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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 331

9 CFR Part 121

[Docket No. APHIS–2014–0095]

RIN 0579–AE08

Agricultural Bioterrorism Protection Act of 2002; Biennial Review and Republication of the Select Agent and Toxin List; Amendments to the Select Agent and Toxin Regulations; Delay of Effective Date

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; delay of effective date.

SUMMARY: On January 19, 2017, we published a final rule amending the select agent and toxin regulations in several ways, including the addition of provisions to address the inactivation of select agents, provisions addressing biocontainment and biosafety, and clarification of regulatory language concerning security, training, incident response, and records. In this document, we are delaying the effective date of that final rule.

DATES: The effective date of the final rule published on January 19, 2017 (82 FR 6197), is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen O'Neill, Chief, Regulatory Analysis and Development, PPD, APHIS, 4700 River Road Unit 118, Riverdale, MD 20737–1234; (301) 851–3175.

SUPPLEMENTARY INFORMATION: On January 19, 2017, the Animal and Plant Health Inspection Service (APHIS) published a final rule (82 FR 6197–6210) to amend the select agent and toxin regulations in several ways, including the addition of provisions to address the inactivation of select agents, provisions addressing biocontainment and biosafety, and clarification of regulatory language concerning security, training, incident response, and records. In this document, we are delaying the effective date until March 21, 2017, in accordance with guidance issued January 20, 2017, intended to provide the new Administration an adequate opportunity to review new and pending regulations.

To the extent that 5 U.S.C. 553(b)(A) applies to this action, it is exempt from notice and comment for good cause and the reasons cited above. APHIS finds that notice and solicitation of comment regarding the brief extension of the effective date for the final regulation are impracticable, unnecessary, or contrary to the public interest pursuant to 5 U.S.C. 553(b)(B). APHIS also believes that affected entities need to be informed as soon as possible of the extension and its length in order to plan and adjust their implementation process accordingly.

Authority: 7 U.S.C. 8401; 7 CFR 2.22, 2.80, and 371.3.

Done in Washington, DC, this 10th day of February 2017.

Michael C. Gregoire,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 2017–03125 Filed 2–15–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6430; Directorate Identifier 2015–NM–176–AD; Amendment 39–18781; AD 2017–02–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2005–13–30, for all The Boeing Company Model 737–100, –200, and –200C series airplanes. AD 2005–13–30 required repetitive inspections to detect discrepancies of certain fuselage skin panels located just aft of the wheel well, and repair if necessary. This new AD adds new fuselage skin inspections for cracking, inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers, permanent repairs of time-limited repairs, related investigative and corrective actions if necessary, and skin panel replacement. This AD was prompted by an evaluation by the design approval holder (DAH) indicating that the fuselage skin is subject to widespread fatigue damage (WFD), and reports of cracks at the chem-milled steps in the fuselage skin. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 23, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 23, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; Internet *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6430.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–6430; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200

New Jersey Avenue SE., Washington, DC 20590.

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

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2005–13–30, Amendment 39–14167 (70 FR 36829, June 27, 2005) (''AD 2005–13–30''). AD 2005–13–30 applied to all Boeing Model 737–100, –200, and –200C series airplanes. The NPRM published in the **Federal Register** on May 11, 2016 (81 FR 29202) (''the NPRM''). The NPRM was prompted by an evaluation by the DAH indicating that the fuselage skin is subject to WFD, and reports of cracks at the chem-milled steps in the fuselage skin. The NPRM proposed to require fuselage skin inspections for cracking, inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers, permanent repairs of time-limited repairs, related investigative and corrective actions if necessary, and skin panel replacement. We are issuing this AD to detect and correct fatigue cracking of the fuselage skin panels, which could cause rapid decompression of the airplane.

Comments

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

Request To Revise Compliance Time

Boeing requested that we revise paragraph (i)(4) of the proposed AD to specify that the exception to the service information is for airplanes on which an operator has a record that a skin panel was replaced with a production skin panel ''before'' 59,000 total flight cycles, instead of ''at or before'' 59,000 total flight cycles, because of limit of validity (LOV) issues. Boeing also requested that we revise the condition statement regarding the time the skin panel was replaced in paragraph (m) of the proposed AD from ''after'' 59,000 total flight cycles to ''at or after'' 59,000 total flight cycles; and in paragraphs (m)(1) and (m)(2) of the proposed AD from ''at or before'' to ''before.'' Boeing explained that if a skin panel is replaced at or after 59,000 total flight cycles, no additional safety inspections would be needed due to the LOV. Boeing stated that upon reaching the LOV the airplane will be retired domestically and no longer supported by Boeing.

