sept. 11, 2014) (SR–NYSEArca–2014–93) (''Non-Display Fee filings'').

[5] *See* Securities Exchange Act Release Nos. 70748 (Oct. 23, 2013), 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ OMX PHLX (''Phlx'')); 70269 (Aug. 27, 2013), 78 FR 54336 (Sept. 3, 2013) (SR–NASDAQ–2013–106) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ Stock Market (''NASDAQ'')); and 69182 (Mar. 19, 2013), 78 FR 18378 (Mar. 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX).

[6] In order to harmonize its approach to fees for its market data products, the Exchange is proposing to establish an access fee for Managed Non-Display Services for NYSE Arca BBO, NYSE Arca Trades, and NYSE ArcaBook that are also half of the existing access fee for each respective data feed. *See* SR–NYSEArca–2014–148 and SR–NYSEArca–2014–149.

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4), (5).

[9] *See supra* note 5.

and technology developments. NASDAQ and Phlx also both offer managed non-display data solutions and charge access fees for such services.[10] The fee is also equitable and not unfairly discriminatory because it would apply to all data recipients that choose to subscribe to Managed Non-Display Services for NYSE Arca Integrated Feed.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to the feeds.

The Exchange notes that NYSE Arca Integrated Feed is entirely optional. The Exchange is not required to make NYSE Arca Integrated Feed available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE Arca Integrated Feed. Firms that do purchase NYSE Arca Integrated Feed do so for the primary goals of using it to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE Arca Integrated Feed or any other similar products are attractively priced or not.

Firms that do not wish to purchase NYSE Arca Integrated Feed at the new prices have a variety of alternative market data products from which to choose,[11] or if NYSE Arca Integrated Feed does not provide sufficient value to firms as offered based on the uses those firms have or planned to make of it, such firms may simply choose to conduct their business operations in ways that do not use NYSE Arca Integrated Feed. The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[12] Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.[13]

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), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary 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.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 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.' '' [14]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards. In addition, the existence of alternatives to these data products, such as consolidated data and proprietary data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically or offer any significant benefits.[15]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed,

[10] *See* supra note 5. NASDAQ offers a Managed Data Solution that assesses a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees of $60 for non-professionals to $300 for professionals. *See* NASDAQ Rule 7026(b). Phlx charges a monthly Managed Data Solution Administration fee of $2,000 and a monthly Subscriber fee of $500. The monthly License fee is in addition to the monthly Distributor fee of $3,500 (for external usage), and the $500 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105).

[11] *See* NASDAQ Rule 7023 (Nasdaq Totalview) and BATS Rule 11.22.(a) and (c) (BATS TCP Pitch and Multicast Pitch).

[12] *See* In the Matter of the Application of Securities Industry And Financial Markets Association For Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014).

[13] For example, Goldman Sachs Execution and Clearing, L.P. has disclosed that it does not use proprietary market data in connection with Sigma X, its ATS. *See* response to Question E3, available at *http://www.goldmansachs.com/media-relations/in-the-news/current/pdf-media/gsec-order-handling-practices-ats-specific.pdf.* By way of comparison, IEX has disclosed that it uses proprietary market data feeds from all registered stock exchanges and the LavaFlow ECN. *See http://www.iextrading.com/about/.*

[14] *NetCoalition,* 615 F.3d at 535.

[15] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties and the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [16]

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [17] More recently, SEC Chair Mary Jo White has noted that competition for order flow in exchange-listed equities is ''intense'' and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.[18]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE Arca Integrated Feed unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE Arca Integrated Feed can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

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 platform for posting quotes, accepting orders, and executing transactions 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, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in November 2014 more than 80% of the transaction volume on each of NYSE Arca and NYSE Arca's affiliates New York Stock Exchange LLC (''NYSE'') and NYSE MKT, LLC (''NYSE MKT'') was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A supra-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[19] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs

[16] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 20111), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html; see also* Complaint in *U.S.* v. *Deutsche Borse AG and NYSE Euronext,* Case No. 11–cv–2280 (DC Dist.) ¶ 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[17] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. *See https://www.arcavision.com/Arcavision/arcalogin.jsp.*

[18] Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, ''OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks,'' at 7–8.

[19] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll 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.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

between joint products that would shed any light on competitive or efficient pricing.[20]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an 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.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as various forms of ATSs, including dark pools and electronic communication networks (''ECNs''), and internalizing broker-dealers. SRO markets compete to attract order flow and produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities compete to attract transaction reports from the non-SRO venues.[21]

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, have provided certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[22] Similarly, LavaFlow ECN provides market data to its subscribers at no charge.[23] 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.

Existence of Alternatives

The large number of SROs, ATSs, and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE, NYSE MKT, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, internalizing broker-dealers, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. With respect to NYSE Arca Integrated Feed, competitors offer similar products.[24] Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

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 and inexpensive. 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, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.[25]

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

[20] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F.W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[21] FINRA's Alternative Display Facility also receives over-the-counter trade reports that it sends to CTA.

[22] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[23] *See* ''LavaFlow—ADF Migration,'' available at *https://www.lavatrading.com/news/pdf/LavaFlow_ADF_Migration.pdf.*

[24] *See supra* note 11.

[25] *See supra* note 23.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act [26] and paragraph (f)(2) of Rule 19b–4 thereunder.[27] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2014–147 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2014–147. 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 NYSE Arca. 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–2014–147 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[28]

Brent J. Fields,

Secretary.

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[26] 15 U.S.C. 78s(b)(3)(A)(ii).

[27] 17 CFR 240.19b–4(f)(2).

[28] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74008; File No. SR–MIAX–2014–70]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

January 6, 2015.

Pursuant to the provisions of 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 December 24, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend its Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its current MIAX Market Maker [3] sliding scale for transaction fees to: (i) Add an additional volume tier; (ii) modify the volume thresholds in the tiers; and (iii) add an additional tier to the Priority Customer rebate incentive.

The sliding scale for MIAX Market Maker transaction fees is based on the substantially similar fees of the Chicago Board Options Exchange, Incorporated (''CBOE'').[4] Specifically, the program reduces a MIAX Market Maker's per contract transaction fee based on percentages of total national Market Maker volume of any options classes that trade on the exchange during the calendar month, based on the following scale:

Tier	Percentage of national Market Maker volume	Transaction fee per contract
1	0.00%–0.03%	$0.23
2	Above 0.03%–0.40% ...	0.17
3	Above 0.40%–0.80% ...	0.12
4	Above 0.80%–1.50% ...	0.07
5	Above 1.50%	0.05

The sliding scale would apply to all MIAX Market Makers for transactions in all products except mini-options. By

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''MIAX Market Maker'' for purposes of the proposed sliding scale means any MIAX Market Maker including RMM, LMM, PLMM, DLMM, and DPLMM.

[4] *See* Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 57191 (January 24, 2008), 73 FR 5611 (January 30, 2008); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78). *See also* CBOE Fees Schedule, p. 3.

amending the volume tier calculations and adding a new volume tier, the sliding scale will more closely align with that of CBOE.[5] A MIAX Market Maker's initial $0.23 per contract rate will be reduced if the MIAX Market Maker reaches the volume thresholds set forth in the sliding scale in a month. As a MIAX Market Maker's monthly volume increases, its per contract transaction fee would decrease. The Market Maker sliding scale will continue to apply to MIAX Market Maker (RMM, LMM, DLMM, PLMM, DPLMM) transaction fees in all products except mini-options. MIAX Market Makers will continue to be assessed a $0.02 per executed contract fee for transactions in mini-options.

The Exchange believes the proposed sliding scale is objective in that the fee reductions are based solely on reaching stated volume thresholds. The specific volume thresholds of the tiers were set based upon business determinations and an analysis of current volume levels. The specific volume thresholds and rates were set in order to encourage MIAX Market Makers to reach for higher tiers. The Exchange believes that the proposed changes to the tiered fee schedule may incent firms to display their orders on the Exchange and increase the volume of contracts traded here.

As mentioned above, the Exchange notes that the proposed sliding fee scale for MIAX Market Makers structured on contract volume thresholds is based on the substantially similar fees of the CBOE.[6] The Exchange also notes that a number of other exchanges have tiered fee schedules which offer different transaction fee rates depending on the monthly ADV of liquidity providing executions on their facilities.[7]

The Exchange also proposes to add an additional tier to the rebate incentive for Priority Customer orders. The Exchange offers MIAX Market Makers the opportunity to reduce transaction fees by $0.02 per contract in standard options if the Member or its affiliates of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, qualifies in a given month for Priority Customer Rebate Program volume tiers 3, 4, or 5 in the Fee Schedule. The Exchange proposes to amend the rebate incentive for Priority Customer orders in order to extend the rebate incentive to the new volume tier of the MIAX Market Maker sliding scale. As proposed, any Member or its affiliates of at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A, that qualifies for Priority Customer Rebate Program volume tiers 3, 4, or 5 and is a MIAX Market Maker will be assessed $0.21 per contract for tier 1, $0.15 per contract for tier 2, $0.10 per contract for tier 3, $0.05 per contract for tier 4, and $0.03 per contract for tier 5 for transactions in standard options in lieu of the applicable transaction fees in the Market Maker sliding scale.

The Exchange believes that these incentives will encourage MIAX Market Makers to transact a greater number of orders on the Exchange.

The proposed changes will become operative on January 1, 2015.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The proposed volume based discount fee structure is not discriminatory in that all MIAX Market Makers are eligible to submit (or not submit) liquidity, and may do so at their discretion in the daily volumes they choose during the course of the billing period. All similarly situated MIAX Market Makers are subject to the same fee structure, and access to the Exchange is offered on terms that are not unfairly discriminatory. Volume based discounts have been widely adopted by options and equities markets, and are equitable because they are open to all MIAX Market Makers on an equal basis and provide discounts that are reasonably related to the value of an exchange's market quality associated with higher volumes. The proposed fee levels and volume thresholds are reasonably designed to be comparable to those of other options exchanges employing similar fee programs, and also to attract additional liquidity and order flow to the Exchange.

The Exchange's proposal to offer an additional tier to provide MIAX Market Makers the opportunity to reduce transaction fees by $0.02 per contract in standard options, provided certain criteria are met, is reasonable because the Exchange desires to offer all such market participants an opportunity to lower their transaction fees. The Exchange's proposal to offer MIAX Market Makers the opportunity to reduce transaction fees by $0.02 per contract in standard options, provided certain criteria are met, is equitable and not unfairly discriminatory because the Exchange offers all market participants, excluding Priority Customers, a means to reduce transaction fees by qualifying for volume tiers in the Priority Customer Rebate Program. The Exchange believes that offering all such market participants the opportunity to lower transaction fees by incentivizing them to transact Priority Customer order flow in turn benefits all market participants.

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 notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow. The Exchange believes that the proposed rule change reflects this competitive environment because it modifies the Exchange's fees in a manner that encourages market participants to provide liquidity and to send order flow to the Exchange.

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)(ii) of the Act.[10] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the

[5] *See* Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78); 71295 (January 14, 2014), 79 FR 3443 (January 21, 2014) (SR–CBOE–2013–129).

[6] *See* Securities Exchange Act Release Nos. 55193 (January 30, 2007), 72 FR 5476 (February 6, 2007) (SR–CBOE–2006–111); 58321 (August 6, 2008), 73 FR 46955 (SR–CBOE–2008–78); 71295 (January 14, 2014), 79 FR 3443 (January 21, 2014) (SR–CBOE–2013–129).

[7] *See, e.g.,* International Securities Exchange, LLC, Schedule of Fees, Section VI, C; NASDAQ Options Market, Chapter XV, Section 2.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form *(http://www.sec.gov/rules/sro.shtml);* or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2014–70 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–MIAX–2014–70. 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–MIAX–2014–70 and should be submitted on or before February 2, 2015. For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73996; File No. SR–NYSE–2014–74]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List Related to Fees for Trading Licenses To Extend the Current Fee Schedule to February 27, 2015 and To Implement New Trading License Fees Effective March 1, 2015

January 6, 2015.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 23, 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 amend its Price List related to fees for trading licenses to extend the current fee schedule to February 27, 2015 and to implement new trading license fees effective March 1, 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 Exchange proposes to amend its Price List to extend the current fee schedule to February 27, 2015 and to implement new trading license fees effective March 1, 2015.

NYSE Rule 300(b) provides that, in each annual offering, up to 1,366 trading licenses for the following calendar year will be sold annually at a price per trading license to be established each year by the Exchange pursuant to a rule filing submitted to the Securities and Exchange Commission (''Commission'') and that the price per trading license will be published each year in the Exchange's Price List. Currently, the Exchange charges an annual fee of $40,000 per license for the first two trading licenses held by a member organization and $25,000 for each additional trading license. For trading licenses issued after July 1, 2013, fees are prorated for the portion of the calendar year that the trading license is outstanding.[4] However, if a member organization is issued additional trading licenses between July 1, 2013 and December 31, 2014, and the total number of trading licenses held by the member organization between July 1, 2013 and December 31, 2014 is greater than the total number of trading licenses held by the member organization on July 1, 2013, the member organization would not be charged a prorated fee for the period from July 3, 2013 to December 31, 2014 for those additional trading licenses above the number the

[11] 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] For a trading license that is in place for 15 calendar days or less in a calendar month, proration for that month would be at a flat rate of $100 per day with no tier pricing involved. For a trading license that is in place for 16 calendar days or more in a calendar month, proration for that month would be computed based on the number of days as applied to the applicable annual fee for the trading license. *See* Price List at current n. 16.

member organization held on July 1, 2013.[5]

For 2015, the Exchange proposes to extend the current fee schedule relating to trading license fees through February 27, 2015 and amend the trading license fees effective March 1, 2015.

For the period between January 2, 2015 and February 27, 2015, the Exchange proposes to retain the current fee schedule relating to trading licenses, including the fee relief for additional licenses. As a result, an annual fee would not apply to the number of trading licenses issued to a member organization between July 3, 2013 and February 27, 2015 that exceeds the total number of trading licenses held by the member organization on July 1, 2013. The Exchange proposes to maintain July 1, 2013 as the baseline date so that a consistent point in time would be used to determine how many trading licenses for which a member organization would be charged. The fee calculation for new or merged member organizations would also be extended. Thus, for any firm that becomes a member organization after July 1, 2013, the firm would be considered to have one trading license as of July 1, 2013 and charged a fee for that one license through February 27, 2015. The Exchange proposes to extend the current fee schedule for the first two months of 2015 in order to maintain the existing fee schedule relating to trading licenses and provide member organizations with advance notice of the trading license fee changes that the Exchange proposes to introduce on March 1, 2015.

Effective March 1, 2015, the Exchange proposes to charge an annual fee of $50,000 for the first license held by a member organization and $15,000 for each additional license. The Exchange proposes to eliminate the existing fee relief for additional licenses and delete the relevant text from current footnote 15.

The Exchange also proposes to introduce a $25,000 annual administrative fee for member organizations that do not own a trading license and agree to be regulated by the Exchange pursuant to Rule 2(b)(ii) (''Regulated Only Members'') to offset the costs of this membership category.[6]

The Exchange proposes to continue prorating license fees for any portion of the year that a license may be outstanding, including the administrative fee for Regulated Only members.[7]

The Exchange also proposes to correct a typographical error in the heading of the Price List where the word ''Licenses'' is misspelled.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that members and 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,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change is reasonable because maintaining the current fee structure through February 27, 2014[sic], including fee relief for the number of trading licenses that exceeds the total number of trading licenses held by the member organization on July 1, 2013, would maintain the existing fee schedule relating to trading licenses while at the same time providing member organizations with a reasonable period to assess the impact of the new permanent fees the Exchange proposes for March 1, 2015 and effectuate an orderly transition to the new fee schedule. The Exchange believes that maintaining the current fee structure for the first two months of 2015 would also continue to encourage member organizations to hold additional trading licenses during that time, which would increase the number of market participants trading on the floor of the Exchange, thereby promoting liquidity, price discovery and the opportunity for price improvement for the benefit of all market participants. The Exchange also believes that it is reasonable to maintain July 1, 2013 as the applicable baseline date so that a consistent point in time would be used to determine how many trading licenses for which a member organization would be charged, which would continue to provide member organizations with greater flexibility in managing their personnel.

The Exchange further believes that the proposal to maintain the current fee schedule through February 27, 2015 is equitable and not unfairly discriminatory because all similarly situated member organizations would continue to be subject to the same trading license fee structure and because access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms. The Exchange also believes that the proposal to maintain the current fee schedule is equitable and not unfairly discriminatory because all member organizations would continue to have the opportunity to enjoy the benefits of the fee relief with respect to additional trading licenses. The Exchange believes that it is equitable and not unfairly discriminatory to continue to assign new member organizations a baseline of one trading license because this will continue to encourage firms to become member organizations, thereby encouraging trading activity on the Exchange, which benefits all market participants.

The Exchange believes that the proposal to institute a new fee structure on March 1, 2015, which would eliminate fee relief for additional licenses and introduce a simpler model, is reasonable because member organizations would be able to purchase the initial license for slightly more than the current rate and add unlimited additional licenses at a significantly lower rate. The Exchange believes that the proposed trading license change would encourage additional firms to become member organizations on the Exchange, which would contribute to the quality of the Exchange's market and increase the number of market participants trading on the floor of the

[5] *See* Securities Exchange Act Release No. 71215 (December 31, 2013), 79 FR 885 (January 7, 2014) (SR–NYSE–2013–82). *See also* Price List at current n. 15. If a firm becomes a member organization after July 1, 2013, the firm is assigned a baseline of one trading license and charged a prorated fee for that license. Any trading licenses in addition to the first trading license are not charged a prorated fee for the period from July 3, 2013 to December 31, 2014. If a member organization merges with another member organization on or after July 1, 2013, the total combined number of trading licenses held by each member organization on July 1, 2013 is considered the baseline number of trading licenses for the successor member organization as of the date of the merger. *See generally id.*

[6] Rule 2(b)(ii) recognizes as ''member organizations'' any registered broker or dealer that is a member of the Financial Industry Regulatory Authority (''FINRA'') or a registered securities exchange consistent with the requirements of Rule 2(b)(i) and ''which does not own a trading license and agrees to be regulated by the Exchange as a member organization and which the Exchange has agreed to regulate.'' Regulated Only Members cannot enters orders on, or clear through, the Exchange but are subject to regulation by the Exchange, including periodic examination by FINRA on the Exchange's behalf.

[7] *See* note 4, *supra.* Firms becoming member organizations between January 2, 2015 and February 27, 2015 would pay a prorated fee for one license at the current rate of $40,000 until February 27, 2015 and then pay a prorated amount of the new proposed fee of $50,000 for the remainder of 2015. Firms becoming Regulated Only Members between January 2, 2015 and February 27, 2015 would pay no fee and would pay a prorated fee beginning March 1, 2015 for the remainder of the year.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

Exchange, thereby also promoting liquidity, price discovery and the opportunity for price improvement for the benefit of all market participants. The Exchange believes that the proposal would increase the number of market participants trading on the floor of the Exchange and continue to provide member organizations with greater flexibility in managing their personnel.

The Exchange further believes that the proposed new fee schedule is equitable and not unfairly discriminatory because all similarly situated member organizations would continue to be subject to the same trading license fee structure and because access to the Exchange's market would continue to be offered on fair and nondiscriminatory terms. The Exchange further believes that the proposal to introduce a $25,000 annual administrative fee for Regulated Only Members is reasonable, equitable and not unfairly discriminatory because all member organizations that seek this status under Rule 2(b)(ii) would be subject to the same fee. The Exchange also believes that it is equitable and not unfairly discriminatory to subject Regulated Only Members to an administrative fee because such member organizations are subject to the same membership costs as non-Regulated Only Members.

The Exchange also believes that correcting a typographical error on the Price List is consistent with the Act because it would add greater clarity for member organizations.

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,[10] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposal to maintain the current fee schedule through February 27, 2015 would help to remove a potential burden on competition by making it easier for member organizations to appropriately staff the floor of the Exchange, which is a key feature of the Exchange's structure for offering a fair and orderly market and competing with other exchanges. Further, the Exchange believes that the proposed new fee schedule would also contribute to making membership on the Exchange as a member organization more economical and could therefore lead to increased competition on the Exchange between member organizations.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[11] of the Act and subparagraph (f)(2) of Rule 19b–4[12] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[13] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2014–74 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–2014–74. 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 20549–1090. Copies of the filing will also be available for Web site viewing and printing 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–NYSE–2014–74 and should be submitted on or before February 2, 2015.

[10] 15 U.S.C. 78f(b)(8).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(2).

[13] 15 U.S.C. 78s(b)(2)(B).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00215 Filed 1–9–15; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74007; File No. SR–MIAX–2014–69]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Its Fee Schedule

January 6, 2015.

Pursuant to the provisions of 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 December 24, 2014, Miami International Securities Exchange LLC (''MIAX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend its Fee Schedule.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/filter/wotitle/rule_filing,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its current Priority Customer Rebate Program (the ''Program'') to modify the volume thresholds of tiers 3 and 4.[3] Under the Program, the Exchange shall credit each Member the per contract amount set forth in the table below resulting from each Priority Customer[4] order transmitted by that Member which is executed on the Exchange in all multiply-listed option classes (excluding mini-options, Priority Customer-to-Priority Customer Orders, PRIME AOC Responses, PRIME Contra-side Orders, PRIME Orders for which both the Agency and Contra-side Order are Priority Customers, and executions related to contracts that are routed to one or more exchanges in connection with the Options Order Protection and Locked/Crossed Market Plan referenced in MIAX Rule 1400), provided the Member meets certain volume thresholds in a month as described below. For each Priority Customer order transmitted by that Member which is executed electronically on the Exchange in MIAX Select Symbols, MIAX shall credit each member at the separate per contract rate for MIAX Select Symbols.[5] The volume thresholds are calculated based on the customer average daily volume over the course of the month. Volume will be recorded for and credits will be delivered to the Member Firm that submits the order to the Exchange.

Percentage thresholds of national customer volume in multiply-listed options classes listed on MIAX (monthly)	Per contract credit
0.00%–0.35%	$0.00
Above 0.35%–0.50%	0.10
Above 0.50%–1.50%	0.15
Above 1.50%–2.00%	0.17
Above 2.00%	0.18

The Exchange will aggregate the contracts resulting from Priority Customer orders transmitted and executed electronically on the Exchange from affiliated Members for purposes of the thresholds above, provided there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. In the event of a MIAX System outage or other interruption of electronic trading on MIAX, the Exchange will adjust the national customer volume in multiply-listed options for the duration of the outage. A Member may request to receive its credit under the Priority Customer Rebate Program as a separate direct payment.

In addition, the rebate payments will be calculated from the first executed contract at the applicable threshold per contract credit with the rebate payments made at the highest achieved volume tier for each contract traded in that month. For example, if Member Firm XYZ, Inc. (''XYZ'') has enough Priority Customer contracts to achieve 2.75% of the national customer volume in multiply-listed option contracts during the month of October, XYZ will receive a credit of $0.18 for each Priority Customer contract executed in the month of October.

The purpose of the Program is to encourage Members to direct greater Priority Customer trade volume to the

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release Nos. 72799 (August 8, 2014), 79 FR 47698 (August 14, 2014) (SR–MIAX–2014–40); 72355 (June 10, 2014), 79 FR 34368 (June 16, 2014) (SR–MIAX–2014–25); 71698 (March 12, 2014), 79 FR 15185 (March 18, 2014) (SR–MIAX–2014–12); 71283 (January 10, 2014), 79 FR 2914 (January 16, 2014) (SR–MIAX–2013–63); 71009 (December 6, 2013), 78 FR 75629 (December 12, 2013) (SR–MIAX–2013–56).

[4] The term ''Priority Customer'' means a person or entity that (i) is not a broker or dealer in securities, and (ii) does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial accounts(s). *See* MIAX Rule 100.