Boeing also requested that we revise the compliance time for the skin panel replacement in paragraph (i)(4) of the proposed AD to a time approved by the FAA through the alternative method of compliance (AMOC) process instead of the time specified in the service information. Boeing stated that since a Boeing Commercial Airplanes Organization Designation Authorization (ODA) representative cannot approve extensions to the compliance times required by an AD, the AMOC approval would have to come from the FAA.

We partially agree with Boeing's requests. We agree to change the identification of the affected airplanes as requested by Boeing in paragraphs (i)(4), (m), (m)(1), and (m)(2) of this AD. These changes will address the LOV issues expressed by Boeing. We do not agree with changing the compliance time from the applicable time for the next inspection as specified in the service information. We have determined that this is an appropriate compliance time and provides an acceptable level of safety. It also provides operators with sufficient information for maintenance planning purposes.

Request To Revise Instructions for Skin Panel Replacement

Boeing requested that we revise paragraph (m) of the proposed AD, which specifies replacing the applicable skin panels and doing all applicable related investigative and corrective actions, with replacing the skin panels in accordance with Part 8 of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1065, Revision 3, dated June 30, 2015 (''SASB 737–53–1065, R3'').

We agree with replacing the skin panels in accordance with Part 8 of the Accomplishment Instructions of SASB 737–53–1065, R3. Part 8 of the Accomplishment Instructions of SASB 737–53–1065, R3 adequately specifies the required actions. We have revised paragraph (m) of this AD accordingly.

Request To Add Service Information Paragraph Part References

Boeing requested that we revise paragraphs (j)(1)(ii), (j)(2)(ii), and (k) of the proposed AD by adding the service information paragraph part references. Boeing stated that paragraph (h) of the proposed AD includes the part reference.

We do not agree with Boeing's requests. Paragraph (h) of this AD, in part, specifies the specific service information paragraph reference for doing repairs that are terminating action for the repetitive inspections at the repaired locations only. We determined that this reference is needed for clarity. We do not agree that the other references are needed for clarity. We have not changed this AD in this regard.

Request To Clarify Post-modification Airworthiness Limitation Inspections

Boeing requested that we revise paragraph (l) of the proposed AD to specify that table 6 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3 is for post-modification airworthiness limitation inspections at the modified locations. Boeing explained that since airworthiness limitation inspections are required by maintenance and operational rules, it is unnecessary to mandate them in this AD.

We agree with Boeing's request. We have revised paragraph (l) of this AD accordingly.

Request To Revise the NPRM To Address Certain Repaired Areas

For airplanes subject to the requirements of paragraph (h) of the proposed AD, Boeing requested that we add a paragraph that specifies that inspections are not required in areas that are spanned by an FAA-approved repair that has met certain conditions. Boeing submitted specific conditions. Boeing stated that its request is to address elimination of inspections for repairs that have been accomplished for damage other than chem-mill cracking.

We do not agree with Boeing's request. Paragraph (h) of this AD specifies to do the applicable inspections and related investigative and corrective actions specified in the Accomplishment Instructions of SASB 737–53–1065, R3. This service information already contains the criteria Boeing proposed. Therefore, the criteria do not need to be repeated in this AD. We have not changed this AD in this regard.

Conclusion

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

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed SASB 737–53–1065, R3. The service information describes procedures for inspection and repair of the fuselage skin panels between body station (BS) 727 and BS 1016, and between stringers S–14 and S–25; and also describes procedures for skin panel replacement. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

We estimate that this AD affects 9 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection [actions retained from AD 2005–13–30].	Up to 88 work-hours × $85 per hour = $7,480 per inspection cycle.	$0	Up to $7,480 per inspection cycle.	Up to $67,320 per inspection cycle.
Inspection [new action]	Up to 1,914 work-hours × $85 per hour = $162,690 per inspection cycle.	0	Up to $162,690 per inspection cycle.	Up to $1,464,210 per inspection cycle.
Skin panel replacement [new action]	688 work-hours × $85 per hour = $58,480	96,000	$154,480	$1,390,320.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Time-limited repair	24 work-hours × $85 per hour = $2,040	(1)	1 $2,040
Permanent repair	43 work-hours × $85 per hour = $3,655	(1)	1 3,655
Permanent repair inspection	7 work-hours × $85 per hour = $595	(1)	1 595

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

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2005–13–30, Amendment 39–14167 (70 FR 36829, June 27, 2005), and adding the following new AD:

2017–02–02 The Boeing Company: Amendment 39–18781; Docket No. FAA–2016–6430; Directorate Identifier 2015–NM–176–AD.