[5] *See* Securities Exchange Release Nos. 71700 (March 12, 2014), 79 FR 15188 (March 18, 2014) (SR–MIAX–2014–13); 72356 (June 10, 2014), 79 FR 34384 (June 16, 2014) (SR–MIAX–2014–26); 72567 (July 8, 2014), 79 FR 40818 (July 14, 2014) (SR–MIAX–2014–34); 73328 (October 9, 2014), 79 FR 62230 (October 16, 2014) (SR–MIAX–2014–50).

Exchange. Increased Priority Customer volume will provide for greater liquidity, which benefits all market participants. The practice of incentivizing increased retail customer order flow in order to attract professional liquidity providers (Market-Makers) is, and has been, commonly practiced in the options markets. As such, marketing fee programs,[6] and customer posting incentive programs,[7] are based on attracting public customer order flow. The Program similarly intends to attract Priority Customer order flow, which will increase liquidity, thereby providing greater trading opportunities and tighter spreads for other market participants and causing a corresponding increase in order flow from such other market participants.

The specific volume thresholds of the Program's tiers were set based upon business determinations and an analysis of current volume levels. The volume thresholds are intended to incentivize firms that route some Priority Customer orders to the Exchange to increase the number of orders that are sent to the Exchange to achieve the next threshold and to incent new participants to send Priority Customer orders as well. Increasing the number of orders sent to the Exchange will in turn provide tighter and more liquid markets, and therefore attract more business overall. Similarly, the different credit rates at the different tier levels were based on an analysis of revenue and volume levels and are intended to provide increasing ''rewards'' for increasing the volume of trades sent to the Exchange. The specific amounts of the tiers and rates were set in order to encourage suppliers of Priority Customer order flow to reach for higher tiers.

The credits paid out as part of the program will be drawn from the general revenues of the Exchange.[8] The Exchange calculates volume thresholds on a monthly basis.

The proposed changes will become operative on January 1, 2015.

2. Statutory Basis

The Exchange believes that its proposal to amend its fee schedule is consistent with Section 6(b) of the Act[9] in general, and furthers the objectives of Section 6(b)(4) of the Act[10] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members.

The Exchange believes that the proposed Priority Customer Rebate Program is fair, equitable and not unreasonably discriminatory. The Program is reasonably designed because it will incent providers of Priority Customer order flow to send that Priority Customer order flow to the Exchange in order to receive a credit in a manner that enables the Exchange to improve its overall competitiveness and strengthen its market quality for all market participants. The Program is also reasonably designed because the proposed credits are within the range of credits assessed by other exchanges employing similar rebate programs. The proposed rebate program is fair and equitable and not unreasonably discriminatory because it will apply equally to all Priority Customer orders. All similarly situated Priority Customer orders are subject to the same rebate schedule, and access to the Exchange is offered on terms that are not unfairly discriminatory. In addition, the Program is equitable and not unfairly discriminatory because, while only Priority Customer order flow qualifies for the Program, an increase in Priority Customer order flow will bring greater volume and liquidity, which benefit all market participants by providing more trading opportunities and tighter spreads. Similarly, offering increasing credits for executing higher percentages of total national customer volume (increased credit rates at increased volume tiers) is equitable and not unfairly discriminatory because such increased rates and tiers encourage Members to direct increased amounts of Priority Customer contracts to the Exchange. Market participants want to trade with Priority Customer order flow. To the extent Priority Customer order flow is increased by the proposal, market participants will increasingly compete for the opportunity to trade on the Exchange including sending more orders and providing narrower and larger sized quotations in the effort to trade with such Priority Customer order flow. The resulting increased volume and liquidity will benefit those Members who receive the lower tier levels, or do not qualify for the Program at all, by providing more trading opportunities and tighter spreads.

Limiting the Program to multiply-listed options classes listed on MIAX is reasonable because those parties trading heavily in multiply-listed classes will receive a credit for such trading, and is equitable and not unfairly discriminatory because the Exchange does not trade any singly-listed products at this time. If at such time the Exchange develops proprietary products, the Exchange anticipates having to devote a lot of resources to develop them, and therefore would need to retain funds collected in order to recoup those expenditures.

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 believes that the proposed change would increase both intermarket and intramarket competition by incenting Members to direct their Priority Customer orders to the Exchange, which will enhance the quality of quoting and increase the volume of contracts traded here. To the extent that there is additional competitive burden on non-Priority Customers, the Exchange believes that this is appropriate because the rebate program should incent Members to direct additional order flow to the Exchange and thus provide additional liquidity that enhances the quality of its markets and increases the volume of contracts traded here. To the extent that this purpose is achieved, all the Exchange's market participants should benefit from the improved market liquidity. Enhanced market quality and increased transaction volume that results from the anticipated increase in order flow directed to the Exchange will benefit all market participants and improve competition on the Exchange. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and to attract order flow to the Exchange. The Exchange believes that the proposed rule change reflects this competitive environment because it reduces the Exchange's fees in a manner that encourages market participants to direct their customer order flow, to provide liquidity, and to attract additional transaction volume to the Exchange. Given the robust competition for volume among options markets, many of which offer the same products, implementing a volume based customer rebate program to attract order flow like

[6] *See* MIAX Fee Schedule, Section 1(b).

[7] *See* NYSE Arca, Inc. Fees Schedule, page 4 (section titled ''Customer Monthly Posting Credit Tiers and Qualifications for Executions in Penny Pilot Issues'').

[8] Despite providing credits under the Program, the Exchange represents that it will continue to have adequate resources to fund its regulatory program and fulfill its responsibilities as a self-regulatory organization while the Program will be in effect.

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4).

the one being proposed in this filing is consistent with the above-mentioned goals of the Act. This is especially true for the smaller options markets, such as MIAX, which is competing for volume with much larger exchanges that dominate the options trading industry. MIAX has a nominal percentage of the average daily trading volume in options, so it is unlikely that the customer rebate program could cause any competitive harm to the options market or to market participants. Rather, the customer rebate program is a modest attempt by a small options market to attract order volume away from larger competitors by adopting an innovative pricing strategy. The Exchange notes that if the rebate program resulted in a modest percentage increase in the average daily trading volume in options executing on MIAX, while such percentage would represent a large volume increase for MIAX, it would represent a minimal reduction in volume of its larger competitors in the industry. The Exchange believes that the proposal will help further competition, because market participants will have yet another additional option in determining where to execute orders and post liquidity if they factor the benefits of a customer rebate program into the determination.

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)(ii) of the Act.[11] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email *to rule-comments@sec.gov.* Please include File Number SR–MIAX–2014–69 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–MIAX–2014–69. 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–MIAX–2014–69 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00223 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74002; File No. SR–BX–2014–061]

Self-Regulatory Organizations; NASDAQ OMX BX, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change to Modify BX's Rule Governing Modification of Orders in the Event of an Issuer Corporate Action Related to a Dividend, Payment or Distribution

January 6, 2015.

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 December 23, 2014, NASDAQ OMX BX, Inc. (''BX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqomxbx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

BX Rule 4761 addresses the treatment of quotes/orders in securities that are the subject of issuer corporate actions

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

related to a dividend, payment or distribution. The rule applies to any trading interest that is carried on the BX book overnight. As a general matter, BX cancels open quotes/orders in the event of any corporate action related to a dividend, payment or distribution, on the ex-date of the action. The cancellation occurs immediately prior to the opening of trading at 7 a.m. on the ex-date of the corporate action, and the member receives a cancellation notice, so that it can, if it desires, reenter the order at the commencement of trading on the ex-date.

Prior to 2013, BX had not had a clear rule providing for the adjustments of quotes and orders carried on the BX book overnight. In April 2013, BX adopted Rule 4761 to provide that BX would cancel all open quotes/orders in the event of any corporate action.[3] Subsequently, in response to member demand for assistance with order management with respect to certain common types of corporate action, BX amended the rule to offer limited, optional functionality to allow open orders to be adjusted, rather than cancelled.[4] As written, the rule provides for the possibility of order adjustment in the case of cash dividends, forward stock splits, and combined cash dividends/forward stock splits.

The proposal will expand the rule also to provide for adjustment in the case of stock dividends and combined cash dividends/stock dividends. The proposal reflects the conclusion, based on member feedback, that actions resulting in the distribution of additional stock should be treated similarly, regardless of whether they are denominated as forward stock splits or stock dividends. BX will make members aware of the effective date of the proposed change by the issuance of a widely disseminated Equity Trader Alert.

Under the current rule, a member may designate that all orders with a time-in-force of good-till-cancelled[5] that are entered through one or more order entry ports specified by the member will be processed in the manner specified below.[6]

(1) Cash Dividend. If an issuer is paying a cash dividend, the price of an order to buy is reduced by the amount of the sum of all dividends payable, rounded up to the nearest whole cent; provided, however, that there will be no adjustment if the sum of all dividends is less than $0.01. For example, if the sum of all dividends is $0.381, the price of the order will be reduced by $0.39. An order to sell will be retained but will receive no price adjustment.

(2) Forward Stock Split. If an issuer is implementing a forward stock split, the order is cancelled if its size is less than one round lot. If the order's size is greater than one round lot, (i) the size of the order is multiplied by the ratio of post-split shares to pre-split shares, with the result rounded downward to the nearest whole share, and (ii) the price of the order will be multiplied by the ratio of pre-split shares to post-split shares, with the result rounded down to the nearest whole penny in the case of orders to buy and rounded up to the nearest whole penny in the case of orders to sell.

Under the change proposed in this filing, stock dividends will be treated in the same manner as forward stock splits. Thus, any corporate action in which additional shares are issued to holders of outstanding shares will be treated in the manner described above.

For example, if a member has entered a good-till-cancelled order to buy 375 shares at $10.95 per share and the issuer implemented a split or dividend under which an additional 1.25 shares would be issued for each share outstanding, the size of the order would be adjusted to 843 shares ($375 \times 2.25/1 = 843.75$, rounded down to 843) and the price of the order would be adjusted to $4.86 per share ($10.95 per share $\times$ 1/2.25 = $4.8667 per share, rounded down to $4.86 per share). An order to sell at the same price and size would be adjusted to 843 shares with a price of $4.87 per share ($4.8667 per share, rounded up).[7]

(3) Combination of Cash Dividend and Forward Stock Split or Stock Dividend. Under the current rule, if an issuer is implementing a cash dividend and a forward stock split on the same date, the adjustments described above will both be applied, in the order described in the notice of the corporate actions received by BX.[8] Under the proposed rule change, this provision is being expanded to cover stock dividends as well as forward stock splits.

As is currently the case, changes to open orders will continue to be effected immediately prior to the opening of the System at 7:00 a.m. on the ex-date of the applicable corporate action. Open orders that are retained are re-entered by the System (as adjusted above) immediately prior to the opening of the System, such that they will retain time priority over new orders entered at or after 7:00 a.m.[9] Under the proposed rule change, for corporate actions other than cash dividends, forward stock splits, and stock dividends (or any combination thereof), open orders are always cancelled, regardless of the port through which they were entered.

2. Statutory Basis

BX believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[10] in general, and with Section 6(b)(5) of the Act[11] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, BX believes that the change, which is responsive to member input, will facilitate transactions in securities and perfect the mechanism of a free and open market by providing members with additional optional functionality that may assist them with order management with respect to stock dividends in a manner similar to the current functionality with respect to cash dividends and forward splits. Because forward splits and stock dividends both involve the distribution of additional stock to current stockholders, providing them with similar treatment under the rule is logical and may help to prevent

[3] Securities Exchange Act Release No. 69456 (April 25, 2013), 78 FR 25510 (May 1, 2013) (SR–BX–2014–031).

[4] Securities Exchange Act Release No. 70111 (August 5, 2013), 78 FR 48748 (August 9, 2013) (SR–BX–2014–043).

[5] BX notes that the use of good-till-cancelled orders is not prevalent, accounting for significantly less than 1% of all orders entered into BX. The vast majority of orders expire by their terms at the end of regular market hours.

[6] The member may opt for this processing on a port-by-port basis. Thus, the provisions providing for order adjustment are applied to all good-till-cancelled orders entered through a port that has been specified by the member for such processing. Because members may obtain multiple ports, however, members may opt to apply different processing to different orders based on the ports through which they are entered.

[7] BX is also amending the example in the rule text to make it clear that the prices provided therein are per share prices.

[8] BX receives notice of corporate actions from the listing exchange.

[9] To the extent that multiple good-till-cancelled orders in a particular security are adjusted and re-entered, such orders may not retain the same time priority vis-à-vis one another that they had on the preceding day. Rather, because such orders are entered simultaneously through multiple order entry ports, their relative priority is a function of the duration of system processing associated with each individual order.

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(5).

confusion on the part of members that expect both types of corporate events to receive consistent treatment.

B. Self-Regulatory Organization's Statement on Burden on Competition

BX 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. Specifically, by offering market participants additional options with regard to management of open orders, the change has the potential to enhance BX's competitiveness with respect to other trading venues, thereby promoting greater competition. Moreover, the change does not burden competition in that it does not restrict the ability of members to enter and update trading interest in BX.

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 [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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.

[12] 15 U.S.C. 78s(b)(3)(a)(ii).

[13] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file 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.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BX–2014–061 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BX–2014–061. 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–BX–2014–061, and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00219 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73991; File No. SR–NYSEMKT–2014–108]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List To Eliminate Transaction Fees for Midpoint Passive Liquidity Orders That Remove Liquidity From the Exchange and That are Designated With a ''Retail'' Modifier as Defined in Rule 13—Equities

January 6, 2015.

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 December 22, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to eliminate transaction fees for Midpoint Passive Liquidity (''MPL'') Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13—Equities. The Exchange proposes to implement the fee change effective January 2, 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Price List to eliminate transaction fees for MPL Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13—Equities (''Rule 13''). The Exchange proposes to implement the fee change effective January 2, 2015.

For securities priced $1.00 or greater, the Exchange currently charges a fee of $0.0028 per share for all MPL Orders [4] that remove liquidity from the NYSE MKT. For non-ETP securities traded pursuant to unlisted trading privileges (''UTP'') priced at $1.00 or greater, the Exchange currently charges a fee of $0.0030 for all MPL Orders that remove liquidity from the Exchange. For ETPs traded pursuant to UTP, the Exchange currently charges a fee of $0.0029 for all MPL Orders that remove liquidity from the Exchange. The Exchange proposes to eliminate the fee for MPL Orders that remove liquidity from the Exchange that are designated with a ''retail'' modifier as defined in Rule 13.

To be eligible for the proposed pricing for MPL Orders, an MPL Order would need to meet the requirements to be designated as ''retail'' pursuant to Rule 13. An order designated as ''retail'' under Rule 13 is an agency or riskless principal order that meets the criteria of Financial Industry Regulatory Authority, Inc. Rule 5320.03 and that (1) originates from a natural person and (2) is submitted to the Exchange by a member organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.[5]

To submit an order with a ''retail'' modifier, a member or member organization must submit an attestation, in a form prescribed by the Exchange, that substantially all orders submitted as ''retail'' will qualify as such. Further, Rule 13 requires a member organization to have written policies and procedures reasonably designed to assure that it will only designate orders as ''retail'' if all requirements are met.[6] In addition, a member organization would be required to designate such MPL Order as ''retail'' pursuant to Rule 13.[7]

The Exchange proposes to retain the fee for MPL Orders that remove liquidity from the Exchange but that are not designated with a ''retail'' modifier at the current rates. The proposed amended Price List would distinguish MPL Orders that remove liquidity and that are designated as ''retail'' under Rule 13, which would not be charged a fee, from MPL Orders that remove liquidity and that are not designated as ''retail'' under Rule 13, and which would continue to be charged the existing fee for MPL Orders that take liquidity. The Exchange proposes to make comparable amendments to the Price List relating to pricing applicable to Floor broker executions of MPL Orders.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that members and 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,[8] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that removing a fee for MPL Orders that remove liquidity from the Exchange and that are designated as ''retail'' is reasonable because it will encourage the submission of orders that meet the requirements to be designated as ''retail'' to the Exchange, thus enhancing order execution opportunities for all participants, but specifically retail investors. The ''retail'' modifier under Rule 13 along with its pricing is designed to incentivize the submission of additional retail order flow to a public market like the Exchange.[10] Moreover, the Exchange believes that markets and price discovery optimally function through the interactions of diverse flow types, and also believes that growth in internalization has required differentiation of retail order flow from other order flow types. As the Exchange has previously noted, a significant percentage of the orders of individual investors are executed over-the-counter.[11] The Exchange accordingly further believes that the proposed change is reasonable because it would contribute to maintaining or increasing the proportion of retail flow in Exchange-listed securities that are executed on a registered national securities exchange, rather than executing in off-exchange venues.

Finally, the Exchange notes that while the proposed price change would treat retail order flow differently from order flow submitted by other market participants, such segmentation would not be inconsistent with Section 6(b)(5)

[4] MPL Order is defined in Rule 13 as an undisplayed limit order that automatically executes at the mid-point of the protected best bid or offer (''PBBO'').

[5] An order designated as ''retail'' under Rule 13 is separate and distinct from a ''Retail Order'' within the Retail Liquidity Program under Rule 107C. The proposed rule change solely concerns orders designated as ''retail'' pursuant to Rule 13.

[6] Such written policies and procedures require the member organization to (1) exercise due diligence before entering a ''retail'' order to assure that entry as a ''retail'' order is in compliance with the applicable requirements, and (2) monitor whether orders entered as ''retail'' orders meet the applicable requirements. If a member organization represents ''retail'' orders from another broker-dealer customer, the member organization's supervisory procedures must be reasonably designed to assure that the orders it receives from such broker-dealer customer that it designates as ''retail'' orders meet the definition of a ''retail'' order. The member organization must (i) obtain an annual written representation, in a form acceptable to the Exchange, from each broker-dealer customer that sends it orders to be designated as ''retail'' orders that entry of such orders as ''retail'' orders will be in compliance with the applicable requirements; and (ii) monitor whether its broker-dealer customer's ''retail'' order flow meets the applicable requirements.

[7] Currently, a member organization may designate an order as ''retail'' either by means of a specific tag in the order entry message, as with other order modifiers, or by designating a particular member or member organization mnemonic used at the Exchange as a ''retail mnemonic.''

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4) and (5).

[10] Securities Exchange Act Release Nos. 72252 (May 27, 2014), 79 FR 31368 (June 2, 2014) (SR–NYSEMKT–2014–46) (introduction of ''retail'' modifier under Rule 13).

[11] Securities Exchange Act Release Nos. 71878 (April 4, 2014), 79 FR 19936 (April 10, 2014) (SR–NYSEMKT–2014–25); *see also* Securities Exchange Act Release No. 34–73702 (Nov. 28, 2014), 79 FR 72049, 72051 (Dec. 4, 2014) (order approving NASDAQ OMX BX Retail Price Improvement Program and noting that most marketable retail order flow is executed in the over-the-counter markets, pursuant to bilateral agreements, without ever reaching a public exchange) (''BX Retail Approval Order'').

of the Act,[12] which requires that the rules of an exchange are not designed to permit unfair discrimination. The Commission has previously recognized that the markets generally distinguish between retail investors, whose orders are considered desirable by liquidity providers because such retail investors are presumed on average to be less informed about short-term price movements, and professional traders, whose orders are presumed on average to be more informed.[13] The Commission has further recognized that, because of this distinction, liquidity providers are generally inclined to offer price improvement to less informed retail orders than to more informed professional orders.[14] The Exchange believes that the differentiation proposed herein is not designed to permit unfair discrimination, but instead is reasonably designed to attract retail flow to the Exchange, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. The Exchange believes that the proposed increase of retail order flow to the Exchange might also create a desirable opportunity for institutional investors to interact with retail order flow that they are not able to reach currently. The Exchange therefore believes that the proposed change would further promote a competitive process around retail executions such that retail investors would receive better prices than they currently do through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of the proposed rule change on an exchange market would result in better prices for retail investors.[15] The proposed change is also equitable and not unfairly discriminatory because it would contribute to investors' confidence in the fairness of their transactions and because it would benefit all investors by increasing the liquidity pool and potential for price-improving executions at the Exchange.

The proposed change is also equitable and not unfairly discriminatory because the ability to designate MPL Orders as ''retail'' is available equally to all similarly situated members and member organizations that submit qualifying orders and satisfy the other related, existing requirements.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[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. Instead, the Exchange believes that the proposed change would increase competition among execution venues and encourage additional execution opportunities on the Exchange. For the same reasons, the proposed change also would not impose any burden on competition among market participants. The Exchange believes that while it is the first to offer orders with a ''retail'' modifier the ability to take at the mid-point for free through MPL Orders, providing significant price improvement, the proposed change also permits the Exchange to compete with other markets, including NASDAQ, which does not charge but provides a credit for designated Retail Orders that take liquidity in Retail Liquidity Provider programs,[17] as well as over-the-counter trading that offers mid-point executions at low fees.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[18] of the Act and subparagraph (f)(2) of Rule 19b–4[19] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[20] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–

[12] 15 U.S.C. 78f(b)(5).

[13] *See* BX Retail Approval Order at 72051.

[14] *Id.*

[15] *See, e.g.,* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673, 40680 (July 10, 2012) (SR–NYSEAmex–2011–84) (order approving adoption of Retail Liquidity Program on a pilot basis). The Exchange notes that other markets offer separate non-tier and tiered pricing for retail orders, *see* NASDAQ Price List, available at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2,* and EDGX Exchange Fee Schedule, available at *http://www.directedge.com/trading/EDGXFeeSchedule.aspx,* as well as retail price improvement pricing for ''Retail Orders'' that remove displayed liquidity or mid-point peg liquidity. *See* BATS BYX Exchange Fee Schedule, available at *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf* [sic].

[16] 15 U.S.C. 78f(b)(8).

[17] *See* Securities Exchange Act Release Nos. 70860 (November 13, 2013), 78 FR 69512 (November 19, 2013) (SR–NASDAQ–2013–138).

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f)(2).

[20] 15 U.S.C. 78s(b)(2)(B).

NYSEMKT–2014–108 on the subject line.

Paper Comments

• Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2014–108. 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 20549–1090, 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 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–NYSEMKT–2014–108 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Brent J. Fields,

Secretary.

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BILLING CODE 8011–01–P

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74003; File No. SR–Phlx–2014–79]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Modify the Rule Governing Modification of Orders on Its NASDAQ OMX PSX Facility (''PSX'') in the Event of an Issuer Corporate Action Related to a Dividend, Payment or Distribution

January 6, 2015.

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 December 23, 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 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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

PSX Rule 4761 [sic] [3] addresses the treatment of quotes/orders in securities that are the subject of issuer corporate actions related to a dividend, payment or distribution. The rule applies to any trading interest that is carried on the PSX book overnight. As a general matter, PSX cancels open quotes/orders in the event of any corporate action related to a dividend, payment or distribution, on the ex-date of the action. The cancellation occurs immediately prior to the opening of trading at 8 a.m. on the ex-date of the corporate action, and the member receives a cancellation notice, so that it can, if it desires, reenter the order at the commencement of trading on the ex-date.

Prior to 2013, PSX had not had a clear rule providing for the adjustments of quotes and orders carried on the PSX book overnight. In April 2013, Phlx adopted Rule 3311 to provide that PSX would cancel all open quotes/orders in the event of any corporate action.[4] Subsequently, in response to member demand for assistance with order management with respect to certain common types of corporate action, Phlx amended the rule to offer limited, optional functionality to allow open orders to be adjusted, rather than cancelled.[5] As written, the rule provides for the possibility of order adjustment in the case of cash dividends, forward stock splits, and combined cash dividends/forward stock splits.

The proposal will expand the rule also to provide for adjustment in the case of stock dividends and combined cash dividends/stock dividends. The proposal reflects the conclusion, based on member feedback, that actions resulting in the distribution of additional stock should be treated similarly, regardless of whether they are denominated as forward stock splits or stock dividends. Phlx will make members aware of the effective date of the proposed change by the issuance of a widely disseminated Equity Trader Alert.

Under the current rule, a member may designate that all orders with a time-in-

[3] The Commission notes that the correct rule number for this reference is PSX Rule 3311.

[4] Securities Exchange Act Release No. 69632 (May 23, 2013), 78 FR 32501 (May 30, 2013) (SR–Phlx–2013–56).

[5] Securities Exchange Act Release No. 70110 (August 5, 2013), 78 FR 48736 (August 9, 2013) (SR–Phlx–2013–77).

force of good-till-cancelled[6] that are entered through one or more order entry ports specified by the member will be processed in the manner specified below.[7]

(1) Cash Dividend. If an issuer is paying a cash dividend, the price of an order to buy is reduced by the amount of the sum of all dividends payable, rounded up to the nearest whole cent; provided, however, that there will be no adjustment if the sum of all dividends is less than $0.01. For example, if the sum of all dividends is $0.381, the price of the order will be reduced by $0.39. An order to sell will be retained but will receive no price adjustment.

(2) Forward Stock Split. If an issuer is implementing a forward stock split, the order is cancelled if its size is less than one round lot. If the order's size is greater than one round lot, (i) the size of the order is multiplied by the ratio of post-split shares to pre-split shares, with the result rounded downward to the nearest whole share, and (ii) the price of the order will be multiplied by the ratio of pre-split shares to post-split shares, with the result rounded down to the nearest whole penny in the case of orders to buy and rounded up to the nearest whole penny in the case of orders to sell.

Under the change proposed in this filing, stock dividends will be treated in the same manner as forward stock splits. Thus, any corporate action in which additional shares are issued to holders of outstanding shares will be treated in the manner described above.

For example, if a member has entered a good-till-cancelled order to buy 375 shares at $10.95 per share and the issuer implemented a split or dividend under which an additional 1.25 shares would be issued for each share outstanding, the size of the order would be adjusted to 843 shares (375 × 2.25/1 = 843.75, rounded down to 843) and the price of the order would be adjusted to $4.86 per share ($10.95 per share × 1/2.25 = $4.8667 per share, rounded down to $4.86 per share). An order to sell at the same price and size would be adjusted to 843 shares with a price of $4.87 per share ($4.8667 per share, rounded up).[8]

(3) Combination of Cash Dividend and Forward Stock Split or Stock Dividend. Under the current rule, if an issuer is implementing a cash dividend and a forward stock split on the same date, the adjustments described above will both be applied, in the order described in the notice of the corporate actions received by Phlx.[9] Under the proposed rule change, this provision is being expanded to cover stock dividends as well as forward stock splits.

As is currently the case, changes to open orders will continue to be effected immediately prior to the opening of the System at 8:00 a.m. on the ex-date of the applicable corporate action. Open orders that are retained are re-entered by the System (as adjusted above) immediately prior to the opening of the System, such that they will retain time priority over new orders entered at or after 8:00 a.m.[10] Under the proposed rule change, for corporate actions other than cash dividends, forward stock splits, and stock dividends (or any combination thereof), open orders are always cancelled, regardless of the port through which they were entered.

2. Statutory Basis

Phlx believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[11] in general, and with Section 6(b)(5) of the Act[12] in particular, in that the proposal is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Specifically, Phlx believes that the change, which is responsive to member input, will facilitate transactions in securities and perfect the mechanism of a free and open market by providing members with additional optional functionality that may assist them with order management with respect to stock dividends in a manner similar to the current functionality with respect to cash dividends and forward splits. Because forward splits and stock dividends both involve the distribution of additional stock to current stockholders, providing them with similar treatment under the rule is logical and may help to prevent confusion on the part of members that expect both types of corporate events to receive consistent treatment.

B. Self-Regulatory Organization's Statement on Burden on Competition

Phlx 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. Specifically, by offering market participants additional options with regard to management of open orders, the change has the potential to enhance PSX's competitiveness with respect to other trading venues, thereby promoting greater competition. Moreover, the change does not burden competition in that it does not restrict the ability of members to enter and update trading interest in PSX.

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[13] and subparagraph (f)(6) of Rule 19b–4 thereunder.[14]

At any time within 60 days of the filing of the proposed rule change, the

[6] Phlx notes that the use of good-till-cancelled orders is not prevalent, accounting for significantly less than 1% of all orders entered into PSX. The vast majority of orders expire by their terms at the end of regular market hours.

[7] The member may opt for this processing on a port-by-port basis. Thus, the provisions providing for order adjustment are applied to all good-till-cancelled orders entered through a port that has been specified by the member for such processing. Because members may obtain multiple ports, however, members may opt to apply different processing to different orders based on the ports through which they are entered.

[8] Phlx is also amending the example in the rule text to make it clear that the prices provided therein are per share prices.

[9] Phlx receives notice of corporate actions from the listing exchange.

[10] To the extent that multiple good-till-cancelled orders in a particular security are adjusted and re-entered, such orders may not retain the same time priority vis-à-vis one another that they had on the preceding day. Rather, because such orders are entered simultaneously through multiple order entry ports, their relative priority is a function of the duration of system processing associated with each individual order.

[11] 15 U.S.C. 78f.

[12] 15 U.S.C. 78f(b)(5).

[13] 15 U.S.C. 78s(b)(3)(a)(ii).

[14] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–79 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–79. 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–Phlx–2014–79, and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00220 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73992; File No. SR–NYSEARCA–2014–142]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Schedule of Fees and Charges for Exchange Services To Eliminate Transaction Fees for Midpoint Passive Liquidity Orders That Remove Liquidity From the Exchange and That Are Designated as ''Retail'' but Which Are Not Executed in the Retail Liquidity Program

January 6, 2015.

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 December 22, 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. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Schedule of Fees and Charges for Exchange Services (''Fee Schedule'') to eliminate transaction fees for Midpoint Passive Liquidity (''MPL'') orders that remove liquidity from the Exchange and that are designated as ''retail'' but which are not executed in the Retail Liquidity Program. The Exchange proposes to implement the fee change effective January 2, 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 Exchange proposes to amend its Fee Schedule to eliminate transaction fees for MPL orders that remove liquidity from the Exchange and that are designated as ''retail'' orders, but which are not executed in the Retail Liquidity Program. The Exchange proposes to implement the fee change effective January 2, 2015.

For securities priced $1.00 or greater, the Exchange currently charges qualifying ETP Holders and Market Makers in Tier 1[4] and Tier 2[5] a fee of $0.0030 per share for MPL orders[6] in Tape A, B and C securities that remove liquidity from the NYSE Arca Book. Similarly, the current basic rate, which is applicable when tier rates do not apply, is $0.0030 per share for MPL orders in Tape A, B and C securities that remove liquidity from the NYSE Arca Book. The Exchange proposes to eliminate the fee for MPL orders that

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[15] 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] Tier 1 are ETP Holders and Market Makers that provide liquidity an average daily volume (''ADV'') per month of 0.70% or more of the US consolidated ADV (''CADV'') or provide liquidity an average daily share volume per month of 0.15% or more of the US CADV and are affiliated with an OTP Holder or OTP Firm that provides an ADV of electronic posted executions (including all account types) in Penny Pilot issues on NYSE Arca Options (excluding mini options) of at least 100,000 contracts, of which at least 25,000 contracts must be for the account of a market maker.

[5] Tier 2 are ETP Holders and Market Makers that provide liquidity an average daily share volume per month of 0.30% or more, but less than 0.70% of the US CADV.

[6] MPL Order is defined in Rule 7.31(h)(5) as a Passive Liquidity Order priced at the midpoint of the PBBO. Rule 7.31(h)(4) defines a Passive Liquidity Order as an order to buy or sell a stated amount of a security at a specified, undisplayed price.

remove liquidity from the NYSE Arca Book that are designated as retail orders and that meet the requirements of Rule 7.44(a)(3), but which are not executed in the Retail Liquidity Program [7] (''Retail Orders'').

To be eligible to for the proposed pricing for MPL orders, an MPL order would need to meet the requirements of Rule 7.44(a)(3). Rule 7.44(a)(3) defines a retail order as an agency order or a riskless principal order that meets the criteria of Financial Industry Regulatory Authority, Inc. Rule 5320.03 that originates from a natural person and is submitted to the Exchange by a Retail Member Organization (''RMO''),[8] provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology. An ETP Holder may designate an order a Retail Order either (1) by designating certain order entry ports at the Exchange as ''Retail Order Ports'' and attesting, in a form and/or manner prescribed by the Exchange, that all orders submitted to the Exchange via such Retail Order Ports are Retail Orders; or (2) by means of a specific tag in the order entry message.[9]

The Exchange proposes to define the term ''Retail Orders'' separately in the Fee Schedule to distinguish the pricing applicable to orders designated as retail that are eligible for this proposed change, the existing Retail Order Tier and the existing Retail Orders that provide liquidity to the Book from the pricing applicable to executions of orders designated as retail in the Retail Liquidity Program, which are referred to in the Fee Schedule as ''RMO Retail Orders'' and are covered in the section of the Fee Schedule entitled ''Fees and Credits Applicable to Executions in the Retail Liquidity Program.'' As noted above, the Exchange proposes to define the term ''Retail Order'' in an earlier point of the Fee Schedule, thereby obviating the second definition currently in the Retail Order Tier section of the Fee Schedule. Accordingly, Exchange proposes to delete the phrase ''as defined in Rule 7.44(a)(3)'' in the Retail Order Tier.

The Exchange proposes to retain the fees for MPL orders that remove liquidity from the Exchange but that are not designated as Retail Orders at the current rates. The proposed amended Fee Schedule would distinguish between MPL orders that remove liquidity and that are designated Retail Orders, which would not be charged a fee, from MPL orders that remove liquidity and that are not designated Retail Orders, and which would continue to be charged the existing fee for MPL Orders that take liquidity.

The Exchange also proposes to add explanatory material to footnote 2 of the Fee Schedule that orders with specific rates (*e.g.,* MPL, Tracking Orders, Passive Liquidity Orders, Retail Orders that provide liquidity to the Book, Retail Price Improvement Orders, and RMO Retail Orders) may be used to qualify for volume thresholds but are not eligible for tiered rates.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems ETP Holders 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 Sections 6(b)(4) and 6(b)(5) of the Act,[11] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that removing a fee for MPL orders that remove liquidity from the Exchange and that are designated Retail Orders is reasonable because it will encourage the submission of orders that meet the requirements to be designated as ''retail'' to the Exchange, thus enhancing order execution opportunities for all participants, but specifically retail investors. Moreover, the Exchange believes that markets and price discovery optimally function through the interactions of diverse flow types, and also believes that growth in internalization has required differentiation of retail order flow from other order flow types. As the Exchange has previously noted, a significant percentage of the orders of individual investors are executed over-the-counter.[12] The Exchange accordingly further believes that the proposed change is reasonable because it would contribute to maintaining or increasing the proportion of retail flow in Exchange-listed securities that are executed on a registered national securities exchange, rather than executing in off-exchange venues. The Exchange further believes that defining the term ''Retail Orders'' separately from the term ''RMO Retail Orders'' would provide transparency in the Fee Schedule concerning which pricing is applicable to which orders designated as retail, and specifically, that the proposed pricing change for MPL orders is only applicable to orders designated as ''retail'' that are not executed as part of the Retail Liquidity Program.

Finally, the Exchange notes that while the proposed price change would treat retail order flow differently from order flow submitted by other market participants, such segmentation would not be inconsistent with Section 6(b)(5) of the Act,[13] which requires that the

[7] The Retail Liquidity Program is a pilot program designed to attract additional retail order flow to the Exchange for NYSE Arca-listed securities and securities traded pursuant to unlisted trading privileges (''UTP Securities'') while also providing the potential for price improvement to such order flow. *See* Rule 7.44. *See* Securities Exchange Act Release No. 71176 (December 23, 2013), 78 FR 79524 (December 30, 2013) (SR–NYSEArca–2013–107).

[8] ''RMO'' is defined in Rule 7.44(a)(2) as an ETP Holder that is approved by the Exchange to submit Retail Orders. However, an order designated as a Retail Order of an RMO for purposes of the Retail Liquidity Program is separate from the designation of an order as a Retail Order for purposes of existing pricing tiers in the Fee Schedule. *See* Securities Exchange Act Release No. 71722 (March 13, 2014), 78 [sic] FR 15376 (March 19, 2014) (SR–NYSEArca–2014–22) (''Arca Retail Approval Order'') [sic]. The proposed rule change solely concerns Retail Orders outside the Retail Liquidity Program.

[9] *See, e.g.,* Securities Exchange Act Release No. 68322 (November 29, 2012), 77 FR 72425 (December 5, 2012) (SR–NYSEArca–2012–129). ETP Holders designating orders as Retail Orders by using a tag in the order entry message will be required to have written policies and procedures reasonably designed to assure that it will only designate orders as Retail Orders if all requirements of a Retail Order are met. The written policies and procedures must require the ETP Holder to (i) exercise due diligence before entering a Retail Order to assure that entry as a Retail Order is in compliance with the requirements specified by the Exchange, and (ii) monitor whether orders entered as Retail Orders meet the applicable requirements. If the ETP Holder represents Retail Orders from another broker-dealer customer, the ETP Holder's supervisory procedures must be reasonably designed to assure that the orders it receives from such broker-dealer customer that it designates as Retail Orders meet the definition of a Retail Order. The ETP Holder must (i) obtain an annual written representation, in a form acceptable to the Exchange, from each broker-dealer customer that sends it orders to be designated as Retail Orders that entry of such orders as Retail Orders will be in compliance with the requirements specified by the Exchange, and (ii) monitor whether its broker-dealer customer's Retail Order flow continues to meet the applicable requirements. *See id.*

[10] 15 U.S.C. 78f(b).

[11] 15 U.S.C. 78f(b)(4) and (5).

[12] *See* Securities Exchange Act Release No. 71722 (March 13, 2014), 78 [sic] FR 15376 (March 19, 2014) (SR–NYSEArca–2014–22); *see also* Securities Exchange Act Release No. 34–73702 (Nov. 28, 2014), 79 FR 72049, 72051 (Dec. 4, 2014) (order approving NASDAQ OMX BX Retail Price Improvement Program and noting that most marketable retail order flow is executed in the over-the-counter markets, pursuant to bilateral agreements, without ever reaching a public exchange) (''BX Retail Approval Order'').

[13] 15 U.S.C. 78f(b)(5).

rules of an exchange are not designed to permit unfair discrimination. The Commission has previously recognized that the markets generally distinguish between retail investors, whose orders are considered desirable by liquidity providers because such retail investors are presumed on average to be less informed about short-term price movements, and professional traders, whose orders are presumed on average to be more informed.[14] The Commission has further recognized that, because of this distinction, liquidity providers are generally inclined to offer price improvement to less informed retail orders than to more informed professional orders.[15] The Exchange believes that the differentiation proposed herein is not designed to permit unfair discrimination, but instead is reasonably designed to attract retail flow to the Exchange, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. The Exchange believes that the proposed increase of retail order flow to the Exchange might also create a desirable opportunity for institutional investors to interact with retail order flow that they are not able to reach currently. The Exchange therefore believes that the proposed change would further promote a competitive process around retail executions such that retail investors would receive better prices than they currently do through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of the proposed rule change on an exchange market would result in better prices for retail investors.[16] The proposed change is also equitable and not unfairly discriminatory because it would contribute to investors' confidence in the fairness of their transactions and because it would benefit all investors by increasing the liquidity pool and potential for price-improving executions at the Exchange.

The proposed change is also equitable and not unfairly discriminatory because the ability to designate MPL orders as Retail Orders is available equally to all similarly situated ETP Holders that submit qualifying orders and satisfy the other related, existing requirements.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would increase competition among execution venues and encourage additional execution opportunities on the Exchange. For the same reasons, the proposed change also would not impose any burden on competition among market participants. The Exchange believes that while it is the first to offer designated Retail Orders the ability to take at the mid-point for free through MPL orders, providing significant price improvement, the proposed change also permits the Exchange to compete with other markets, including NASDAQ, which does not charge but provides a credit for designated Retail Orders that take liquidity in Retail Liquidity Provider programs,[18] as well as over-the-counter trading that offers mid-point executions at low fees.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of ETP Holders or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[19] of the Act and subparagraph (f)(2) of Rule 19b–4[20] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2014–142 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

[14] *See* BX Retail Approval Order at 72051.

[15] *Id.*

[16] *See, e.g.,* Arca Retail Approval Order at 79528. The Exchange notes that other markets offer separate non-tier and tiered pricing for retail orders, *see* NASDAQ Price List, available at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2,* and EDGX Exchange Fee Schedule, available at *http://www.directedge.com/trading/EDGXFeeSchedule.aspx,* as well as retail price improvement pricing for ''Retail Orders'' that remove displayed liquidity or mid-point peg liquidity. *See* BATS BYX Exchange Fee Schedule, available at *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf* [sic].

[17] 15 U.S.C. 78f(b)(8).

[18] *See* Securities Exchange Act Release Nos. 70860 (November 13, 2013), 78 FR 69512 (November 19, 2013) (SR–NASDAQ–2013–138).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(2).

[21] 15 U.S.C. 78s(b)(2)(B).

All submissions should refer to File Number SR–NYSEARCA–2014–142. 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 20549–1090, 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 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–2014–142 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00211 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73998; File No. SR–NYSEARCA–2014–148]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Arca BBO and NYSE Arca Trades

January 6, 2015.

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 December 24, 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. 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] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the fees for NYSE Arca BBO and NYSE Arca Trades to: (1) Change the way the user fee is calculated and applied, operative on January 1, 2015; and (2) establish eligibility requirements for redistribution on a managed non-display basis and an access fee for managed non-display data recipients, operative on January 1, 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 Exchange proposes to amend the fees for NYSE Arca BBO and NYSE Arca Trades data feeds, as set forth on the NYSE Arca Equities Proprietary Market Data Fee Schedule (''Fee Schedule''), as follows:

- To change the way the user fees are calculated and applied by eliminating the unit-of-count policy, operative on January 1, 2015; and
- To establish eligibility requirements for redistribution of market data on a Managed Non-Display basis and establish an access fee for Managed Non-Display data recipients, operative on January 1, 2015.

Changes to the Method of Calculating and Applying User Fees

For display use of the NYSE Arca BBO and NYSE Arca Trades data feeds, the Fee Schedule sets forth a Professional User Fee of $4 per month or a Non-Professional User Fee of $0.25 per month. These user fees generally apply to each display device that has access to NYSE Arca BBO or NYSE Arca Trades.

Vendors and subscribers that are eligible for the Unit-of-Count Policy may avail themselves of an alternative method for counting how many user fees should be charged for display use of the NYSE Arca BBO and Trades data feeds. The Unit-of-Count Policy was first introduced by the Exchange's affiliate, New York Stock Exchange LLC (''NYSE''), as a pilot in 2009 for its NYSE OpenBook data feed[4] and is available for NYSE Arca BBO and NYSE Arca Trades.[5] Since April 2013, the Unit-of-Count Policy has applied only to user fees associated with display usage.[6]

The effect of the Unit-of-Count Policy for these subscribers is that a single user fee applies to individual users that receive multiple display device services, *i.e.,* multiple devices displaying NYSE Arca BBO or NYSE Arca Trades, referred to as ''netting.'' The Exchange proposes to retire the Unit-of-Count Policy effective January 1, 2015. As a result, as of January 1, 2015, subscribers that are currently eligible for ''netting'' under the Unit-of-Count Policy would pay the user fee for each display device that has access to NYSE Arca BBO or NYSE Arca Trades, even if a single user is receiving NYSE Arca BBO or NYSE Arca Trades over multiple devices, as well as all other applicable fees set forth on the Fee Schedule.

[4] *See* Securities Exchange Act Release Nos. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131) and 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22).

[5] *See* Securities Exchange Act Release No. 62188 (May 27, 2010), 75 FR 70311 (Nov. 17, 2010 (SR–NYSEArca–2010–23) (''Unit-of-Count Policy filing'').

[6] *See* Securities Exchange Act Release Nos. 69315 (Apr. 5, 2013), 78 FR 21668 (Apr. 11, 2013) (SR–NYSEArca–2013–37) (''2013 Non-Display Filing'') and 73011 (Sept. 5, 2014), 79 FR 54315 (Sept. 11, 2014) (SR–NYSEArca–2014–93). Existing customers approved for the Unit-of-Count Policy for display usage have continued to follow the Policy in anticipation of new display fees being implemented.

Proposed Changes to Managed Non-Display Services and Fees

Non-Display Use of NYSE Arca market data means accessing, processing, or consuming NYSE Arca market data delivered via direct and/or Redistributor[7] data feeds for a purpose other than in support of a data recipient's display or further internal or external redistribution. A Redistributor approved for Managed Non-Display Services manages and controls the access to NYSE Arca BBO or NYSE Arca Trades and does not allow for further internal distribution or external redistribution of NYSE Arca BBO or NYSE Arca Trades by the data recipients. Managed Non-Display Services Fees apply when a data recipient's non-display applications are hosted by a Redistributor that has been approved for Managed Non-Display Services.

A Redistributor approved for Managed Non-Display Services is required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE Arca BBO or NYSE Arca Trades through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE Arca BBO or NYSE Arca Trades through a Redistributor's Managed Non-Display Service does not have any reporting requirements.

Currently, to be approved for Managed Non-Display Services, a Redistributor of the Managed Non-Display Services must be approved under the Unit-of-Count policy.[8] In connection with the retirement of the Unit-of-Count Policy,[9] eligibility for Managed Non-Display Services of NYSE Arca BBO or NYSE Arca Trades would no longer be based on eligibility under the Unit-of-Count Policy. The Exchange proposes instead to establish eligibility requirements specifically for the redistribution of market data for Managed Non-Display Services. The Exchange also proposes to add an access fee that would apply to a data recipient that receives NYSE Arca BBO or NYSE Arca Trades from an approved Redistributor of Managed Non-Display Services.

The proposed eligibility requirements for the provision of Managed Non-Display Services would be similar to the eligibility requirements for the Unit-of-Count Policy in that they would require the Redistributor to manage and control the access to NYSE Arca BBO or NYSE Arca Trades for data recipients' non-display applications and not allow for further internal distribution or external redistribution of the information by data recipients. In addition, to be eligible to provide Managed Non-Display Services, the Redistributor would be required to (a) host the data recipients' non-display applications in equipment located in the Redistributor's data center and/or hosted space/cage and (b) offer NYSE Arca BBO or NYSE Arca Trades in the Redistributor's own messaging formats (rather than using raw message formats) by reformatting and/or altering NYSE Arca BBO or NYSE Arca Trades prior to retransmission without affecting the integrity of NYSE Arca BBO or NYSE Arca Trades and without rendering NYSE Arca BBO or NYSE Arca Trades inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. The proposed eligibility requirements are similar to data distribution models currently in use and align the Exchange with other markets.[10]

The reporting requirements associated with the Managed Non-Display Service would not change. A Redistributor approved for Managed Non-Display Service would be required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE Arca BBO or NYSE Arca Trades through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE Arca BBO or NYSE Arca Trades through a Redistributor's Managed Non-Display Service would continue not to have any reporting requirements.