(a) Effective Date

This AD is effective March 23, 2017.

(b) Affected ADs

This AD replaces AD 2005–13–30, Amendment 39–14167 (70 FR 36829, June 27, 2005) (''AD 2005–13–30'').

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, and –200C series airplanes, certificated in any category.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder indicating that the fuselage skin is subject to widespread fatigue damage, and reports of cracks at the chem-milled steps in the fuselage skin. We are issuing this AD to detect and correct fatigue cracking of the fuselage skin panels, which could cause rapid decompression of the airplane.

(f) Compliance

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

(g) Actions for Group 1 Airplanes

For Group 1 airplanes identified in Boeing Special Attention Service Bulletin 737–53–1065, Revision 3, dated June 30, 2015 (''SASB 737–53–1065, R3''): Within 120 days after the effective date of this AD, accomplish actions to correct the unsafe condition (*e.g.,* inspections, repairs, modifications, and related investigative and corrective actions) using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(h) Inspections, Related Investigative and Corrective Actions

Except for Group 1 airplanes identified in SASB 737–53–1065, R3: At the applicable times specified in tables 1 and 2 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3, except as required by paragraphs (i)(1) and (i)(2) of this AD, do the applicable inspections to detect cracks in the fuselage skin panels; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of SASB 737–53–1065, R3, except as required by paragraphs (i)(3) and (i)(4) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in SASB 737–53–1065, R3. Accomplishment of a repair in accordance with ''Part 3: Repair'' of the Accomplishment Instructions of SASB 737–53–1065, R3, except as required by paragraph (i)(3) of this AD, is terminating action for the repetitive inspections required by this paragraph at the repaired locations only.

(i) Exceptions to SASB 737–53–1065, R3

(1) Where SASB 737–53–1065, R3 specifies compliance times ''after the Revision 3 date of this service bulletin,'' this AD requires compliance within the specified compliance times after the effective date of this AD.

(2) The Condition column of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3 refers to airplanes in certain configurations as of the ''issue date of Revision 3 of this service bulletin.'' However, this AD applies to airplanes in the specified configurations ''as of the effective date of this AD.''

(3) Where SASB 737–53–1065, R3 specifies contacting Boeing for repair instructions or work instructions, before further flight, repair or perform the work instructions using a method approved in accordance with the procedures specified in paragraph (o) of this AD, except as required by paragraph (i)(4) of this AD.

(4) For airplanes on which an operator has a record that a skin panel was replaced with a production skin panel before 59,000 total flight cycles: At the applicable time for the next inspection as specified in tables 1 and 2 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3, except as provided by paragraphs (i)(1) and (i)(2) of this AD, perform inspections and applicable corrective actions using a method approved in accordance with the procedures specified in paragraph (o) of this AD.

(j) Actions for Airplanes With a Time Limited Repair Installed

Except for Group 1 airplanes identified in SASB 737–53–1065, R3: Do the applicable actions required by paragraphs (j)(1) and (j)(2) of this AD.

(1) For airplanes with a time limited repair installed as specified in Boeing Special Attention Service Bulletin 737–53–1065, Revision 2, dated April 19, 2001: At the applicable times specified in table 3 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3, except as provided by paragraphs (i)(1) and (i)(2) of this AD, do the actions specified in paragraphs (j)(1)(i) and (j)(1)(ii) of this AD.

(i) Do the applicable inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of SASB 737–53–1065, R3, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in SASB 737–53–1065, R3.

(ii) Make the time limited repair permanent; and do all applicable related investigative and corrective actions; in accordance the Accomplishment Instructions of SASB 737–53–1065, R3, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Accomplishing the permanent repair required by this paragraph terminates the inspections required by paragraph (j)(1)(i) of this AD for the permanently repaired area only.

(2) For airplanes with a time limited repair installed as specified in SASB 737–53–1065, R3: At the applicable times specified in table 4 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3, do the actions specified in paragraphs (j)(2)(i) and (j)(2)(ii) of this AD.

(i) Do the applicable inspections to detect missing or loose fasteners and any disbonding or cracking of bonded doublers; and do all applicable related investigative and corrective actions; in accordance with the Accomplishment Instructions of SASB 737–53–1065, R3, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the applicable inspections thereafter at the applicable intervals specified in SASB 737–53–1065, R3.