In addition, the Exchange proposes to adopt an Access Fee of $375/month applicable only to data recipients that receive NYSE Arca BBO and/or NYSE Arca Trades from an approved Redistributor of Managed Non-Display Services, operative January 1, 2015. Currently, data recipients are required to pay an Access Fee of $750/month to receive NYSE Arca BBO and/or NYSE Arca Trades, which has not been charged to data recipients of Managed Non-Display Services of NYSE Arca BBO or NYSE Arca Trades. The Exchange charges a single Access Fee for clients receiving both NYSE Arca BBO and NYSE Arca Trades. Because the purpose of an access fee is to charge data recipients for access to the Exchange's proprietary market data, the Exchange believes it is appropriate to charge an access fee to all data recipients, including recipients of Managed Non-Display Services.[11] In recognition that data recipients of Managed Non-Display Services receive NYSE Arca BBO and NYSE Arca Trades in a controlled format, the Exchange proposes to establish an Access Fee that would be applicable only to data recipients of Managed Non-Display Services and that would be half the size of the current Access Fee. As with the existing Access Fee, the Exchange would charge a single Access Fee for Managed Non-Display Services for clients of both NYSE Arca BBO and NYSE Arca Trades. In connection with this change, the Exchange also proposes to amend the Fee Schedule to specify that the current Access Fee of $750/month is charged to data recipients other than those receiving data through Managed Non-Display Services. The proposed Managed Non-Display Access Fee would be in addition to the current Managed Non-Display Services Fee of $200/month for NYSE Arca BBO and $800/month for NYSE Arca Trades by each data recipient.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the provisions of Section 6 of the Act,[12] in general, and Sections 6(b)(4) and 6(b)(5) of the Act,[13] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

[7] ''Redistributor'' means a vendor or any other person that provides an NYSE Arca data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[8] *See* Unit-of-Count Policy filing, *supra* note 5.

[9] The Exchange has separately proposed to retire the Unit-of-Count Policy and modify the eligibility requirements for Managed Non-Display Services for all of its proprietary market data products, including NYSE Arca BBO and NYSE Arca Trades, and thereby harmonize the eligibility requirements for all NYSE Arca data products that have Managed Non-Display fees. *See* SR–NYSEArca–2014–147 (filing for NYSE Integrated Feed) and SR–NYSEArca–2014–149 (filing for NYSE ArcaBook) (collectively, ''NYSE Arca 2014 Filings'').

[10] *See* Securities Exchange Act Release Nos. 70748 (Oct. 23, 2013), 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ OMX PHLX (''Phlx'')); 70269 (Aug. 27, 2013), 78 FR 54336 (Sept. 3, 2013) (SR–NASDAQ–2013–106) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ Stock Market (''NASDAQ'')); and 69182 (Mar. 19, 2013), 78 FR 18378 (Mar. 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX).

[11] In order to harmonize its approach to fees for its market data products, the Exchange is proposing to establish access fees for Managed Non-Display Services for NYSE ArcaBook and NYSE Arca Integrated Feed that are also half of the existing access fee for each respective data feed. *See* NYSE Arca 2014 Filings, *supra* note 9.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(4), (5).

The Exchange believes that it is reasonable to retire the Unit-of-Count Policy. First, as evidenced by the low number of eligible subscribers, the Unit-of-Count Policy is not currently considered useful to market data recipients as a method for counting users. In addition, as the Exchange noted in the 2013 Non-Display Filing,[14] the Exchange determined at that time that its fee structure, which was based primarily on counting devices, both display and non-display, and included the Unit-of-Count Policy, was no longer appropriate in light of market and technology developments. In addition to implementing the non-display pricing to address the difficulties of counting non-display devices, and to reflect the value of non-display data to customers, the Exchange noted that it anticipated implementing a new display use fee structure later. Retiring the Unit-of-Count Policy, which now applies only to display use, would allow the Exchange to apply a consistent method for counting users among all customers using NYSE Arca BBO or NYSE Arca Trades, whether on a display or non-display basis.

The Exchange believes that revising the eligibility requirements for Managed Non-Display Services so that the requirements are more closely aligned with the nature of the services being provided is reasonable. The proposed additional requirements for hosting in the Redistributor's data center and for reformatting and/or altering the market data prior to retransmission are also consistent with similar requirements of other markets for the provision of managed data.[15]

The Exchange believes that the proposed Access Fee for Managed Non-Display Services is reasonable, because the data is of value to recipients, and it is reasonable to charge them a lower access fee because they are receiving the data through a Redistributor in a controlled form rather than from the Exchange in raw form. The Exchange believes that the proposed fees directly and appropriately reflect the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments. NASDAQ and Phlx also both offer managed non-display data solutions and charge access fees for such services.[16]

The fees are also equitable and not unfairly discriminatory because they would apply to all data recipients that choose to subscribe to Managed Non-Display Services for NYSE Arca BBO or NYSE Arca Trades.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to the feeds.

The Exchange notes that NYSE Arca BBO and NYSE Arca Trades are entirely optional. The Exchange is not required to make NYSE Arca BBO and NYSE Arca Trades available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE Arca BBO or NYSE Arca Trades. Firms that do purchase NYSE Arca BBO or NYSE Arca Trades do so for the primary goals of using the products to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE Arca BBO or NYSE Arca Trades or any other similar products are attractively priced or not.

Firms that do not wish to purchase NYSE Arca BBO or NYSE Arca Trades at the new prices have a variety of alternative market data products from which to choose,[17] or if NYSE Arca BBO or NYSE Arca Trades do not provide sufficient value to firms as offered based on the uses those firms have or planned to make of the products, such firms may simply choose to conduct their business operations in ways that do not use NYSE Arca BBO or NYSE Arca Trades. The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[18] Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and ATSs have chosen not to do so.[19]

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), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary 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.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 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.' '' [20]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards. In addition, the existence of alternatives to these data products, such as consolidated data and proprietary data from other sources, as described below, further ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can select such alternatives.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically or offer any significant benefits.[21]

[14] *See* 2013 Non-Display Filing, *supra,* note 6.

[15] *See supra* note 10.

[16] *See supra* note 10. NASDAQ offers a Managed Data Solution that assesses a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees of $60 for non-professionals to $300 for professionals. *See* NASDAQ Rule 7026(b). Phlx charges a monthly Managed Data Solution Administration fee of $2,000 and a monthly Subscriber fee of $500. The monthly License fee is in addition to the monthly Distributor fee of $3,500 (for external usage), and the $500 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105).

[17] *See* NASDAQ Rule 7047 (Nasdaq Basic) and BATS Rule 11.22 (BATS TOP and Last Sale).

[18] *See* In the Matter of the Application of Securities Industry And Financial Markets Association For Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014).

[19] For example, Goldman Sachs Execution and Clearing, L.P. has disclosed that it does not use proprietary market data in connection with Sigma X, its ATS. *See* response to Question E3, available at *http://www.goldmansachs.com/media-relations/in-the-news/current/pdf-media/gsec-order-handling-practices-ats-specific.pdf.* By way of comparison, IEX has disclosed that it uses proprietary market data feeds from all registered stock exchanges and the LavaFlow ECN. *See http://www.iextrading.com/about/.*

[20] NetCoalition, 615 F.3d at 535.

[21] The Exchange believes that cost-based pricing would be impractical because it would create

Continued

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [22]

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [23] More recently, SEC Chair Mary Jo White has noted that competition for order flow in exchange-listed equities is ''intense'' and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.[24]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are also redistributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE Arca BBO or NYSE Arca Trades unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE Arca BBO or NYSE Arca Trades can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

The costs of producing market data include not only the costs of the data distribution infrastructure, but also the costs of designing, maintaining, and

enormous administrative burdens for all parties and the Commission to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[22] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), *available at http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html; see also* Complaint in U.S. v. Deutsche Borse AG and NYSE Euronext, Case No. 11–cv–2280 (D.C. Dist.) ¶ 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[23] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. *See https://www.arcavision.com/Arcavision/arcalogin.jsp.*

[24] Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, ''OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks,'' at 7–8.

operating the exchange's platform for posting quotes, accepting orders, and executing transactions 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, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in November 2014, more than 80% of the transaction volume on each of NYSE Arca and the Exchange's affiliates NYSE and NYSE MKT LLC (''NYSE MKT'') was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A super-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[25] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[26]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an 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.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as various forms of ATSs, including dark pools and electronic communication networks (''ECNs''), and internalizing broker-dealers. SRO markets compete to attract order flow and produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities compete to attract transaction reports from the non-SRO venues.[27]

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, have provided certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[28] Similarly, LavaFlow ECN provides market data to its subscribers at no charge.[29] 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.

Existence of Alternatives

The large number of SROs, ATSs, and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE, NYSE MKT, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, internalizing broker-dealers, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the

[25] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll 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.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

[26] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[27] FINRA's Alternative Display Facility also receives over-the-counter trade reports that it sends to CTA.

[28] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[29] See ''LavaFlow—ADF Migration,'' available at *https://www.lavatrading.com/news/pdf/LavaFlow_ADF_Migration.pdf.*

actual number of orders and transaction reports that exist in the marketplace. With respect to NYSE Arca BBO and NYSE Arca Trades, competitors offer close substitute products.[30] Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing.

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 and inexpensive. 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, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.[31]

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

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.

[30] *See supra* note 17.

[31] *See supra* note 299.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[32] of the Act and subparagraph (f)(2) of Rule 19b–4[33] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[34] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEARCA–2014–148 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEARCA–2014–148. 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 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–2014–148 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00217 Filed 1–9–15; 8:45 am]

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[32] 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(f)(2).

[34] 15 U.S.C. 78s(b)(2)(B).

[35] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73994; File No. SR–NYSE–2014–77]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE Order Imbalances

January 6, 2015.

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 December 23, 2014, the New York Stock Exchange LLC (''NYSE'' 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

The Exchange proposes to amend the fees for NYSE Order Imbalances to: (1)

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Establish eligibility requirements for redistribution on a managed non-display basis and an access fee for managed non-display data recipients, and (2) make a non-substantive correction to the NYSE Proprietary Market Data Fee Schedule (''Fee Schedule''), operative on January 1, 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 Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to (1) amend the fees for NYSE Order Imbalances to establish eligibility requirements for redistribution on a managed non-display basis and to establish an access fee for managed non-display data recipients of NYSE Order Imbalances, and (2) make a non-substantive correction to the Fee Schedule, operative on January 1, 2015.

Non-Display Use of NYSE market data means accessing, processing, or consuming NYSE market data delivered via direct and/or Redistributor [3] data feeds for a purpose other than in support of a data recipient's display or further internal or external redistribution. A Redistributor approved for Managed Non-Display Services manages and controls the access to NYSE Order Imbalances and does not allow for further internal distribution or external redistribution of NYSE Order Imbalances by the data recipients. Managed Non-Display Services Fees apply when a data recipient's non-display applications are hosted by a Redistributor that has been approved for Managed Non-Display Services.

A Redistributor approved for Managed Non-Display Services is required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE Order Imbalances through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE Order Imbalances through a Redistributor's Managed Non-Display Service does not have any reporting requirements.

Currently, to be approved for Managed Non-Display Services, a Redistributor of the Managed Non-Display Services must be approved under the Exchange's Unit-of-Count policy.[4] The Exchange is proposing to retire the Unit-of-Count Policy,[5] and as a result, eligibility for Managed Non-Display Services of NYSE Order Imbalances would no longer be based on eligibility under the Unit-of-Count Policy. The Exchange proposes instead to establish eligibility requirements specifically for the redistribution of market data for Managed Non-Display Services. The Exchange also proposes to add an access fee that would apply to a data recipient that receives NYSE Order Imbalances from an approved Redistributor of Managed Non-Display Services.

The proposed eligibility requirements for the provision of Managed Non-Display Services would be similar to the eligibility requirements for the Unit-of-Count Policy in that they would require the Redistributor to manage and control the access to NYSE Order Imbalances for data recipients' non-display applications and not allow for further internal distribution or external redistribution of the information by data recipients. In addition, to be eligible to provide Managed Non-Display Services, the Redistributor would be required to (a) host the data recipients' non-display applications in equipment located in the Redistributor's data center and/or hosted space/cage and (b) offer NYSE Order Imbalances in the Redistributor's own messaging formats (rather than using raw NYSE message formats) by reformatting and/or altering NYSE Order Imbalances prior to retransmission without affecting the integrity of NYSE Order Imbalances and without rendering NYSE Order Imbalances inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. The proposed eligibility requirements are similar to data distribution models currently in use and align the Exchange with other markets.[6]

The reporting requirements associated with the Managed Non-Display Service would not change. A Redistributor approved for Managed Non-Display Service would be required to report to NYSE on a monthly basis the data recipients that are receiving NYSE Order Imbalances through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE Order Imbalances through a Redistributor's Managed Non-Display Service would continue not to have any reporting requirements.

In addition, the Exchange proposes to adopt an Access Fee of $250/month applicable only to data recipients that receive NYSE Order Imbalances from an approved Redistributor of Managed Non-Display Services, operative January 1, 2015. Currently, all data recipients, including recipients of Managed Non-Display Services, are required to pay an Access Fee of $500/month to receive NYSE Order Imbalances. Because the purpose of an access fee is to charge data recipients for access to the Exchange's proprietary market data, the Exchange believes it is appropriate to charge an access fee to all data recipients.[7] In recognition that data

[3] ''Redistributor'' means a vendor or any other person that provides an NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[4] *See* Securities Exchange Act Release Nos. 59544 (Mar. 9, 2009), 74 FR 11162 (Mar. 16, 2009) (SR–NYSE–2008–131) and 62038 (May 5, 2010), 75 FR 26825 (May 12, 2010) (SR–NYSE–2010–22) (''Unit-of-Count Policy filings''). *See also* Securities Exchange Act Release No. 2014–43 (Aug. 26, 2014), 79 FR 52079 (Sept. 2, 2014) (NYSE 2014–43) (establishing fees for non-display use of NYSE Order Imbalances). The Unit-of-Count Policy currently applies to NYSE OpenBook, NYSE Trades and NYSE BBO as a method for counting Users. For NYSE Order Imbalances, the Policy sets the criteria for eligibility for Managed Non-Display Services.

[5] The Exchange has separately proposed to retire the Unit-of-Count Policy and modify the eligibility requirements for Managed Non-Display Services for all of its proprietary market data products, including NYSE Order Imbalances, and thereby harmonize the eligibility requirements for all NYSE data products that have Managed Non-Display fees. *See* SR–NYSE–2014–76 (amending fees for NYSE OpenBook) and SR–NYSE–2014–75 (amending fees for NYSE BBO and Trades) (collectively, ''NYSE 2014 Filings'').

[6] See Securities Exchange Act Release Nos. 70748 (Oct. 23, 2013), 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ OMX PHLX (''Phlx'')); 70269 (Aug. 27, 2013), 78 FR 54336 (Sept. 3, 2013) (SR–NASDAQ–2013–106) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for the NASDAQ Stock Market (''NASDAQ'')); and 69182 (Mar. 19, 2013), 78 FR 18378 (Mar. 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX).

[7] In order to harmonize its approach to fees for its market data products, the Exchange is proposing to establish access fees for Managed Non-Display Services for NYSE OpenBook, NYSE BBO, and NYSE Trades that is also half of the existing access

Continued

recipients of Managed Non-Display Services receive NYSE Order Imbalances in a controlled format, the Exchange proposes to reduce the Access Fee by half for those data recipients that only receive Managed Non-Display Services for NYSE Order Imbalances. In connection with this change, the Exchange also proposes to amend the Fee Schedule to specify that the current Access Fee of $500/month is charged to data recipients other than those receiving data through Managed Non-Display Services. The proposed Managed Non-Display Access Fee would be in addition to the current Managed Non-Display Services Fee of $200/month by each data recipient.

The Exchange also proposes to make a non-substantive amendment to the Fee Schedule to add the word ''month'' to the Category 3 Non-Display Fee, consistent with the other fees in the Fee Schedule.

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 Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that revising the eligibility requirements for Managed Non-Display Services so that the requirements are more closely aligned with the nature of the services being provided is reasonable. The proposed additional requirements for hosting in the Redistributor's data center and for reformatting and/or altering the market data prior to retransmission are also consistent with similar requirements of other markets for the provision of managed data.[10]

The Exchange believes that the proposed Access Fee for Managed Non-Display Services is reasonable, because the data is of value to recipients, and it is reasonable to charge them a lower access fee because they are receiving the data through a Redistributor in a controlled form rather than from the Exchange in raw form. The Exchange believes that the proposed fee directly and appropriately reflects the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments. The NASDAQ and Phlx also both offer managed non-display data solutions and charge access fees for such services.[11] The fee is also equitable and not unfairly discriminatory because it would apply to all data recipients that choose to subscribe to Managed Non-Display Services for NYSE Order Imbalances.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to the feeds.

The Exchange notes that NYSE Order Imbalances is entirely optional. The Exchange is not required to make NYSE Order Imbalances available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE Order Imbalances. Firms that do purchase NYSE Order Imbalances do so for the primary goals of using it to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE Order Imbalances or any other similar products are attractively priced or not.

The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[12] Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and alternative trading systems (''ATSs'') have chosen not to do so.[13] Firms that do not wish to purchase NYSE Order Imbalances at the new price can choose similar alternative products[14] or can choose to conduct their business operations in ways that do not use NYSE Order Imbalances data.

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), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary 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.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 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.' ''[15]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically or offer any significant benefits.[16]

fee for each respective data feed. *See* NYSE 2014 Filings, *supra* note 5.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4), (5).

[10] *See supra* note 6.

[11] *See supra* note 6. NASDAQ offers a Managed Data Solution that assesses a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees of $60 for non-professionals to $300 for professionals. See NASDAQ Rule 7026(b). Phlx charges a monthly Managed Data Solution Administration fee of $2,000 and a monthly Subscriber fee of $500. The monthly License fee is in addition to the monthly Distributor fee of $3,500 (for external usage), and the $500 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. See Securities Exchange Act Release No. 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105).

[12] *See* In the Matter of the Application of Securities Industry And Financial Markets Association For Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014).

[13] For example, Goldman Sachs Execution and Clearing, L.P. has disclosed that it does not use proprietary market data in connection with Sigma X, its ATS. *See* response to Question E3, available at *http://www.goldmansachs.com/media-relations/in-the-news/current/pdf-media/gsec-order-handling-practices-ats-specific.pdf.* By way of comparison, IEX has disclosed that it uses proprietary market data feeds from all registered stock exchanges and the LavaFlow ECN. *See http://www.iextrading.com/about/.*

[14] See NASDAQ Rule 7023 (Nasdaq Totalview and OpenView).

[15] *NetCoalition,* 615 F.3d at 535.

[16] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties, including the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [17]

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [18] More recently, SEC Chair Mary Jo White has noted that competition for order flow in exchange-listed equities is ''intense'' and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.[19]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are distributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE Order Imbalances unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE Order Imbalances can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of their data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

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 platform for posting quotes, accepting orders, and executing transactions 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

distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

[17] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html; see also* Complaint in *U.S.* v. *Deutsche Borse AG and NYSE Euronext,* Case No. 11–cv–2280 (D.C. Dist.) ¶ 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[18] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. *See https://www.arcavision.com/Arcavision/arcalogin.jsp.*

[19] Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, ''OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks,'' at 7–8.

revenues it receives from both products and the joint costs it incurs.

Moreover, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in November 2014 more than 80% of the transaction volume on each of NYSE, and the NYSE's affiliates, NYSE Arca, Inc. (''NYSE Arca'') and NYSE MKT LLC (''NYSE MKT''), was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A supra-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[20] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[21]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an 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.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as various forms of ATSs, including dark pools and electronic communication networks (''ECNs''), and internalizing broker-dealers. SRO markets compete to attract order flow and produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities compete to attract transaction reports from the non-SRO venues.[22]

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, have provided certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[23] Similarly, LavaFlow ECN provides market data to its subscribers at no charge.[24] 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.

Existence of Alternatives

The large number of SROs, ATSs, and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE MKT, NYSE Arca, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, internalizing broker-dealers, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. With respect to NYSE Order Imbalances, similar products are available from competitors.[25] Because market data

[20] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll 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.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

[21] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[22] FINRA's Alternative Display Facility also receives over-the-counter trade reports that it sends to CTA.

[23] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[24] *See* ''LavaFlow—ADF Migration,'' available at *https://www.lavatrading.com/news/pdf/LavaFlow_ADF_Migration.pdf.*

[25] *See supra* note 14.

users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing, and indeed in the fact that the changes here have the effect of lowering the price for NYSE Order Imbalances.

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 and inexpensive. 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, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.[26]

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

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.

[26] *See supra* note 24.

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[27] and paragraph (f)(2) of Rule 19b–4 thereunder.[28] 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–NYSE–2014–77 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–2014–77. 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 NYSE. 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–2014–77 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00213 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

[28] 17 CFR 240.19b–4(f)(2).

[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73999; File No. SR–ISE–2014–52]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Granting Approval of Proposed Rule Change Regarding the Short Term Option Series Program

January 6, 2015.

I. Introduction

On November 6, 2014, the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] a proposed rule change to extend the current $0.50 strike price intervals in non-index options to short term options with strike prices less than $100. The proposed rule change was published for comment in the **Federal Register** on November 24, 2014.[4] The Commission received no comment letters on the proposal. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

On any Thursday or Friday that is a business day, the Exchange currently may list short term option series in designated option classes that expire at the close of business on each of the next five Fridays that are business days and

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 73633 (November 18, 2014), 79 FR 69974 (''Notice'').

are not Fridays in which monthly or quarterly options expire.[5] These short term option series may be listed in strike price intervals of $0.50, $1, or $2.50 depending on the strike price and whether the option trades in dollar increments in the related monthly expiration.[6] Specifically, the Exchange may list short term option series at strike price intervals of $0.50 or greater where the strike price is less than $75, or for option classes that trade in one dollar increments in the related non-short term option, $1 or greater where the strike price is between $75 and $150, and $2.50 or greater where the strike price is above $150.[7] During the month prior to expiration of an option class that is selected for the Short Term Option Series Program, the strike price intervals for the related non-short term option shall be the same as the strike price intervals for the short term option.[8]

The Exchange also currently operates a $2.50 Strike Price Program that permits monthly expiration options in classes admitted to the $2.50 Strike Price Program to trade in $2.50 intervals where the strike price is greater than $25 but less than $50; or between $50 and $100 if the strikes are no more than $10 from the closing price of the underlying stock in its primary market on the preceding day.[9] In certain instances, these strike price parameters conflict with the strike prices allowed for related non-short term options as dollar strikes between $75 and $100 otherwise allowed under the Short Term Option Series Program may be within $0.50 of strikes listed pursuant to the $2.50 Strike Price Program. As a result, the Exchange has proposed to amend Supplementary Material .12 to Rule 504 to extend the $0.50 strike price intervals currently allowed for short term options with strike prices less than $75 to short term options with strike prices less than $100. With this proposed change, short term options in non-index option classes will trade in: (1) $0.50 or greater intervals for strike prices less than $100, or for option classes that trade in one dollar increments in the related non-short term option; (2) $1 or greater intervals for strike prices that are between $100 and $150; and (3) $2.50 or greater intervals for strike prices above $150.

With regard to the impact of the proposal on system capacity, the Exchange states that it has analyzed its capacity and represents that it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change.[10] In addition, the Exchange states that it believes that its members will not experience a capacity issue as a result of this proposal.[11] Furthermore, the Exchange states that it does not believe the proposed rule change will cause fragmentation of liquidity.[12]

III. Discussion and Commission Findings

After careful review, the Commission finds 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.[13] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[14] which requires, among other things, that the rules of a national securities exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The Commission believes that the proposed change may provide the investing public and other market participants more flexibility to closely tailor their investment and hedging decisions in short term options, as well as in related non-short term options, thus allowing them to better manage their risk exposure.

In approving this proposal, the Commission notes that the Exchange has represented that it and OPRA have the necessary systems capacity to handle the potential additional traffic associated with this proposed rule change.[15] The Exchange further stated that it believes its members will not have a capacity issue as a result of the proposal and that it does not believe this expansion will cause fragmentation of liquidity.[16]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act[17] that the proposed rule change (SR–ISE–2014–52) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00218 Filed 1–9–15; 8:45 am]

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[5] *See* Supplementary Material .02 to ISE Rule 504.

[6] *See* Supplementary Material .12 to ISE Rule 504.

[7] *Id.*

[8] *See* Supplementary Material .02(e) to ISE Rule 504.

[9] *See* ISE Rule 504(g). The term ''primary market'' is defined in ISE Rule 100(a)(37) as the principal market in which an underlying security is traded.

[10] *See* Notice, *supra* note 4, at 69975.

[11] *Id.*

[12] *Id.*

[13] In approving the proposed rule change, the Commission has considered its impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78f(b)(5).

[15] *See* Notice, *supra* note 4, at 69975.

[16] *Id.*

[17] 15 U.S.C. 78f(b)(2).

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73995; File No. SR–NYSEMKT–2014–114]

Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending the Fees for NYSE MKT Order Imbalances

January 6, 2015.

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 December 23, 2014, NYSE MKT LLC (''NYSE MKT'' 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

The Exchange proposes to amend the fees for NYSE MKT Order Imbalances to establish eligibility requirements for redistribution on a managed non-display basis and an access fee for managed non-display data recipients, operative on January 1, 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 establish eligibility requirements for redistribution of NYSE MKT Order Imbalances on a managed non-display basis and to establish an access fee for managed non-display data recipients of NYSE MKT Order Imbalances, operative January 1, 2015.

Non-Display Use of NYSE MKT market data means accessing, processing, or consuming NYSE MKT market data delivered via direct and/or Redistributor[3] data feeds for a purpose other than in support of a data recipient's display or further internal or external redistribution. A Redistributor approved for Managed Non-Display Services manages and controls the access to NYSE MKT Order Imbalances and does not allow for further internal distribution or external redistribution of NYSE MKT Order Imbalances by the data recipients. Managed Non-Display Services Fees apply when a data recipient's non-display applications are hosted by a Redistributor that has been approved for Managed Non-Display Services.

A Redistributor approved for Managed Non-Display Services is required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE MKT Order Imbalances through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE MKT Order Imbalances through a Redistributor's Managed Non-Display Service does not have any reporting requirements.

Currently, to be approved for Managed Non-Display Services, a Redistributor of the Managed Non-Display Services must be approved under the Exchange's Unit-of-Count policy.[4] The Exchange is proposing to retire the Unit-of-Count Policy,[5] and as a result, eligibility for Managed Non-Display Services of NYSE MKT Order Imbalances would no longer be based on eligibility under the Unit-of-Count Policy. The Exchange proposes instead to establish eligibility requirements specifically for the redistribution of market data for Managed Non-Display Services. The Exchange also proposes to add an access fee that would apply to a data recipient that receives NYSE MKT Order Imbalances from an approved Redistributor of Managed Non-Display Services.

The proposed eligibility requirements for the provision of Managed Non-Display Services would be similar to the eligibility requirements for the Unit-of-Count Policy in that they would require the Redistributor to manage and control the access to NYSE MKT Order Imbalances for data recipients' non-display applications and not allow for further internal distribution or external redistribution of the information by data recipients. In addition, to be eligible to provide Managed Non-Display Services, the Redistributor would be required to (a) host the data recipients' non-display applications in equipment located in the Redistributor's data center and/or hosted space/cage and (b) offer NYSE MKT Order Imbalances in the Redistributor's own messaging formats (rather than using raw NYSE message formats) by reformatting and/or altering NYSE MKT Order Imbalances prior to retransmission without affecting the integrity of NYSE MKT Order Imbalances and without rendering NYSE MKT Order Imbalances inaccurate, unfair, uninformative, fictitious, misleading or discriminatory. The proposed eligibility requirements are similar to data distribution models currently in use and align the Exchange with other markets.[6]

The reporting requirements associated with the Managed Non-Display Service would not change. A Redistributor approved for Managed Non-Display Service would be required to report to the Exchange on a monthly basis the data recipients that are receiving NYSE MKT Order Imbalances through the Redistributor's Managed Non-Display Service. A data recipient receiving NYSE MKT Order Imbalances through a Redistributor's Managed Non-Display Service would continue not to have any reporting requirements.

In addition, the Exchange proposes to adopt an Access Fee of $250/month applicable only to data recipients that receive NYSE MKT Order Imbalances from an approved Redistributor of Managed Non-Display Services, operative January 1, 2015. Currently, all data recipients, including recipients of Managed Non-Display Services, are required to pay an Access Fee of $500/month to receive NYSE MKT Order Imbalances. Because the purpose of an access fee is to charge data recipients for access to the Exchange's proprietary market data, the Exchange believes it is appropriate to charge an access fee to all data recipients.[7] In recognition that data recipients of Managed Non-Display Services receive NYSE MKT Order Imbalances in a controlled format, the Exchange proposes to reduce the Access Fee by half for those data recipients that only receive Managed Non-Display Services for NYSE MKT Order Imbalances. In connection with this change, the Exchange also proposes to amend the NYSE MKT LLC Equities Proprietary Market Data Fees Schedule to specify that the current Access Fee of $500/month is charged to data recipients other than those receiving data through Managed Non-Display Services. The proposed Managed Non-

[3] "Redistributor" means a vendor or any other person that provides an NYSE data product to a data recipient or to any system that a data recipient uses, irrespective of the means of transmission or access.

[4] *See* Securities Exchange Act Release Nos. 61936 (Apr. 16, 2010), 75 FR 21088 (Apr. 22, 2010)(SR–NYSEAmex–2010–30 (notice) and 62187 (May 27, 2010), 75 FR 31500 (June 2, 2014) (SR–NYSEAmex–2010–35) (approval order) (Unit-of-Count Policy filing). *See also* Securities Exchange Act Release Nos. 69285 (April 3, 2013), 78 FR 21172(Apr. 9, 2013) (SR–NYSEMKT–2013–32) and 72020 (Sept. 9, 2014), 79 FR 55040 (Sept. 15, 2014) (SR–NYSEMKT–2014–72) (establishing fees for non-display use of NYSE MKT Order Imbalances). The Unit-of-Count Policy currently applies to NYSE MKT OpenBook, NYSE MKT Trades and NYSE MKT BBO as a method for counting Users. For NYSE MKT Order Imbalances, the Policy sets the criteria for eligibility for Managed Non-Display Services.

[5] The Exchange has separately proposed to retire the Unit-of-Count Policy and modify the eligibility requirements for Managed Non-Display Services for all of its proprietary market data products, including NYSE MKT Order Imbalances, and thereby harmonize the eligibility requirements for all NYSE MKT data products that have Managed Non-Display fees. *See* SR–NYSEMKT–2014–113 (amending fees for NYSE MKT OpenBook) and SR–NYSEMKT–2014–115 (amending fees for NYSE MKT BBO and NYSE MKT Trades) (collectively, "NYSE MKT 2014 Filings").

[6] *See* Securities Exchange Act Release Nos. 70748 (Oct. 23, 2013), 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ OMX Phlx ("Phlx")); 70269 (Aug. 27, 2013), 78 FR 54336 (Sept. 3, 2013) (SR–NASDAQ–2013–106) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for NASDAQ Stock Market ("NASDAQ")); and 69182 (Mar. 19, 2013), 78 FR 18378 (Mar. 26, 2013) (SR–Phlx–2013–28) (notice of filing and immediate effectiveness of proposed rule change to establish non-display Managed Data Solution for Phlx equities market PSX).

[7] In order to harmonize its approach to fees for its market data products, the Exchange is proposing to establish access fees for Managed Non-Display Services for NYSE MKT OpenBook, NYSE MKT BBO, and NYSE MKT Trades that is also half of the existing access fee for each respective data feed. *See* NYSE MKT 2014 Filings, *supra* note 5.

Display Access Fee would be in addition to the current Managed Non-Display Services Fee of $100/month by each data recipient.

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 Sections 6(b)(4) and 6(b)(5) of the Act,[9] in particular, in that it provides an equitable allocation of reasonable fees among users and recipients of the data and is not designed to permit unfair discrimination among customers, issuers, and brokers.

The Exchange believes that revising the eligibility requirements for Managed Non-Display Services so that the requirements are more closely aligned with the nature of the services being provided is reasonable. The proposed additional requirements for hosting in the Redistributor's data center and for reformatting and/or altering the market data prior to retransmission are also consistent with similar requirements of other markets for the provision of managed data.[10]

The Exchange believes that the proposed Access Fee for Managed Non-Display Services is reasonable, because the data is of value to recipients, and it is reasonable to charge them a lower access fee because they are receiving the data through a Redistributor in a controlled form rather than from the Exchange in raw form. The Exchange believes that the proposed fee directly and appropriately reflects the significant value of using non-display data in a wide range of computer-automated functions relating to both trading and non-trading activities and that the number and range of these functions continue to grow through innovation and technology developments. NASDAQ and Phlx also both offer managed non-display data solutions and charge access fees for such services.[11] The fee is also equitable and not unfairly discriminatory because it would apply to all data recipients that choose to subscribe to Managed Non-Display Services for NYSE MKT Order Imbalances.

The fees are also equitable and not unfairly discriminatory because they will apply to all data recipients that choose to subscribe to the feeds.

The Exchange notes that NYSE MKT Order Imbalances is entirely optional. The Exchange is not required to make NYSE MKT Order Imbalances available or to offer any specific pricing alternatives to any customers, nor is any firm required to purchase NYSE MKT Order Imbalances. Firms that do purchase NYSE MKT Order Imbalances do so for the primary goals of using it to increase revenues, reduce expenses, and in some instances compete directly with the Exchange (including for order flow); those firms are able to determine for themselves whether NYSE MKT Order Imbalances or any other similar products are attractively priced or not.

The Exchange notes that broker-dealers are not required to purchase proprietary market data to comply with their best execution obligations.[12] Similarly, there is no requirement in Regulation NMS or any other rule that proprietary data be utilized for order routing decisions, and some broker-dealers and alternative trading systems (''ATSs'') have chosen not to do so.[13] Firms that do not wish to purchase NYSE MKT Order Imbalances at the new price can choose similar alternative products,[14] or can choose to conduct their business operations in ways that do not use NYSE MKT Order Imbalances data.

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), upheld reliance by the Securities and Exchange Commission (''Commission'') upon the existence of competitive market mechanisms to set reasonable and equitably allocated fees for proprietary 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.'

Id. at 535 (quoting H.R. Rep. No. 94–229 at 92 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 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.' '' [15]

As explained below in the Exchange's Statement on Burden on Competition, the Exchange believes that there is substantial evidence of competition in the marketplace for proprietary market data and that the Commission can rely upon such evidence in concluding that the fees established in this filing are the product of competition and therefore satisfy the relevant statutory standards.

As the *NetCoalition* decision noted, the Commission is not required to undertake a cost-of-service or ratemaking approach. The Exchange believes that, even if it were possible as a matter of economic theory, cost-based pricing for non-core market data would be so complicated that it could not be done practically or offer any significant benefits.[16]

For these reasons, the Exchange believes that the proposed fees are reasonable, equitable, and not unfairly discriminatory.

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4), (5).

[10] *See supra* note 6.

[11] *See supra* note 6. NASDAQ offers a Managed Data Solution that assesses a monthly Managed Data Solution Administration fee of $1,500 and monthly Subscriber fees of $60 for non-professionals to $300 for professionals. *See* NASDAQ Rule 7026(b). Phlx charges a monthly Managed Data Solution Administration fee of $2,000 and a monthly Subscriber fee of $500. The monthly License fee is in addition to the monthly Distributor fee of $3,500 (for external usage), and the $500 monthly Subscriber fee is assessed for each Subscriber of a Managed Data Solution. *See* Securities Exchange Act Release No. 70748 (Oct. 23, 2013), 78 FR 64569 (Oct. 29, 2013) (SR–Phlx–2013–105).

[12] *See* In the Matter of the Application of Securities Industry And Financial Markets Association For Review of Actions Taken by Self-Regulatory Organizations, Release Nos. 34–72182; AP–3–15350; AP–3–15351 (May 16, 2014).

[13] For example, Goldman Sachs Execution and Clearing, L.P. has disclosed that it does not use proprietary market data in connection with Sigma X, its ATS. *See* response to Question E3, available at *http://www.goldmansachs.com/media-relations/in-the-news/current/pdf-media/gsec-order-handling-practices-ats-specific.pdf.* By way of comparison, IEX has disclosed that it uses proprietary market data feeds from all registered stock exchanges and LavaFlow ECN. *See http://www.iextrading.com/about/.*

[14] *See* NASDAQ Rule 7023 (Nasdaq Totalview and Openview).

[15] *NetCoalition,* 615 F.3d at 535.

[16] The Exchange believes that cost-based pricing would be impractical because it would create enormous administrative burdens for all parties, including the Commission, to cost-regulate a large number of participants and standardize and analyze extraordinary amounts of information, accounts, and reports. In addition, and as described below, it is impossible to regulate market data prices in isolation from prices charged by markets for other services that are joint products. Cost-based rate regulation would also lead to litigation and may distort incentives, including those to minimize costs and to innovate, leading to further waste. Under cost-based pricing, the Commission would be burdened with determining a fair rate of return, and the industry could experience frequent rate increases based on escalating expense levels. Even in industries historically subject to utility regulation, cost-based ratemaking has been discredited. As such, the Exchange believes that cost-based ratemaking would be inappropriate for proprietary market data and inconsistent with Congress's direction that the Commission use its authority to foster the development of the national market system, and that market forces will continue to provide appropriate pricing discipline. *See* Appendix C to NYSE's comments to the Commission's 2000 Concept Release on the Regulation of Market Information Fees and Revenues, which can be found on the Commission's Web site at *http://www.sec.gov/rules/concept/s72899/buck1.htm.*

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. An exchange's ability to price its proprietary market data feed products is constrained by actual competition for the sale of proprietary market data products, the joint product nature of exchange platforms, and the existence of alternatives to the Exchange's proprietary data.

The Existence of Actual Competition

The market for proprietary data products is currently competitive and inherently contestable because there is fierce competition for the inputs necessary for the creation of proprietary data and strict pricing discipline for the proprietary products themselves. Numerous exchanges compete with one another for listings and order flow and sales of market data itself, providing ample opportunities for entrepreneurs who wish to compete in any or all of those areas, including producing and distributing their own market data. Proprietary data products are produced and distributed by each individual exchange, as well as other entities, in a vigorously competitive market. Indeed, the U.S. Department of Justice (''DOJ'') (the primary antitrust regulator) has expressly acknowledged the aggressive actual competition among exchanges, including for the sale of proprietary market data. In 2011, the DOJ stated that exchanges ''compete head to head to offer real-time equity data products. These data products include the best bid and offer of every exchange and information on each equity trade, including the last sale.'' [17]

Moreover, competitive markets for listings, order flow, executions, and transaction reports provide pricing discipline for the inputs of proprietary data products and therefore constrain markets from overpricing proprietary market data. Broker-dealers send their order flow and transaction reports to multiple venues, rather than providing them all to a single venue, which in turn reinforces this competitive constraint. As a 2010 Commission Concept Release noted, the ''current market structure can be described as dispersed and complex'' with ''trading volume . . . dispersed among many highly automated trading centers that compete for order flow in the same stocks'' and ''trading centers offer[ing] a wide range of services that are designed to attract different types of market participants with varying trading needs.'' [18] More recently, SEC Chair Mary Jo White has noted that competition for order flow in exchange-listed equities is ''intense'' and divided among many trading venues, including exchanges, more than 40 alternative trading systems, and more than 250 broker-dealers.[19]

If an exchange succeeds in its competition for quotations, order flow, and trade executions, then it earns trading revenues and increases the value of its proprietary market data products because they will contain greater quote and trade information. Conversely, if an exchange is less successful in attracting quotes, order flow, and trade executions, then its market data products may be less desirable to customers using them in support of order routing and trading decisions in light of the diminished content; data products offered by competing venues may become correspondingly more attractive. Thus, competition for quotations, order flow, and trade executions puts significant pressure on an exchange to maintain both execution and data fees at reasonable levels.

In addition, in the case of products that are distributed through market data vendors, such as Bloomberg and Thompson Reuters, the vendors themselves provide additional price discipline for proprietary data products because they control the primary means of access to certain end users. These vendors impose price discipline based upon their business models. For example, vendors that assess a surcharge on data they sell are able to refuse to offer proprietary products that their end users do not or will not purchase in sufficient numbers. Vendors will not elect to make available NYSE MKT Order Imbalances unless their customers request it, and customers will not elect to pay the proposed fees unless NYSE MKT Order Imbalances can provide value by sufficiently increasing revenues or reducing costs in the customer's business in a manner that will offset the fees. All of these factors operate as constraints on pricing proprietary data products.

Joint Product Nature of Exchange Platform

Transaction execution and proprietary data products are complementary in that market data is both an input and a byproduct of the execution service. In fact, proprietary market data and trade executions are a paradigmatic example of joint products with joint costs. The decision of whether and on which platform to post an order will depend on the attributes of the platforms where the order can be posted, including the execution fees, data availability and quality, and price and distribution of their data products. Without a platform to post quotations, receive orders, and execute trades, exchange data products would not exist.

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 platform for posting quotes, accepting orders, and executing transactions 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, an exchange's broker-dealer customers generally view the costs of transaction executions and market data as a unified cost of doing business with the exchange. A broker-dealer will only choose to direct orders to an exchange if the revenue from the transaction exceeds its cost, including the cost of any market data that the broker-dealer chooses to buy in support of its order routing and trading decisions. If the costs of the transaction are not offset by its value, then the broker-dealer may choose instead not to purchase the product and trade away from that exchange. There is substantial evidence of the strong correlation between order flow and market data purchases. For example, in November 2014 more than 80% of the transaction volume on each of NYSE MKT, and the

[17] Press Release, U.S. Department of Justice, Assistant Attorney General Christine Varney Holds Conference Call Regarding NASDAQ OMX Group Inc. and IntercontinentalExchange Inc. Abandoning Their Bid for NYSE Euronext (May 16, 2011), available at *http://www.justice.gov/iso/opa/atr/speeches/2011/at-speech-110516.html; see also* Complaint in U.S. v. Deutsche Borse AG and NYSE Euronext, Case No. 11–cv–2280 (D.C. Dist.) ¶ 24 (''NYSE and Direct Edge compete head-to-head . . . in the provision of real-time proprietary equity data products.'').

[18] Concept Release on Equity Market Structure, Securities Exchange Act Release No. 61358 (Jan. 14, 2010), 75 FR 3594 (Jan. 21, 2010) (File No. S7–02–10). This Concept Release included data from the third quarter of 2009 showing that no market center traded more than 20% of the volume of listed stocks, further evidencing the dispersal of and competition for trading activity. *Id.* at 3598. Data available on ArcaVision show that from June 30, 2013 to June 30, 2014, no exchange traded more than 12% of the volume of listed stocks by either trade or dollar volume, further evidencing the continued dispersal of and fierce competition for trading activity. *See https://www.arcavision.com/Arcavision/arcalogin.jsp.*

[19] Mary Jo White, Enhancing Our Equity Market Structure, Sandler O'Neill & Partners, L.P. Global Exchange and Brokerage Conference (June 5, 2014) (available on the Commission Web site), citing Tuttle, Laura, 2014, ''OTC Trading: Description of Non-ATS OTC Trading in National Market System Stocks,'' at 7–8.

NYSE's affiliates, New York Stock Exchange LLC (''NYSE'') and NYSE Arca, Inc. (''NYSE Arca''), was executed by market participants that purchased one or more proprietary market data products (the 20 firms were not the same for each market). A supra-competitive increase in the fees for either executions or market data would create a risk of reducing an exchange's revenues from both products.

Other market participants have noted that proprietary market data and trade executions are joint products of a joint platform and have common costs.[20] The Exchange agrees with and adopts those discussions and the arguments therein. The Exchange also notes that the economics literature confirms that there is no way to allocate common costs between joint products that would shed any light on competitive or efficient pricing.[21]

Analyzing the cost of market data product production and distribution in isolation from the cost of all of the inputs supporting the creation of market data and market data products will inevitably underestimate the cost of the data and data products because it is impossible to obtain the data inputs to create market data products without a fast, technologically robust, and well-regulated execution system, and system and regulatory costs affect the price of both obtaining the market data itself and creating and distributing market data products. It would be equally misleading, however, to attribute all of an exchange's costs to the market data portion of an exchange's joint products. Rather, all of an 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.

As noted above, the level of competition and contestability in the market is evident in the numerous alternative venues that compete for order flow, including 12 equities self-regulatory organization (''SRO'') markets, as well as various forms of ATSs, including dark pools and electronic communication networks (''ECNs''), and internalizing broker-dealers. SRO markets compete to attract order flow and produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities compete to attract transaction reports from the non-SRO venues.[22]

Competition among trading platforms can be expected to constrain the aggregate return that each platform earns from the sale of its joint products, but different trading platforms may choose from a range of possible, and equally reasonable, pricing strategies as the means of recovering total costs. For example, some platforms may choose to pay rebates to attract orders, charge relatively low prices for market data products (or provide market data products free of charge), and charge relatively high prices for accessing posted liquidity. Other platforms may choose a strategy of paying lower rebates (or no rebates) to attract orders, setting relatively high prices for market data products, and setting relatively low prices for accessing posted liquidity. For example, BATS and Direct Edge, which previously operated as ATSs and obtained exchange status in 2008 and 2010, respectively, have provided certain market data at no charge on their Web sites in order to attract more order flow, and use revenue rebates from resulting additional executions to maintain low execution charges for their users.[23] Similarly, LavaFlow ECN provides market data to its subscribers at no charge.[24] 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.

Existence of Alternatives

The large number of SROs, ATSs, and internalizing broker-dealers that currently produce proprietary data or are currently capable of producing it provides further pricing discipline for proprietary data products. Each SRO, ATS, and broker-dealer is currently permitted to produce and sell proprietary data products, and many currently do or have announced plans to do so, including but not limited to the Exchange, NYSE, NYSE Arca, NASDAQ OMX, BATS, and Direct Edge.

The fact that proprietary data from ATSs, internalizing broker-dealers, and vendors can bypass SROs is significant in two respects. First, non-SROs can compete directly with SROs for the production and sale of proprietary data products. By way of example, BATS and NYSE Arca both published proprietary data on the Internet before registering as exchanges. Second, because a single order or transaction report can appear in an SRO proprietary product, a non-SRO proprietary product, or both, the amount of data available via proprietary products is greater in size than the actual number of orders and transaction reports that exist in the marketplace. With respect to NYSE MKT Order Imbalances, competitors offer similar data.[25] Because market data users can find suitable substitutes for most proprietary market data products, a market that overprices its market data products stands a high risk that users may substitute another source of market data information for its own.

Those competitive pressures imposed by available alternatives are evident in the Exchange's proposed pricing, and indeed in the fact that the changes here have the effect of lowering the price for NYSE MKT Order Imbalances.

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 and inexpensive. 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

[20] *See* Securities Exchange Act Release No. 72153 (May 12, 2014), 79 FR 28575, 28578 n.15 (May 16, 2014) (SR–NASDAQ–2014–045) (''[A]ll 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.''). *See also* Securities Exchange Act Release No. 62907 (Sept. 14, 2010), 75 FR 57314, 57317 (Sept. 20, 2010) (SR–NASDAQ–2010–110), and Securities Exchange Act Release No. 62908 (Sept. 14, 2010), 75 FR 57321, 57324 (Sept. 20, 2010) (SR–NASDAQ–2010–111).

[21] *See generally* Mark Hirschey, Fundamentals of Managerial Economics, at 600 (2009) (''It is important to note, however, that although it is possible to determine the separate marginal costs of goods produced in variable proportions, it is impossible to determine their individual average costs. This is because common costs are expenses necessary for manufacture of a joint product. Common costs of production—raw material and equipment costs, management expenses, and other overhead—cannot be allocated to each individual by-product on any economically sound basis. . . . Any allocation of common costs is wrong and arbitrary.''). This is not new economic theory. *See, e.g.,* F. W. Taussig, ''A Contribution to the Theory of Railway Rates,'' *Quarterly Journal of Economics* V(4) 438, 465 (July 1891) (''Yet, surely, the division is purely arbitrary. These items of cost, in fact, are jointly incurred for both sorts of traffic; and I cannot share the hope entertained by the statistician of the Commission, Professor Henry C. Adams, that we shall ever reach a mode of apportionment that will lead to trustworthy results.'').

[22] FINRA's Alternative Display Facility also receives over-the-counter trade reports that it sends to CTA.

[23] This is simply a securities market-specific example of the well-established principle that in certain circumstances more sales at lower margins can be more profitable than fewer sales at higher margins; this example is additional evidence that market data is an inherent part of a market's joint platform.

[24] *See* ''LavaFlow—ADF Migration,'' available at *https://www.lavatrading.com/news/pdf/LavaFlow_ADF_Migration.pdf.*

[25] *See supra* note 14.

Tradebook, Island, RediBook, Attain, TrackECN, BATS Trading and Direct Edge. As noted above, BATS launched as an ATS in 2006 and became an exchange in 2008, while Direct Edge began operations in 2007 and obtained exchange status in 2010. As noted above, LavaFlow ECN provides market data to its subscribers at no charge.[26]

In setting the proposed fees, the Exchange considered the competitiveness of the market for proprietary data and all of the implications of that competition. The Exchange believes that it has considered all relevant factors and has not considered irrelevant factors in order to establish fair, reasonable, and not unreasonably discriminatory fees and an equitable allocation of fees among all users. The existence of numerous alternatives to the Exchange's products, including proprietary data from other sources, ensures that the Exchange cannot set unreasonable fees, or fees that are unreasonably discriminatory, when vendors and subscribers can elect these alternatives or choose not to purchase a specific proprietary data product if the attendant fees are not justified by the returns that any particular vendor or data recipient would achieve through the purchase.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act[27] and paragraph (f)(2) of Rule 19b–4 thereunder.[28] 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.

[26] *See supra* note 24.

[27] 15 U.S.C. 78s(b)(3)(A)(ii).

[28] 17 CFR 240.19b–4(f)(2).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEMKT–2014–114 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–2014–114. 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 NYSE MKT. 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–2014–114 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[29]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00214 Filed 1–9–15; 8:45 am]

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[29] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74004; File No. SR–ISE–2014–56]

Self-Regulatory Organizations; International Securities Exchange, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Regarding Complex Orders

January 6, 2015.

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 December 23, 2014 the International Securities Exchange, LLC (the ''Exchange'' or the ''ISE'') filed with the Securities and Exchange 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 ISE proposes to amend its rules to permit a greater number of complex orders to leg into the regular market. The text of the proposed rule change is available on the Exchange's Web site (*http://www.ise.com*), at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposed rule change is to permit a greater number of complex orders to leg into the regular market. The Exchange currently

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

provides functionality that automatically removes a market maker's quotes in all series of an options class when certain parameter settings are triggered.[3] The purpose of this functionality is to allow market makers to provide liquidity across hundreds of options series without being at risk of executing the full cumulative size of all such quotes before being given the opportunity to adjust their quotes. By checking the risk parameters following each execution in an options series, the risk parameters allow market makers to manage their risk. This is not the case, however, when a complex order legs into the regular market. Because the execution of each leg is contingent on the execution of the other legs, the execution of all the legs in the regular market is processed as a single transaction, not as a series of individual transactions. The legging-in of complex orders therefore presents a higher risk to market makers as compared to regular orders being entered in multiple series of an options class in the regular market as it can result in market makers exceeding their parameters by a greater number of contracts. Because this risk is directly proportional to the number of legs associated with a complex order, the Exchange amended Rule 722 to limit the legging functionality to complex orders with no more than either two or three legs, as determined by the Exchange on a class basis.[4] The Legging Filing effectively limited certain legitimate complex order strategies, such as a Box Spread [5] or a Condor,[6] from legging into the regular market. These strategies are limited to trading with other complex orders in the complex order book.

Despite the limitation adopted in the Legging Filing, certain market participants continued to use atypical multi-leg strategies to trade with multiple quotes from a single market maker that caused single leg market makers to trade far more than their risk limits allowed. To minimize this risk, the Exchange recently amended its rules to prevent these atypical multi-leg strategies from legging into the regular market. These atypical multi-leg strategies are complex orders with two option legs where both legs are buying or both legs are selling and both legs are calls or both legs are puts, and complex orders with three options legs, where all legs are buying or all legs are selling regardless of whether the option is a call or a put (''Non-Standard Strategies'').[7] Non-Standard Strategies are permitted to trade only in the complex order book and are prevented from legging into the regular market.[8]

With rules limiting Non-Standard Strategies from legging into the regular market firmly in place, the risk of market makers trading more than the limitations they have set has greatly diminished. The Exchange therefore proposes to amend Rule 722 to allow complex orders with two, three or four legs (determined by the Exchange on a class basis) to leg into the regular market.[9]

The proposed rule change will allow the Exchange to permit complex order strategies with three or four legs to leg into the regular market as long as all legs are not buying or all legs are not selling. To ensure that such orders do not leg into the regular market, the Exchange proposes to amend Rule 722(b)(3)(ii)(B) to extend the current limitation found in that rule to complex orders with 3 or 4 legs, where all legs are buying or all legs are selling regardless of whether the option is a call or a put. Such orders will only be permitted to trade against other complex orders in the complex order book, as is the case today. The Exchange expects this proposal to loosen the current restriction to result in a number of other legitimate complex order strategies to also be executed on the Exchange.[10]

The Exchange previously permitted complex orders that are the subject of this proposal to leg into the regular market and only recently limited that activity to better address the risk posed to market makers. The market maker risk that the Exchange sought to address in the Legging Filing was further strengthened when ISE amended its rules to prevent Non-Standard Strategies from legging into the regular market. With this proposed rule change, complex order strategies, such as Box Spreads and Condors, for example, will once again be permitted to leg into the regular market and thereby increase the likelihood that these orders are executed on the Exchange rather than on a competing market without posing any unintended risk to market makers. In the Legging Filing, the Exchange noted that over 85% of all complex orders have only two legs. The Exchange notes that current data continues to support that assertion in that even today, over 85% of all complex orders have only two legs and that very few complex orders are entered with more than three legs. The proposed rule change will therefore impact only a small portion of all complex orders traded on the Exchange. These orders, however, are comprised of legitimate trading strategies that have an economic purpose and are not submitted as means to bypass a market maker's risk setting.

2. Statutory Basis

The Exchange believes that its proposal 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, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism for a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange believes it is reasonable to permit complex orders that are subject of this rule change to leg into the regular market. ISE has codified into its rules the specific complex order strategies that pose the greatest amount of risk to market makers and therefore, the Exchange believes the proposed rule change to permit legitimate multi-legged complex orders to interact with the regular market will promote just and equitable principles of trade. The proposed rule change will facilitate the

[3] *See* ISE Rules 722 and 804.

[4] *See* Securities Exchange Act Release No. 70132 (August 7, 2013), 78 FR 49311 (August 13, 2013) (SR–ISE–2013–38) (the ''Legging Filing'').

[5] The box spread, or long box, is a common strategy that involves buying a call spread together with the corresponding put spread with both spreads having the same strike prices and expiration dates. A box spread can be constructed by buying one in-the-money call, selling one out-of-the-money call, buying one in-the-money put and selling one out-of-the-money put. The long box is used when the spreads are underpriced in relation to their expiration values.

[6] The condor option strategy is a limited risk, non-directional option trading strategy that is structured to earn a limited profit when the underlying security is perceived to have little volatility. To establish this position, a options trader sells an in-the-money call, buys an in-the-money call (lower strike), sells an out-of-the-money call and buys an out-of-the-money call (higher strike). Using call options expiring on the same month, the trader can implement a long condor option spread by writing a lower strike in-the-money call, buying an even lower striking in-the-money call, writing a higher strike out-of-the-money call and buying another even higher striking out-of-the-money call. A total of 4 legs are involved in the condor options strategy and a net debit is required to establish the position.

[7] *See* Securities Exchange Act Release No. 73023 (September 9, 2014), 79 FR 55033 (September 15, 2014) (SR–ISE–2014–10).

[8] *See* Rule 722(b)(3)(ii)(A)–(B).

[9] The Exchange will issue a circular to members identifying the options classes for which legging is limited to complex orders and the associated number of legs. The Exchange will provide members with reasonable notice prior to changing the limit to allow members to make any necessary system changes.

[10] *See www.theoptionsguide.com* for a more comprehensive list of complex order strategies.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

execution of complex order strategies, such as Box Spreads and Condors, which consist of four legs. The proposed rule change is designed to protect investors and the public interest in that the proposal amends a current rule to ensure that complex orders with three or four option legs where all legs are buying or all legs are selling only trade against other complex orders in the complex order book. The Exchange notes that prior to the Legging Filing and before the Non-Standard Strategies were codified into the Exchange's rules, the complex order strategies affected by this proposal were permitted to trade and leg into the regular market. Therefore, this proposed rule change simply adjusts Exchange rules to once again permit the execution such complex order strategies. The proposed rule change will also benefit investors and the general public because multi-legged strategies will have a greater chance of execution when they are allowed to leg into the regular market and thereby increase the execution rate for these orders thus, providing market participants with an increased opportunity to execute these orders on ISE rather than on a competing exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change does not impose any burden on competition. The proposed change to amend the restriction against complex order strategies, such as Box Spreads and Condors, from legging into the regular market will allow a greater number of complex orders to be executed on the Exchange without adversely impacting risk to market makers that are quoting in the regular market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6) thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an Email to *rule-comments@sec.gov*. Please include File No. SR–ISE–2014–56 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–ISE–2014–56. 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 ISE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–ISE–2014–56 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00221 Filed 1–9–15; 8:45 am]

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[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 74006; File No. SR–NYSE–2014–73]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 123C To Specify That Exchange Systems May Close One or More Securities Electronically

January 6, 2015.

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 December 23, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 123C to specify that Exchange systems may close one or more securities electronically if a Designated Market Maker (''DMM'') registered in a security or securities cannot facilitate the close of trading as required by Exchange rules. 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.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 123C to specify that Exchange systems may close one or more securities electronically if a Designated Market Maker registered in a security or securities cannot facilitate the close of trading as required by Exchange rules.

Rule 123C specifies the procedures to be followed at the close of trading on the Exchange, including procedures for the execution of closing interest,[4] which interest is guaranteed to participate in the closing transaction,[5] and the determination of the closing print(s) to be reported to the Consolidated Tape for each security. Supplementary Material .10 to Rule 123C (''Rule 123C.10'') currently provides that closings may be effectuated manually or electronically. However, the current rule contemplates that closings would be facilitated by the DMM, as provided for in Rule 104(a)(3).

The Exchange proposes to amend Rule 123C.10 to provide that, if a DMM cannot facilitate the close of trading for one or more securities for which the DMM is registered, the Exchange would close those securities electronically.[6] Unlike DMMs, who have the obligation to trade for their own account to supply liquidity as needed to facilitate the close,[7] the Exchange would not supply any liquidity when effectuating an electronic close. Without the addition of liquidity to offset an imbalance, the closing price may not be reasonably related to the last sale. To avoid closing at a price too far away from the last sale, the Exchange proposes to establish numerical guidelines to provide parameters regarding the price a security may close when the Exchange closes such security.

As proposed, the closing price of a security closed by the Exchange would not be greater than or less than the last sale price on the Exchange (the ''Reference Price'') by an amount within the Closing Numerical Guidelines set forth below:

Reference price	Closing numerical guideline (closing price % difference from the reference price)
Greater than $0.00 up to and including $25.00	10
Greater than $25.00 up to and including $50.00	5
Greater than $50.00	3

The proposed numerical guidelines are the same as those currently utilized in determining whether an execution qualifies as clearly erroneous under Rule 128.[8] The Exchange believes that using the same guidelines when the Exchange closes a security electronically is appropriate because it would reduce the potential for the closing price on the Exchange to be considered erroneous.

Further, the Exchange proposes to amend Rule 123C.10 to specify the eligible interest to be considered in an Exchange electronic close. Specifically, as proposed, no manually-entered Floor interest would participate in an Exchange electronic close, and if previously entered, would be ignored.[9] Further, in performing a close under the proposed rule, the Exchange would consider all interest eligible to trade in the close consistent with Rule 123C(7)[10] and 123C(8)(a).[11] Under no circumstances, however, would the Exchange close a security if the closing price would be greater than or less than the Reference Price by an amount outside the Closing Numerical Guidelines. Accordingly, interest specified in Rule 123C(7)(a) would not participate in a closing trade if such interest would cause a closing price to be outside the Closing Numerical Guidelines.

The proposed rule would also specify that the provisions of Rule 123C(9)(a)(1) and 123C(9)(b) would be suspended if the Exchange closes a security electronically. Rule 123C(9)(a)(1) permits the Exchange, on a security-by-security basis, to temporarily suspend the hours of operation under Rule 52 so that offsetting interest may be solicited from both on-Floor and off-Floor participants and entered after 4:00 p.m. ET to reduce the size of the imbalance. Rule 123C(9)(b) specifies that only the DMM may request the temporary suspensions available under Rule 123C(9)(a). As proposed, if the Exchange closes a security electronically, the assigned DMM would not have the authority to invoke Rule 123C(9)(a)(1).

Similarly, the proposed rule would specify that only the Exchange would be able to invoke Rule 123C(9)(a)(2) if the Exchange closes a security electronically. Rule 123C(9)(a)(2) permits temporary suspensions of the prohibition on the cancellation or reduction of a Market on Close (''MOC'')/Limit on Close (''LOC'') order after 3:58 p.m. where there is a legitimate error in such an order and execution of the order would cause significant price dislocation at the close. Only the assigned DMM can request relief under Rule 123C(9)(a)(2). Under the proposed rule, in an electronic close by the Exchange, Rule 123C(9)(a)(2) would be in effect but the assigned DMM would not have authority to temporarily suspend cancellation; only

[4] *See* Rule 123C(7) (Order of Execution at the Close). Rule 123C(7)(a) specifies the type of interest that must be executed in whole or in part in the closing transaction, and the allocation order of such interest.

[5] *See* Rule 123C(8).

[6] The proposed amendment contemplates that a DMM's inability to close securities either manually or electronically would be related to business continuity disruptions such as the physical closing of the Exchange Trading Floor or equipment and connectivity breakdowns that prevent the DMM from closing a security either manually or electronically. When a DMM is unable to close securities manually or electronically, the DMM's affirmative obligations under Rule 104 would not apply.

[7] *See* Rule 104(a)(3) and 104(f)(iii).

[8] Rule 128 defines a clearly erroneous execution as an execution with an obvious error in any term, such as price, number of shares or other unit of trading, or identification of the security. Under the numerical guidelines set forth in Rule 128, an execution may be found to be clearly erroneous only if the price of the transaction to buy is greater, or less in the case of a sale, than the reference price by an amount that equals or exceeds the numerical guidelines for a particular transaction category. In determining whether an execution is clearly erroneous, the Exchange generally utilizes the consolidated last sale as the Reference Price.

[9] Manually-entered Floor interest includes interest entered by the DMM on behalf of a Floor broker and the DMM interest entered manually. The Exchange notes that, under regular trading conditions, if manually-entered Floor interest has been entered into Exchange systems, Exchange systems will not permit a DMM to close a stock electronically and the DMM would instead be required to close the security manually. The Exchange proposes to make this explicit in the text of Supplementary Material .10.

[10] Rule 123C(7)(a) sets forth the interest that must be executed or cancelled as part of the closing transaction as well as the order of execution. Rule 123C(7)(b) sets forth the interest that may be used to offset a closing imbalance and the order of execution (*i.e.,* interest that is not guaranteed to participate in the closing transaction).

[11] Rule 123C(8) governs printing of the closing transaction where there is an order imbalance (Rule 123C(8)(a)) and where there is no order imbalance (Rule 123C(8)(b)).

the Exchange would be able to invoke a temporary suspension under the rule.

Because of the technology changes associated with the proposed rule change, the Exchange proposes to announce the implementation date via Trader Update.

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, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and protect investors and the public interest. The Exchange believes that permitting the Exchange to automatically close trading would remove impediments to and perfect the mechanism of a free and open market and a national market system by ensuring an orderly close if the registered DMM cannot manually or electronically facilitate the close of trading as required by Exchange rules. Similarly, the proposal promotes just and equitable principles of trade and removes impediments to and perfects the mechanism of a free and open market by providing customers and the investing public with the certainty of a close in circumstances where business continuity disruptions or other emergencies would prevent the assigned DMMs from closing a security. For the same reasons, the proposal is also designed to protect investors as well as the public interest.

The Exchange believes that the proposed amendment to Rule 123C.10 to provide that closings effectuated by the Exchange would be within a proposed numerical guideline would remove impediments to and perfect the mechanism of a free and open market because having such guidelines provides transparency regarding the range of potential prices that a security may close in such scenario. The Exchange further believes that the proposed numerical guidelines, which are based on existing guidelines for clearly erroneous executions, would remove impediments to and perfect the mechanism of a fair and orderly market because in the absence of a DMM supplying liquidity, the proposed guidelines would reduce the possibility for closing prices to not [sic] be executed at potentially erroneous prices, thereby protecting investors and the public. Similarly, the Exchange believes that excluding interest eligible for the close that would cause an execution to occur outside the proposed numerical guidelines, even if such interest would otherwise be required to be included in a close effectuated by a DMM, and permitting the Exchange to cancel or reduce an MOC/LOC order after 3:58 p.m. where there is a legitimate error and execution of the order would cause significant price dislocation at the close, would remove impediments to and perfect the mechanism of a fair and orderly market because it would assure that the Exchange could effectuate the close within the proposed specified price ranges. The proposed rule therefore promotes just and equitable principles of trade because it provides transparency to entering firms of whether interest would be eligible to participate in a closing transaction effectuated by the Exchange.

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 is not intended to address competitive issues but rather enable the Exchange to close trading where circumstances would prevent a DMM from facilitating a close.

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[14] and Rule 19b–4(f)(6) thereunder.[15] 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)[16] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[17] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[18] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2014–73 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–2014–73. 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

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78s(b)(3)(A)(iii).

[15] 17 CFR 240.19b–4(f)(6).

[16] 17 CFR 240.19b–4(f)(6).

[17] 17 CFR 240.19b–4(f)(6)(iii).

[18] 15 U.S.C. 78s(b)(2)(B).

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–2014–73 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00222 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–74000; File No. SR–Phlx–2014–83]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Port Fees

January 6, 2015.

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 December 24, 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 modify Section VII entitled ''Other Member Fees'' of the Phlx Pricing Schedule (''Pricing Schedule''). Specifically, the Exchange proposes to amend the Port Fees in Section VII of the Pricing Schedule in order to increase the Order Entry Port Fee, establish a CTI Port Fee, and delete the Real-Time Risk Management Fee.

While the changes proposed herein are effective upon filing, the Exchange has designated that the amendments be operative on January 2, 2015.

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.

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 the Port Fees in Section VII of the Pricing Schedule in order to increase the Order Entry Port Fee, establish a CTI Port Fee, and remove the Real-Time Risk Management Fee.[3]

Today, all Port Fees on the Exchange are located in subsection B of Section VII of the Pricing Schedule. These Port Fees include Order Entry Port Fees, Real-time Risk Management Fees, and Active SQF Port Fees, which are not amended by this proposal. Each of the amended fees is discussed below.

Order Entry Port Fee

The Order Entry Port Fee is a connectivity fee related to routing orders to the Exchange via an external order entry port. Phlx members access the Exchange's network through order entry ports. A Phlx member may have more than one order entry port. Today, the Exchange assesses members an Order Entry Port Fee of $550 per month, per mnemonic.[4] The current practice will continue whereby the Order Entry Port Fee will be waived for mnemonics that are used exclusively for Complex Orders[5] where one of the components of the Complex Order is the underlying security. Member organizations will continue not being assessed an Order Entry Port Fee for additional ports acquired for only ten business days for the purpose of transitioning technology.[6]

The Exchange proposes to increase the Order Entry Port Fee of $550 per month, per mnemonic to $600 per month, per mnemonic, as described below. This is exactly the same as a rule change filed by NASDAQ Options Market (''NOM'') proposing to assess $600 for Order Entry Port Fees as of January 2, 2015.[7]

Real-Time Risk Management Fee

The Exchange is eliminating the Real-time Risk Management Fee from subsection B of Section VII of the Pricing Schedule, entitled ''Port Fees.'' The proposal to delete the Real-Time Risk Management Fee results in a price reduction to member organizations and members (clearing firms,[8] Specialists,[9] and Market Makers[10]),

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Real-Time Risk Management Fee was adopted well over a decade ago for members receiving option trading information on-line (*i.e.,* electronically) from the Exchange. *See* Securities Exchange Act Release No. 43719 (December 13, 2000), 65 FR 80975 (December 22, 2000) (SR–Phlx–00–97) (notice of filing and immediate effectiveness). This fee is, as discussed, being deleted as the CTI Port Fee, which is also used on other exchanges, is added.

[4] Mnemonics are codes that identify member organization order entry ports.

[5] 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).

[6] Similarly, member organizations will continue to be required to provide the Exchange with written notification of the transition and all additional ports which were provided at no cost will be removed at the end of the ten business days.

[7] See Securities Exchange Act Release No. 73843 (December 16, 2014) (SR–NASDAQ–2014–122) (not yet published).

[8] A ''clearing firm'' is a member organization that meets the requirements of Rule 165(c).

[9] A ''Specialist'' is an Exchange member who is registered as an options specialist pursuant to Rule 1020(a).

[10] A ''Market Maker'' includes Registered Options Traders (Rule 1014(b)(i) and (ii)), which includes Streaming Quote Traders (Rule 1014(b)(ii)(A)) and Remote Streaming Quote Traders (Rule 1014(b)(ii)(B)).

which market participants are assessed the Real-Time Risk Management Fees.

The Real-time Risk Management Fee was established more than a decade ago to assess a fee to members and member organizations that receive electronic option trading information on-line from the Exchange. The purpose of the fee was to provide members and member organizations (*e.g.* clearing firms, Specialists, and Market Makers) with option trade information, electronically, on a real-time basis. Members and member organizations were able to log on to an interface through AUTOM [11] to receive options (among other information) transaction information real-time. The Exchange limited the assessment of the Real-Time Risk Management Fee to two ports, a Specialized Quote Feed (''SQF'') [12] Port and a CTI Port. As the Exchange has previously noted,[13] it was always the intent of the Exchange to limit the Real-Time Risk Management Fee to the SQF and CTI ports, and this has been the practice of the Exchange. The Exchange is eliminating the Real-Time Risk Management Fee and will instead only assess port fees.

CTI Port Fee

The Exchange now proposes to establish a CTI Port Fee that is $600 per port, per month for each of the first 5 CTI ports, and $100 per port for each port thereafter. The Exchange proposes to charge a smaller amount for the subsequent ports in order to continue to encourage use of ports on the Exchange.

CTI offers real-time clearing trade updates. A real-time clearing trade update is a message that is sent to a member after an execution has occurred and contains trade details. The message containing the trade details is also simultaneously sent to The Options Clearing Corporation. The trade messages are routed to a member's connection containing certain information. The administrative and market event messages include, but are not limited to: System event messages to communicate operational-related events; options directory messages to relay basic option symbol and contract information for options traded on the Exchange; complex strategy messages to relay information for those strategies traded on the Exchange; trading action messages to inform market participants when a specific option or strategy is halted or released for trading on the Exchange; and an indicator which distinguishes electronic and non-electronically delivered orders. This information will be available to members on a real-time basis.

The Exchange notes that the CTI Port Fee is currently available on NOM at $550 per port, per month.[14] NOM assesses port fees for similar ports, namely the Order Entry and CTI Ports. The Exchange desires to continue assessing Order Entry Fees, and to access CTI Post [sic] Fees on Phlx in order to recoup costs associated with these ports while encouraging members to participate in the market.

By increasing the Order Entry Port Fee and establishing a new CTI Port Fee,[15] the Exchange will only assess port fees [16] and no longer assess other types of fees, such as the Real-Time Risk Management Fees. This proposal reflects a modest price increase to members and member organizations while allowing the Exchange to recoup a certain portion of costs associated with ports, namely the Order Entry Port and CTI Port.[17]

2. Statutory Basis

The Exchange believes that its proposal to amend the Pricing Schedule is consistent with Section 6(b) of the Act [18] in general, and furthers the objectives of Section 6(b)(4) and (b)(5) of the Act [19] 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.

The Exchange believes that eliminating the Real-Time Risk Management Fee and proposing a new CTI Port Fee on the Exchange [20] at $600 per port per month for each of the first 5 CTI ports, and $100 per port for each port thereafter, is reasonable because it would allow the Exchange to recoup costs associated with offering the CTI ports. The proposal to delete the Real-Time Risk Management Fee results in a price reduction to member organizations and members (clearing firms, Specialists, and Market Makers), which market participants are assessed the Real-Time Risk Management Fee. By increasing the Order Entry Port Fee and establishing new CTI Port Fee, the Exchange will only assess port fees and no longer assess other types of fees, such as the Real-Time Risk Management Fee. This proposal reflects a modest price increase to members and member organizations while allowing the Exchange to recoup a certain portion of costs associated with ports, namely the Order Entry Port and CTI Port. The Exchange does not, by this proposal, expect to fully offset the Real-Time Risk Management Fee. Rather, the goal of the Exchange is to eliminate the Real-Time Risk Management Fee and apply only port fees. Members and member organizations will be able to obtain real-time information via CTI and SQF as discussed.

As with other port fees in subsection B of Section VII of the Pricing Schedule, the CTI Port Fees reflect a portion of the costs that the Exchange bears with respect to offering and maintaining the CTI ports. The CTI Port Fees are reasonable because they enable the Exchange to offset, in part, its connectivity costs associated with making such ports available, including costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support. Charging less for additional fees is reasonable to continue to recoup costs while encouraging members to connect to the Exchange.

[11] AUTOM, now known as Phlx XL, is the Exchange's electronic order, execution, and trade system.

[12] SQF is an interface that allows specialists, streaming quote traders and remote streaming quote traders to connect and send quotes into Phlx XL. SQF 6.0 allows participants to access information in a single feed available to all participants, rather than through accessing multiple feeds. The information available includes execution reports and other relevant data. Non quoting firms may also receive relevant information available over SQF by connecting to the SQF interface, but they may not send quotes.

[13] *See* Securities Exchange Act Release No. 66208 (January 20, 2012), 77 FR 4077 (January 26, 2012) (SR–Phlx–2012–06) (notice of filing and immediate effectiveness).

[14] *See, e.g.,* Securities Exchange Act Release No. 68502 (December 20, 2012), 77 FR 76572 (December 28, 2012) (SR–NASDAQ–2012–139) (notice of filing and immediate effectiveness). NOM does not, however, tier its CTI Port Fees, as proposed herein. This port fee will increase to $600 as of January 2, 2015.

[15] Today, members utilize CTI Ports at no cost.

[16] The Pricing Schedule also notes an Active SQF Port Fee, which fee remains unchanged by this proposal. SQF is an interface that enables specialists, Streaming Quote Traders (''SQTs'') and Remote Streaming Quote Traders (''RSQTs'') to connect and send quotes into Phlx XL, the options trading system. Active SQF ports are ports that receive inbound quotes at any time within that month. SQTs and RSQTs are defined in Rule 1014(b)(ii)(A) and Rule 1014(b)(ii)(B), respectively.

[17] The Exchange does not, by this proposal, expect to fully offset the Real-Time Risk Management Fee. Rather, the goal of the Exchange is to eliminate the Real-Time Risk Management Fee and assess only port fees. Members and member organizations will be able to continue to obtain real-time information via CTI and SQF as discussed herein.

[18] 15 U.S.C. 78f(b).

[19] 15 U.S.C. 78f(b)(4), (5).

[20] The Exchange has determined that the Real-Time Risk Fee is no longer necessary in light of the new CTI Port Fee and the increased Order Entry Port Fee.

The Exchange believes that assessing CTI Port Fees for the CTI ports at $600 per port per month for each of the first 5 CTI ports, and $100 per port for each port thereafter, is equitable and not unfairly discriminatory because the Exchange will assess the same fees for all CTI ports to all members.

The Exchange believes that continuing the Order Entry Port Fee at $600 per month, per mnemonic on the Exchange is reasonable because it will allow the Exchange to continue to recoup fees associated with offering the Order Entry Port. As with other port fees in subsection B of Section VII of the Pricing Schedule, including the CTI Port Fee, the Order Entry Port Fee reflects a portion of the costs that the Exchange bears with respect to offering and maintaining the Order Entry Ports. The Order Entry Port Fees are reasonable because they enable the Exchange to offset, in part, its connectivity costs associated with making such ports available, including costs based on gateway software and hardware enhancements and resources dedicated to gateway development, quality assurance, and support.

The Exchange believes that Order Entry Fees for the Order Entry Ports at $600 per month, per mnemonic is equitable and not unfairly discriminatory because the Exchange will assess the same fees for all Order Entry Ports to all members.

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 believes the proposed Order Entry Fees and CTI Port Fees are fair and equitable, and therefore, will not unduly burden any particular group of market participants trading on the Exchange. The Exchange's proposal to adopt CTI Port and continue Order Entry Fees would be applied in a uniform manner to all Exchange members. The proposed fees are designed to ensure a fair and reasonable use of Exchange resources by allowing the Exchange to recoup a certain portion of connectivity costs, while continuing to offer connectivity at competitive rates to Exchange members.

The Exchange will not assess the Real-Time Risk Management Fee with respect to any member.

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.[21] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2014–83 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2014–83. 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–Phlx–2014–83, and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00225 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–73997; File No. SR–NYSE–2014–70]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Price List to Eliminate Transaction Fees for Midpoint Passive Liquidity Orders That Remove Liquidity From the Exchange and That Are Designated With a ''Retail'' Modifier as Defined in Rule 13

January 6, 2015.

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 December 22, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Price List to eliminate transaction fees for Midpoint Passive Liquidity (''MPL'') Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13. The Exchange proposes to implement the fee change effective January 2, 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 Exchange proposes to amend its Price List to eliminate transaction fees for MPL Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13. The Exchange proposes to implement the fee change effective January 2, 2015.

For securities priced $1.00 or greater, the Exchange currently charges a fee of $0.0025 per share per transaction for all MPL Orders [4] that remove liquidity from the NYSE.[5] Floor brokers are currently charged the same price for MPL Orders that remove liquidity from the Exchange. The Exchange proposes to eliminate the fee for all MPL Orders that remove liquidity from the Exchange and that are designated with a ''retail'' modifier as defined in Rule 13, including MPL Orders entered by Floor brokers.

To be eligible for the proposed pricing for MPL Orders, an MPL Order would need to meet the requirements to be designated as ''retail'' pursuant to Rule 13. An order designated as ''retail'' under Rule 13 is an agency or riskless principal order that meets the criteria of Financial Industry Regulatory Authority, Inc. Rule 5320.03 and that (1) originates from a natural person and (2) is submitted to the Exchange by a member organization, provided that no change is made to the terms of the order with respect to price or side of market and the order does not originate from a trading algorithm or any other computerized methodology.[6]

To submit an order with a ''retail'' modifier, a member or member organization must submit an attestation, in a form prescribed by the Exchange, that substantially all orders submitted as ''retail'' will qualify as such. Further, Rule 13 requires a member organization to have written policies and procedures reasonably designed to assure that it will only designate orders as ''retail'' if all requirements are met.[7] In addition, a member organization would be required to designate such MPL Order as ''retail'' pursuant to Rule 13.[8]

The Exchange proposes to retain the fee for MPL Orders (including Floor broker MPL Orders) that remove liquidity from the Exchange but that are not designated with a ''retail'' modifier at the current rates. The proposed amended Price List would distinguish MPL Orders that remove liquidity and that are designated as ''retail'' under Rule 13, which would not be charged a fee, from MPL Orders that remove liquidity and that are not designated as ''retail'' under Rule 13, and which would continue to be charged the existing fee for MPL Orders that take liquidity. The Exchange proposes to make comparable amendments to the Price List relating to pricing applicable to Floor broker executions of MPL Orders.

The proposed change is not otherwise intended to address any other issues, and the Exchange is not aware of any problems that members and 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,[9] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[10] in particular, because it provides for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that removing a fee for MPL Orders that remove liquidity from the Exchange and that are designated as ''retail'' is reasonable because it will encourage the submission of orders that meet the requirements to be designated as ''retail'' to the Exchange, thus enhancing order execution opportunities for all participants, but specifically retail investors. The ''retail'' modifier under Rule 13 along with its pricing is designed to incentivize the submission of additional retail order flow to a public market like the Exchange.[11] Moreover, the Exchange believes that markets and price discovery optimally function through the interactions of diverse flow types, and also believes that growth in internalization has required differentiation of retail order flow from other order flow types. As the Exchange has previously noted, a significant percentage of the orders of individual investors are executed over-the-counter.[12] The Exchange

[4] MPL Order is defined in Rule 13 as an undisplayed limit order that automatically executes at the mid-point of the protected best bid or offer (''PBBO'').

[5] MPL Orders that take liquidity do not count toward a member's or member organization's overall level of providing volume for purposes of other pricing on the Exchange that is based on such levels (*e.g.,* the Tier 1, Tier 2 and Tier 3 Adding Credits).

[6] An order designated as ''retail'' under Rule 13 is separate and distinct from a ''Retail Order'' within the Retail Liquidity Program under Rule 107C. The proposed rule change solely concerns orders designated as ''retail'' pursuant to Rule 13.

[7] Such written policies and procedures require the member organization to (1) exercise due diligence before entering a ''retail'' order to assure that entry as a ''retail'' order is in compliance with the applicable requirements, and (2) monitor whether orders entered as ''retail'' orders meet the applicable requirements. If a member organization represents ''retail'' orders from another broker-dealer customer, the member organization's supervisory procedures must be reasonably designed to assure that the orders it receives from such broker-dealer customer that it designates as ''retail'' orders meet the definition of a ''retail'' order. The member organization must (i) obtain an annual written representation, in a form acceptable to the Exchange, from each broker-dealer customer that sends it orders to be designated as ''retail'' orders that entry of such orders as ''retail'' orders will be in compliance with the applicable requirements; and (ii) monitor whether its broker-dealer customer's ''retail'' order flow meets the applicable requirements.

[8] Currently, a member organization may designate an order as ''retail'' either by means of a specific tag in the order entry message, as with other order modifiers, or by designating a particular member or member organization mnemonic used at the Exchange as a ''retail mnemonic.''

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(4) and (5).

[11] Securities Exchange Act Release Nos. 72253 (May 27, 2014), 79 FR 31353 (June 2, 2014) (SR–NYSE–2014–26) (introduction of ''retail'' modifier under Rule 13).

[12] Securities Exchange Act Release Nos. 71879 (April 4, 2014), 79 FR 19947 (April 10, 2014) (SR–NYSE–2014–15); *see also* Securities Exchange Act

Continued

accordingly further believes that the proposed change is reasonable because it would contribute to maintaining or increasing the proportion of retail flow in Exchange-listed securities that are executed on a registered national securities exchange, rather than executing in off-exchange venues.

Finally, the Exchange notes that while the proposed price change would treat retail order flow differently from order flow submitted by other market participants, such segmentation would not be inconsistent with Section 6(b)(5) of the Act,[13] which requires that the rules of an exchange are not designed to permit unfair discrimination. The Commission has previously recognized that the markets generally distinguish between retail investors, whose orders are considered desirable by liquidity providers because such retail investors are presumed on average to be less informed about short-term price movements, and professional traders, whose orders are presumed on average to be more informed.[14] The Commission has further recognized that, because of this distinction, liquidity providers are generally inclined to offer price improvement to less informed retail orders than to more informed professional orders.[15] The Exchange believes that the differentiation proposed herein is not designed to permit unfair discrimination, but instead is reasonably designed to attract retail flow to the Exchange, while helping to ensure that retail investors benefit from the better price that liquidity providers are willing to give their orders. The Exchange believes that the proposed increase of retail order flow to the Exchange might also create a desirable opportunity for institutional investors to interact with retail order flow that they are not able to reach currently. The Exchange therefore believes that the proposed change would further promote a competitive process around retail executions such that retail investors would receive better prices than they currently do through bilateral internalization arrangements. The Exchange believes that the transparency and competitiveness of the proposed rule change on an exchange market would result in better prices for retail investors.[16] The proposed change is also equitable and not unfairly discriminatory because it would contribute to investors' confidence in the fairness of their transactions and because it would benefit all investors by increasing the liquidity pool and potential for price-improving executions at the Exchange.

The proposed change is also equitable and not unfairly discriminatory because the ability to designate MPL Orders as ''retail'' is available equally to all similarly situated members and member organizations that submit qualifying orders and satisfy the other related, existing requirements.

The Exchange believes that it is subject to significant competitive forces, as described below in the Exchange's statement regarding the burden on competition.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[17] the Exchange believes that the proposed rule change would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Instead, the Exchange believes that the proposed change would increase competition among execution venues and encourage additional execution opportunities on the Exchange. For the same reasons, the proposed change also would not impose any burden on competition among market participants. The Exchange believes that while it is the first to offer orders with a ''retail'' modifier the ability to take at the mid-point for free through MPL Orders, providing significant price improvement, the proposed change also permits the Exchange to compete with other markets, including NASDAQ, which does not charge but provides a credit for designated Retail Orders that take liquidity in Retail Liquidity Provider programs,[18] as well as over-the-counter trading that offers mid-point executions at low fees.

Finally, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees and rebates to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees and credits in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. As a result of all of these considerations, the Exchange does not believe that the proposed changes will impair the ability of member organizations or competing order execution venues to maintain their competitive standing in the financial markets.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change is effective upon filing pursuant to Section 19(b)(3)(A)[19] of the Act and subparagraph (f)(2) of Rule 19b–4[20] thereunder, because it establishes a due, fee, or other charge imposed by the Exchange.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings

Release No. 34–73702 (Nov. 28, 2014), 79 FR 72049, 72051 (Dec. 4, 2014) (order approving NASDAQ OMX BX Retail Price Improvement Program and noting that most marketable retail order flow is executed in the over-the-counter markets, pursuant to bilateral agreements, without ever reaching a public exchange) (''BX Retail Approval Order'').

[13] 15 U.S.C. 78f(b)(5).

[14] *See* BX Retail Approval Order, at 72051.

[15] *Id.*

[16] *See, e.g.,* Securities Exchange Act Release No. 67347 (July 3, 2012), 77 FR 40673, 40680 (July 10, 2012) (SR–NYSE–2011–55) (order approving adoption of Retail Liquidity Program on a pilot basis). The Exchange notes that other markets offer separate non-tier and tiered pricing for retail orders, *see* NASDAQ Price List, available at *http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2,* and EDGX Exchange Fee Schedule, available at *http://www.directedge.com/trading/EDGXFeeSchedule.aspx,* as well as retail price improvement pricing for ''Retail Orders'' that remove displayed liquidity or mid-point peg liquidity. *See* BATS BYX Exchange Fee Schedule, available at *http://cdn.batstrading.com/resources/regulation/rule_book/BATS-Exchanges_Fee_Schedules.pdf* [sic].

[17] 15 U.S.C. 78f(b)(8).

[18] *See* Securities Exchange Act Release Nos. 70860 (November 13, 2013), 78 FR 69512 (November 19, 2013) (SR–NASDAQ–2013–138).

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 17 CFR 240.19b–4(f)(2).

under Section 19(b)(2)(B)[21] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2014–70 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2014–70. 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 20549–1090, 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 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–NYSE–2014–70 and should be submitted on or before February 2, 2015.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2015–00216 Filed 1–9–15; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Investment Companies—Early Stage SBICs

AGENCY: U.S. Small Business Administration.

ACTION: Call for Early Stage Fund Managers.

SUMMARY: This call for proposals (''Call'') invites experienced early stage fund managers to submit the preliminary materials discussed in Section II below, in the form of the Small Business Investment Company (''SBIC'') Management Assessment Questionnaire (''MAQ''), for consideration by the Small Business Administration (''SBA'') to be licensed as Early Stage Small Business Investment Companies. Licensed Early Stage SBICs may receive SBA-guaranteed debenture leverage of up to 100 percent of their Regulatory Capital, up to a maximum of $50 million. However, Early Stage SBICs may request less than 100 percent of their Regulatory Capital. Importantly, Early Stage SBICs must invest at least 50% of their investment dollars in early stage small businesses. For the purposes of this initiative, an ''early stage'' business is one that has never achieved positive cash flow from operations in any fiscal year. By licensing and providing SBA guaranteed leverage to Early Stage SBICs, SBA seeks to expand entrepreneurs' access to capital and encourage innovation as part of President Obama's Start-Up America Initiative launched on January 31, 2011. More information on the Early Stage SBIC Initiative and the regulations governing these SBICs may be found at *www.sba.gov/inv/earlystage.*

DATES: The following table provides the key milestones for the Early Stage SBIC Initiative.

Milestones	Dates/Times
Question and Answer Period Closed	5 p.m. Eastern Time (''EST'') on February 27, 2015.
Initial Review Period	
Management Assessment Questionnaires (''MAQs'') Due	5 p.m. EST—February 27, 2015.
Interview Period	April 20, 2015—May 1, 2015.
Anticipated Green Light Decision	May 7, 2015.
Licensing Periods	
For funds seeking a license in FY 2015	5 p.m. EST June 5, 2015.
Anticipated Licensing Date for FY 2015 funds	No later than September 30, 2015.
All other funds have 12 months from issuance of a Green Light to submit their license application.	Applications considered as they are received.

Notes:

- SBA reserves the right to extend its interview, due diligence, committee, and approval timelines as appropriate. SBA will update its website at www.sba.gov/inv/earlystage should these dates change. Applicants will be notified by e-mail should these dates change.
- SBA expects to issue additional calls for Early Stage Fund Managers on an annual basis. SBA will announce these calls via a call notice in the Federal Register.

ADDRESSES: Visit *https://www.sba.gov/content/application-forms* to download a copy of the Management Assessment Questionnaire (the ''MAQ''). You must submit via express or next day delivery service (i) the relevant MAQ signature

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

pages and (ii) the completed MAQ on a CD–ROM in *Word* and *Excel* format to the following: Scott Schaefer, Senior Investment Officer, Office of Investment and Innovation, U.S. Small Business Administration, 409 3rd St. SW., Suite #6300, Washington, DC 20416. SBA will not accept MAQs in .pdf format or MAQs delivered via regular mail (due to irradiation requirements), or hand delivery or courier service.

SUPPLEMENTARY INFORMATION:

I. Background Information

SBA invites early stage fund managers to submit the preliminary materials, as discussed in Section II below, in the form of a Management Assessment Questionnaire (''MAQ'') for the formation and management of an Early Stage SBIC. In 2012, SBA introduced the Early Stage Initiative. Early Stage SBICs represent a new sub-category of SBICs that will focus on making investments in early stage small businesses. Go to *www.sba.gov/inv/earlystage* for information on the Early Stage Initiative and links to the Early Stage SBIC Final Rule (''Final Rule''). This initiative is part of President Obama's ''Start-Up America Initiative'' to promote American innovation and job creation by encouraging private sector investment in job-creating startups and small firms, accelerating research, and addressing barriers to success for entrepreneurs and small businesses.

II. Management Assessment Questionnaire/License Application Materials

The first required submission in the Early Stage Licensing process is SBA's MAQ. The MAQ consists of two forms that cover qualitative and quantitative information on the management team, the proposed strategy for the SBIC, the principals' investment track record, and the proposed fund structure and economics. The MAQ consists of SBA Form 2181 and Exhibits A–F of SBA Form 2182.

Should SBA issue you a ''Green Light letter,'' you must submit the SBIC License Application, consisting of SBA Forms 2181, 2182 and 2183 (each of SBA Forms 2181 and 2182 updated to reflect any changes), for the final licensing phase. Exhibit O in SBA Form 2183 includes the fund's limited partnership agreement (''LPA''). Applicants should review this notice for special instructions associated with the LPA for Early Stage SBICs.

III. Early Stage Licensing Process

There are four stages in SBA's Early Stage Licensing Process: A) Call Period; B) Initial Review; C) Applicant Fundraising and Document Preparation; and D) Licensing. Each of these stages is discussed below.

A. Call Period. This notice signals the start of the Fiscal Year (''FY'') 2015 Early Stage SBIC call period. SBA intends to hold one Early Stage SBIC call period for accepting MAQs per fiscal year and SBA will issue a new notice in the **Federal Register** for the next call period. Interested parties should download a MAQ from *https://www.sba.gov/content/application-forms.* You should also review the information at *www.sba.gov/inv/earlystage* which includes a list of frequently asked questions (''FAQs'') regarding the Early Stage Initiative. If you still have questions regarding the Early Stage process, please email your questions to *erikka.robinson@sba.gov.* SBA will endeavor to respond to your question within three business days, depending on volume. SBA may not be able to respond to fund-specific questions or questions that require a legal opinion. SBA will not take any further questions after the end of the Question and Answer Period identified under the Dates section.

B. Initial Review. At the end of the Initial Review phase, SBA will issue a Green Light letter to those applicants that have preliminarily met the evaluation criteria for an Early Stage SBIC, including the vintage year and geographic diversification criteria. The process for SBA's Initial Review is as follows:

1. Submit MAQ. SBA must receive your completed MAQ no later than the date and time specified under the Dates section of this notice. SBA will send a confirmation that it has received your MAQ within three (3) business days of your submission. If you have not fully completed all sections of the MAQ or provided sufficient information to allow SBA to evaluate your management team, you may be ineligible for this call period. If so, SBA will notify you by email.

2. Due Diligence. SBA will review all MAQs against the evaluation criteria identified in this notice. SBA may engage a contractor to assist in evaluating MAQs received in response to this Call. The Investment Committee (composed of senior managers from the Office of Investment and Innovation) will consider each MAQ, and if the Investment Committee concludes that the management team may be qualified for an Early Stage SBIC license, the entire team will be invited to SBA Headquarters at 409 Third Street SW., Washington, DC for an interview. Those applicants not invited for interviews will be notified. After September 30, 2015, SBA will provide feedback upon request to applicants not selected for an interview.

3. Interview Period. SBA's invitation for an interview will identify a 1-hour time block during the Interview Period identified in the Dates section, along with the topics that the applicant should be prepared to address. SBA will conduct interviews at SBA Headquarters.

4. Green Light Letter. Following the interview, the SBA will issue a Green Light letter to all applicants that have met the criteria identified in this notice, as determined by the Investment Committee. Applicants approved by the Investment Committee can expect to receive the Green Light letter via email within a few days of the Investment Committee's decision. The Green Light letter formally invites an applicant to submit its application for an SBIC License. The Green Light letter is only an invitation to proceed to the next stage in the process, not a guarantee that a fund will be issued an Early Stage SBIC license. Those applicants that do not receive a Green Light letter will also be notified by email within a few days of the Investment Committee's decision. After September 30, 2015, SBA will provide feedback upon request to those applicants that do not receive a Green Light letter.

C. Fundraising and Document Preparation. If you receive a Green Light letter, you will need to raise the minimum Regulatory Capital needed to execute your strategy (which can be no less than $20 million) and submit your completed license application within one year from the date of the letter.

1. Raise Regulatory Capital. An Early Stage SBIC applicant must have signed capital commitments for at least $20 million in Regulatory Capital prior to filing its license application.

2. SBIC Education. All principals of the Early Stage SBIC applicant must attend a one-day SBIC Regulations training class. This training is held at least three times per year in Washington, DC The purpose of this class is to familiarize principals with the SBIC rules, regulations and compliance procedures. Although an applicant may receive a license before all principals have completed the training, a majority of principals must do so before licensing and all must do so before a licensed Early Stage SBIC will be permitted to draw leverage. Information concerning registration for classes can be obtained at *www.sbia.org.* Certain non-principals such as members of a board of directors may also be required to take the class. In addition, any employees or consultants whom

you have assigned to handle regulatory matters or to interact with the Office of Investment and Innovation should attend the class.

3. *Finalize Documents & Perform Checklist.* The following items must be completed and submitted in order to proceed to the Licensing phase:

Item
Updated SBA Form 2181
SBA Forms 2182 & 2183
At least $20 million in Regulatory Capital evidenced by signed Capital Certificate in Form 2183 (Exhibit K)
$25,000 Non-refundable licensing fee

D. Licensing. During this last stage, SBA will review your completed application, perform further due diligence and analysis as needed, and make the final licensing decision. Applicants that receive Green Light letters in 2015, and wish to be licensed in FY 2015, will need to submit their completed license application no later than 5 p.m. EST on June 5, 2015, and follow all guidance identified in this notice. Applicants that do not comply with the requirements in this notice risk not receiving a license in FY 2015. All other applicants must apply within one year of the issuance of their Green Light letter. The process for Licensing is detailed below.

1. SBA acceptance of license application. Upon receipt of the application, SBA will acknowledge receipt by email. Within three business days, SBA will determine whether the application is complete, meets the minimum capital requirements and satisfies management ownership diversity requirements. If so, SBA will send the applicant an acceptance letter. If not, SBA will ask the applicant to resolve the issues identified.

2. Background and Documentation Review. Once the application has been accepted, SBA will forward the fingerprint cards and Statements of Personal History to SBA's Office of Inspector General for processing by the FBI. Following a review of the application and legal documents, SBA will provide the applicant with a ''comment letter.'' Applicants must respond in writing to the comment letter. Applicants seeking to be licensed in FY 2015 should make every effort to respond to SBA's comments within one week. Other applicants should respond as quickly as possible, but in any event within 30 days. Failure to address all comments to SBA's satisfaction will slow down the licensing process. Please note that pre-licensing investments, which SBA must review and approve before they are closed, will also add to the licensing time.

3. Divisional Licensing Committee. After SBA's licensing staff and Office of General Counsel have completed their review, the license application is presented to the Divisional Licensing Committee. This committee is composed of the senior managers of the Office of Investment and Innovation. If approved by the Divisional Licensing Committee, the application is forwarded to the Agency Licensing Committee which is comprised of certain senior managers of the SBA. Prior to consideration by the Agency Licensing Committee, an applicant must provide a signed, up-to-date capital certificate showing that it has at least $2.5 million in Leverageable Capital, consisting of cash on deposit, approved pre-licensing investments funded with partners' contributed capital, and/or approved organizational and operational expenses paid out of partners' contributed capital, and at least $20 million in Regulatory Capital. The applicant's bank must certify that the requisite funds are in the applicant's account and unencumbered.

4. Agency Licensing Committee and Administrator Approval. If the Agency Licensing Committee recommends approval of your license application, it will be forwarded to the SBA Administrator or her designee for final action as soon as you submit fully executed copies of all legal documents. (Please note that the executed documents must be identical to the ''final form'' of the documents approved by SBA.) If the Administrator or her designee approves your application, your Early Stage SBIC license is issued.

5. Leverage Commitments. SBA has allocated $200 million in FY 2015 for Early Stage SBICs. SBA expects to allocate another $200 million in FY 2016. SBA expects to be able to commit the full amount of leverage that an Early Stage SBIC requests at the time of licensing. If total leverage commitments requested for the FY 2015 licensing cycle exceed the amount available in FY 2015, SBA will allocate available leverage across all FY2015 Early Stage SBICs on a pro rata basis. Early Stage SBICs licensed in FY 2015 will be eligible to request the remainder of their uncommitted leverage request in FY 2016 based on availability. Early Stage SBICs that raise additional private capital after licensing may request leverage commitments against that capital. However, such requests are subject to leverage availability and will not be considered until all other licensee requests are satisfied.

IV. Early Stage SBIC LPA and Organizational Instructions

A. Early Stage SBIC Model LPA. In order to expedite the review of Early Stage SBIC license applications, SBA has adopted a Model Early Stage SBIC Limited Partnership Agreement (''Model LPA''). The Model LPA includes required provisions shown in Bold Arial type and optional provisions in a different font. You must download the Model LPA at *http://www.sba.gov/content/model-early-stage-sbic-limited-partnership-agreement.* Applicants must use the Model LPA as a template and must follow the organizational structure of the Model LPA. Further, applicants must include in their limited partnership agreements all of the required provisions of the Model LPA that appear in Bold Arial type. SBA will not accept additions, deletions and other changes or modifications to any of those required provisions. Applicants are required to submit a copy of their limited partnership agreement blacklined against the Model LPA, as explained in the instructions provided at the beginning of the Model LPA. SBA provides the following further guidance on limited partnership agreements:

1. SBA encourages applicants to adhere to the Model LPA to the maximum extent possible. Although SBA does not prohibit changes to those Model LPA provisions that do not appear in Bold Arial type, such changes must be explained in a narrative accompanying the applicant's limited partnership agreement. The entire agreement is subject to SBA's approval.

2. Conditions or restrictions on the ability of the general partner to call private capital commitments are limited to those permitted by the Model LPA.

3. Withdrawal rights are limited to those permitted by the Model LPA.

4. Applicants must adhere to SBA's management fee policies available at *http://www.sba.gov/sites/default/files/files/SBICTechnote07arev200804.pdf.* This policy sets a *maximum* allowable management fee only. The actual management fee will be set by negotiation between the management team and the limited partners and may be less than the maximum. Early Stage SBIC applicants should be aware that the calculation of an SBIC's capital impairment percentage is affected by all fund expenses, including management fees. SBA will consider the management fee in its licensing evaluation criteria as part of fund economics. SBA believes that the primary incentive for fund managers should be carried interest rather than fees.

5. The designation of fund expenses and expenses to be paid out of the management fee must be consistent with SBIC program regulations (see 13 CFR 107.520).

a. Organizational costs, expenses incurred in applying for a license and forming the SBIC and its entity general partner (but not its parent fund or any other affiliate), are considered a partnership expense. Organizational expenses typically include items such as the licensing fee, cost of legal and other professional and consulting services, travel and other fundraising expenses, costs of preparing, printing and distributing the private placement memorandum or other offering materials, and other related expenses such as telephone and supply costs. SBA strongly encourages applicants to include in the LPA a reasonable cap on the total organizational costs to be paid by the applicant. Costs that SBA deems excessive can be paid by an affiliate of the applicant or deducted from the applicant's Regulatory Capital prior to licensing (Regulatory Capital must still be at least $20 million after the deduction).

b. Unreimbursed expenses on investments in small businesses that do not close may be designated as a partnership expense but must be capped at a reasonable level.

6. Right of limited partners to remove general partner—Provisions allowing removal of the general partner without cause (''no-fault divorce'' provisions) are permitted only after the Early Stage SBIC has repaid all outstanding leverage and any other amounts payable to SBA and has surrendered its SBIC license.

7. Any amendments to the limited partnership agreement required by SBA must be executed before licensing. Any amendments initiated by the applicant during the licensing process must be submitted to SBA in draft form as early as possible. SBA will not consider amendments to an Early Stage SBIC's LPA for a minimum of six months after licensing.

B. Organization. Early Stage SBIC applicants must adhere to the following rules regarding organizational structure:

1. Applicant cannot be a BDC or other public entity or a subsidiary of any such entity.

2. All provisions governing the operation of the SBIC must be included in the limited partnership agreement. A side letter between the applicant (or its general partner) and an investor may supplement the limited partnership agreement but may not supersede it. In the event of a conflict between the limited partnership agreement and the side letter, the limited partnership agreement shall control. If an investor requests a side letter provision that is of general interest to all investors (*e.g.,* a provision regarding the fund's efforts to invest in certain geographic areas), that provision should be incorporated into the limited partnership agreement. All side letters require SBA's prior written approval.

3. Applicant must adopt *SBA Model Valuation Guidelines.*

4. Drop-down SBICs

a. The drop-down structure should be used only when it has a clear business purpose:

i. Example 1—Parent fund has already raised capital and begun operating and wants to commit a portion of its capital to an Early Stage SBIC.

ii. Example 2—Substantial capital will be retained for investment at the parent level (SBA suggests that managers consider the alternative of structuring a non-SBIC fund side by side with the SBIC).

b. Drop-down funds must have one parent fund only and the parent fund must be a U.S. entity.

c. Parent must qualify as a traditional investment company based on established SBA precedent.

d. Parent must disclose the identity of all of its investors.

e. All of the investors in the parent fund (the SBIC's ''Class A'' limited partner) must agree to be ''Class B'' limited partners of the SBIC with an obligation to fund the Early Stage SBIC capital calls if the Class A limited partner does not. The obligation of the Class B limited partners to the Early Stage SBIC is reduced dollar for dollar as the parent fund contributes capital to the SBIC. The Model LPA contains required provisions for drop-down funds.

f. The Class B limited partners' commitments to the SBIC applicant must be expressed as a specific dollar amount (not just as the ''proportionate share'' of parent fund's commitment).

g. The total dollar amount of Class B commitments must be equal to the Class A limited partner's unfunded commitment to the SBIC. SBA will not require Class B commitments if the SBIC's Regulatory Capital will not include any unfunded commitments from the Class A limited partner.

C. Capitalization. Applicants must raise the minimum $20 million in Regulatory Capital by the time the license application is submitted.

1. Capital commitments from limited partners must be made directly to the SBIC (and its parent fund, in the case of a drop-down) with no intermediaries involved.

2. The Early Stage SBIC applicant must have the unconditional ability to legally enforce collection of each capital commitment.

3. Capital Certificate. Capital commitments must be documented in the capital certificate (Exhibit K of SBA Form 2183) and comply with the following:

a. A signed Capital Certificate must be submitted with the license application.

b. SBA will permit only the sole following condition on private capital commitments: The receipt of an Early Stage SBIC license.

c. Individual investors must list primary residence address, not a business address.

d. Street addresses are required (no P.O. Box addresses).

4. A dual commitment may be obtained to back up the commitment of any direct investor in the SBIC who is not an Institutional Investor.

5. Capital commitments by the principals, general partner, or their affiliates must be payable in cash when called (cannot be satisfied with notes or management fee waivers).

D. General Partner

1. All principals must:

a. Hold direct ownership interests in and be the direct individual managers of the general partner, with no intervening entities.

b. Receive carried interest directly from the general partner; for drop-down SBICs, carried interest may be received from the parent fund's general partner.

2. A maximum of 25% of the carried interest may be allocated to non-principals.

3. Any provision to remove or terminate a principal must be spelled out within the general partner's organizational document and must not be tied to events occurring under other agreements (*e.g.,* a principal's employment agreement with the management company).

E. Investment Advisor (''Management Company''). Ownership of the Management Company that is highly disproportionate to the ownership of the general partner (*e.g.,* one principal is the 100% owner) is not viewed favorably by SBA, but may be acceptable if there are adequate checks and balances on the powers of the dominant owner. Areas that cannot be subject to unilateral decision-making include the following:

1. Power to remove or terminate other principals.

2. Power to change the composition of the Early Stage SBIC's investment committee.

V. Early Stage SBIC Licensing Evaluation Criteria.

A. General Criteria. SBA will evaluate an Early Stage SBIC license applicant

based on the submitted application materials, Investment Committee interviews with the applicant's management team, and the results of background investigations, public record searches, and other due diligence conducted by SBA and other Federal agencies. SBA will evaluate an Early Stage SBIC license applicant based on the same factors applicable to other license applicants, as set forth in 13 CFR 107.305, with particular emphasis on managers' skills and experience in evaluating and investing in early stage companies. As discussed in the Final Rule, evaluation criteria fall into four areas: (A) Management Team; (B) Track Record; (C) Proposed Investment Strategy; and (D) Organizational Structure and Fund Economics. You should review these regulations prior to completing your MAQ.

B. Managing SBA Leverage. SBA will pay particular attention to how a team's investment strategy works with proposed SBA leverage. Early Stage Debenture leverage either requires a 5 year interest and annual charge reserve from the date of issue or is structured with an original issue discount that covers the interest and annual charges for the first 5 years. In either case, Early Stage SBICs must identify how quarterly interest payments beginning in the 6th year from Debenture issue will be met. Sources of liquidity to make interest payments may include (a) private capital; (b) realizations; or (c) current income. As part of your plan of operations, you should carefully consider how your investment strategy will work with SBA leverage and make appropriate suggestions to manage risk. Risk mitigation strategies might include making some investments in current pay instruments, taking down less than a full tier of leverage (*i.e.,* leverage less than 100% of Regulatory Capital), taking leverage down later in the fund's life, lowering management expenses, and reserving more private capital. The strategies you choose to employ should be appropriate for your management team's track record and investment strategy.

C. SBA Diversification Rights. Per 13 CFR 107.320, SBA reserves the right to maintain diversification among Early Stage SBICs with respect to (i) the year in which they commence operations (''vintage year'') and (ii) geographic location.

1. *Vintage Year Diversification.* Vintage year has a major impact on the return expectations of a fund and excessive concentration in a single year could substantially increase program risk. Therefore, SBA reserves the right, when licensing Early Stage SBICs, to maintain diversification across vintage years. SBA believes that it will be able to manage vintage year diversification through its call process. If SBA receives an extraordinary number of qualified applicants in FY 2015, it may not approve all such applicants.

2. *Geographic Diversification.* All Early Stage SBICs must first meet SBA's basic licensing criteria. After those criteria are met, SBA reserves the right to maintain diversification among Early Stage SBICs with respect to the geographic location in which the Early Stage SBIC expects to invest.

Pravina Raghavan,

Deputy Associate Administrator, Office of Investment and Innovation.

[FR Doc. 2015–00247 Filed 1–9–15; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Reduced Vertical Separation Minimum

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 6, 2014. Aircraft operators seeking operational approval to conduct Reduced Vertical Separation Minimum (RVSM) operations within the 48 contiguous United States (U.S.), Alaska and a portion of the Gulf of Mexico must submit an application to the Certificate Holding District Office.

DATES: Written comments should be submitted by February 11, 2015.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget. Comments should be addressed to the attention of the Desk Officer, Department of Transportation/FAA, and sent via electronic mail to *oira_submission@omb.eop.gov,* or faxed to (202) 395–6974, or mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street NW., Washington, DC 20503.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Kathy DePaepe at (405) 954–9362, or by email at: *Kathy.DePaepe@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0679.

Title: Reduced Vertical Separation Minimum.

Form Numbers: There are no FAA forms associated with this collection.

Type of Review: Renewal of an information collection.

Background: The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on November 6, 2014 (79 FR 66028). The authority to collect data from aircraft operators seeking operational approval to conduct RVSM operations is contained in part 91, Section 91.180. Aircraft operators seeking operational approval to conduct RVSM operations within the 48 contiguous States of the United States (U.S.), Alaska and that portion of the Gulf of Mexico where the FAA provides air traffic services must submit their application to the Certificate Holding District Office (CHDO).

Respondents: Approximately 1,560 operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 30 hours.

Estimated Total Annual Burden: 46,800 hours.

Issued in Washington, DC, on January 5, 2015.

Albert R. Spence,

FAA Assistant Information Collection Clearance Officer, IT Enterprises Business Services Division, ASP–110.

[FR Doc. 2015–00255 Filed 1–9–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In December 2014, there were six applications approved. This notice also includes information on one application, approved in October 2014, inadvertently left off the October 2014 notice. Additionally, 17 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals and disapprovals under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR part 158). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: City of Bangor, Maine.

Application Number: 14–04–C–00–BGR.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $3,000,000.

Earliest Charge Effective Date: June 1, 2015.

Estimated Charge Expiration Date: May 1, 2018.

Class of Air Carriers Not Required To Collect PFC's: On demand air taxi commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Bangor International Airport.

Brief Description of Projects Approved for Collection and Use:

Terminal building renovations, phase 2.

PFC application costs.

Decision Date: October 29, 2014.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Regional Airports Division, (781) 238–7614.

Public Agency: Louisville Regional Airport Authority, Louisville, Kentucky.

Application Number: 14–19–C–00–SDF.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $2,150,000.

Earliest Charge Effective Date: January 1, 2016.

Estimated Charge Expiration Date: May 1, 2016.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31 and operating at Louisville International Airport (SDF).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at SDF.

Brief Description of Project Approved for Collection and Use: Runway safety area 11–29.

Decision Date: December 3, 2014.

FOR FURTHER INFORMATION CONTACT: Tommy DuPree, Memphis Airports District Office, (901) 322–8182.

Public Agency: Tri-Cities Airport Authority, Blountville, Tennessee.

Application Number: 15–06–C–00–TRI.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $1,866,027.

Earliest Charge Effective Date: March 1, 2015.

Estimated Charge Expiration Date: May 1, 2017.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31 and operating at Tri-Cities Regional Airport (TRI).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at TRI.

Brief Description of Projects Approved for Collection and Use:

Terminal road, phase 1.

Access control/EOC.

Terminal frontage improvements, phase 2.

Passenger loading bridge—gate 6.

Baggage claim system replacement.

PFC consultant/development costs.

Perimeter security fence.

PFC administrative costs.

Decision Date: December 3, 2014.

FOR FURTHER INFORMATION CONTACT: Cynthia Wills, Memphis Airports District Office, (901) 322–8190.

Public Agency: Evansville—Vanderburgh Airport Authority, Evansville, Indiana.

Application Number: 15–03–C–00–EVV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $2,431,208.

Earliest Charge Effective Date: May 1, 2015.

Estimated Charge Expiration Date: November 1, 2018.

Class of Air Carriers Not Required To Collect PFC's: Nonscheduled/on-demand operators filing FAA Form 1800–31 and operating at Evansville Regional Airport (EVV).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at EVV.

Brief Description of Project Approved for Collection and Use: Passenger boarding bridges purchase and installation.

Decision Date: December 5, 2014.

FOR FURTHER INFORMATION CONTACT: Michael Brown, Chicago Airports District Office, (847) 294–7195.

Public Agency: Massachusetts Port Authority, Boston Massachusetts.

Application Number: 14–09–C–00–BOS.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $96,941,002.

Earliest Charge Effective Date: May 1, 2023.

Estimated Charge Expiration Date: October 1, 2024.

Class of Air Carriers Not Required To Collect PFC'S: Non-scheduled/on-demand air carriers.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Boston Logan International Airport.

Brief Description of Projects Approved for Collection and Use at a $4.50 PFC Level:

Rehabilitate runway 15R/33L.

Rehabilitation of north Alpha and north Bravo taxiways.

Runway 22R safety area improvements and replacement of 22R engineered materials arresting system bed.

Checked baggage inspection systems enhancements.

Mitigation sound insulation program.

Decision Date: December 10, 2014.

FOR FURTHER INFORMATION CONTACT: Priscilla Scott, New England Regional Airports Division, (781) 238–7614.

Public Agency: County of Pitkin, Aspen, Colorado.

Application Number: 15–09–C–00–ASE.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved in this Decision: $3,155,000.

Earliest Charge Effective Date: February 1, 2016.

Estimated Charge Expiration Date: September 1, 2020.

Class of Air Carriers Not Required To Collect PFC'S: None.

Brief Description of Projects Approved for Collection and Use:

Conduct environmental assessment (airfield geometry/reconfiguration).

Conduct environmental assessment (terminal area and east side improvements).

Acquire snow removal equipment (blower, plow, and broom).

PFC administration fees.

Decision Date: December 17, 2014.

FOR FURTHER INFORMATION CONTACT: Jesse Lyman, Denver Airports District Office, (303) 342–1262.

Public Agency: Shreveport Airport Authority, Shreveport, Louisiana.

Application Number: 15–03–C–00–SHV.

Application Type: Impose and use a PFC.

PFC Level: $4.50.

Total PFC Revenue Approved In This Decision: $6,248,208.

Earliest Charge Effective Date: February 1, 2015.

Estimated Charge Expiration Date: February 1, 2020.

Class of Air Carriers Not Required To Collect PFC'S: On-demand air taxi/commercial operations.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the approved class accounts for less than 1 percent of the total annual enplanements at Shreveport Regional Airport.

Brief Description of Project Approved for Collection and Use: Terminal renovations, phase 2.

Decision Date: December 19, 2014.

FOR FURTHER INFORMATION CONTACT: Andy Velayos, Louisiana/New Mexico Airports Development Office, (817) 222–5647.

Amendments to PFC Approvals:

Amendment No. city, state	Amendment approved date	Original approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
11–11–C–02–RNO, Reno, NV	11/28/14	$33,933,876	$31,735,100	07/01/18	07/01/15
07–09–C–01–ATL, Atlanta, GA	12/17/14	38,058,462	30,722,380	01/01/20	01/01/20
05–05–C–08–EWR, Newark, NJ	12/18/14	566,136,035	561,101,209	09/01/11	09/01/11
05–05–C–08–JFK, New York, NY	12/18/14	646,919,140	641,165,883	07/01/11	07/01/11
05–05–C–08–LGA, New York, NY	12/18/14	422,230,884	418,475,852	07/01/11	07/01/11
09–06–U–03–EWR, Newark, NJ	12/18/14	NA	NA	09/01/11	09/01/11
09–06–U–03–JFK, New York, NY	12/18/14	NA	NA	07/01/11	07/01/11
09–06–U–03–LGA, New York, NY	12/18/14	NA	NA	07/01/11	07/01/11
10–07–C–01–EWR, Newark, NJ	12/18/14	191,631,217	190,025,386	08/01/14	08/01/14
10–07–C–01–JFK, New York, NY	12/18/14	255,794,990	253,651,480	06/01/14	06/01/14
10–07–C–01–LGA, New York, NY	12/18/14	121,561,393	120,542,733	06/01/14	06/01/14
10–04–C–01–SWF, Newburgh, NY	12/18/14	4,415,202	4,378,203	02/01/14	02/01/14
12–08–C–01–EWR, Newark, NJ	12/18/14	121,393,042	121,393,042	10/01/17	10/01/17
12–08–C–01–JFK, New York, NY	12/18/14	296,109,860	296,109,860	09/01/17	11/01/17
12–08–C–01–LGA, New York, NY	12/18/14	150,655,394	150,655,394	09/01/17	11/01/17
12–05–C–01–SWF, Newburgh, NY	12/18/14	3,372,027	3,372,027	02/01/18	02/01/18
11–11–C–01–CLE, Cleveland, OH	12/19/14	36,577,300	72,641,519	02/01/21	09/01/23

Issued in Washington, DC, on December 31, 2014.

Joe Hebert,

Manager, Financial Analysis and Passenger Facility Charge Branch.

[FR Doc. 2015–00251 Filed 1–9–15; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

January 6, 2015.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before February 11, 2015 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.gov* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission may be obtained by emailing *PRA@treasury.gov,* calling (202) 927–5331, or viewing the entire information collection request at *www.reginfo.gov.*

Community Development Financial Institutions (CDFI) Fund

OMB Number: 1559–0041.

Type of Review: Reinstatement without change of a previously approved collection.

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: This collection of information is necessary to enable the Agency to garner customer and stakeholder feedback in an efficient, timely manner, in accordance with our commitment to improving service delivery. The information collected from our customers and stakeholders will help ensure that users have an effective, efficient, and satisfying experience with the Agency's programs. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service,

or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

Affected Public: Businesses or other for-profits, not-for-profit institutions.

Estimated Annual Burden Hours: 10,000.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2015–00208 Filed 1–9–15; 8:45 am]

BILLING CODE 4810–70–P

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