(ii) Make the time limited repair permanent; and do all applicable related investigative and corrective actions; in accordance the Accomplishment Instructions of SASB 737–53–1065, R3, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight. Accomplishing the permanent repair required by this paragraph terminates the inspections required by paragraph (j)(2)(i) of this AD for the permanently repaired area only.

(k) Modification of Certain Permanent Repairs

Except for Group 1 airplanes identified in SASB 737–53–1065, R3: For airplanes with an existing time limited repair that was made permanent as specified in Boeing Special Attention Service Bulletin 737–53–1065, Revision 2, dated April 19, 2001, at the applicable times specified in table 5 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3, except as required by paragraph (i)(1) of this AD, modify the existing permanent repair; and do all applicable related investigative and corrective actions; in accordance the Accomplishment Instructions of SASB 737–53–1065, R3, except as required by paragraph (i)(3) of this AD. Do all applicable related investigative and corrective actions before further flight.

(l) Post-Modification Inspections

Table 6 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1065, R3 specifies post-modification airworthiness limitation inspections in compliance with 14 CFR 25.571(a)(3) at the modified locations, which support compliance with 14 CFR 121.1109(c)(2) or 129.109(b)(2). As airworthiness limitations, these inspections are required by maintenance and operational rules. It is therefore unnecessary to mandate them in this AD. Deviations from these inspections require FAA approval, but do not require an alternative method of compliance.

(m) Skin Panel Replacement

Except for Group 1 airplanes identified in SASB 737–53–1065, R3: At the later of the times specified in paragraphs (m)(1) and (m)(2) of this AD, replace the applicable skin panels, in accordance with the Part 8 of the Accomplishment Instructions of SASB 737–53–1065, R3. Doing the skin panel replacement required by this paragraph terminates the inspection requirements of paragraph (h) of this AD for that skin panel only, provided the skin panel was replaced with a production skin panel at or after 59,000 total flight cycles.

(1) Before 60,000 total flight cycles, but not before 59,000 total flight cycles.

(2) Within 6,000 flight cycles after the effective date of this AD, but not before 59,000 total flight cycles.

(n) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraph (h) of this AD, if those actions were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 737–53–1065, Revision 2, dated April 19, 2001, which was incorporated by reference in AD 2005–13–30.

(o) Alternative Methods of Compliance (AMOCs)

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

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

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

(4) AMOCs approved previously for AD 2005–13–30, are approved as AMOCs for the corresponding provisions of paragraph (h) of this AD.

(p) Related Information

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

(q) Material Incorporated by Reference

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

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

(i) Boeing Special Attention Service Bulletin 737–53–1065, Revision 3, dated June 30, 2015.

(ii) Reserved.

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

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

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

Issued in Renton, Washington, on January 11, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–03112 Filed 2–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–7003; Directorate Identifier 2016–CE–015–AD; Amendment 39–18766; AD 2016–26–08]

RIN 2120–AA64

Airworthiness Directives; PILATUS AIRCRAFT LTD. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting an airworthiness directive (AD) that published in the **Federal Register**. That AD applies to all PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes. The second reference to the main landing gear (MLG) in paragraph (f)(6) is incorrect. This document corrects that error. In all other respects, the original document remains the same; however we are publishing the entire rule in the **Federal Register**.

DATES: This final rule is effective February 16, 2017. The effective date of AD 2016–26–08 remains February 9, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 9, 2017 (82 FR 1172, January 5, 2017).

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7003; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Document Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

SUPPLEMENTARY INFORMATION: Airworthiness Directive 2016–26–08, Amendment 39–18766 (82 FR 1172, January 5, 2017), requires incorporating new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (*e.g.,* maintenance manual). The limitations were revised to include repetitive inspections of the main landing gear (MLG) attachment bolts.

As published, in paragraph (f)(6) there is a typographical error to the second reference of the MLG. The published reference is MLB and it is should be MLG.

Although no other part of the preamble or regulatory information has been corrected, we are publishing the entire rule in the **Federal Register**.

The effective date of this AD remains February 9, 2017.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Corrected]

■ 2. The FAA amends § 39.13 by removing 39–18005 (79 FR 67343, November 13, 2014) and adding the following new AD:

2016–26–08 PILATUS AIRCRAFT LTD.: Amendment 39–18766; Docket No. FAA–2016–7003; Directorate Identifier 2016–CE–015–AD.

(a) Effective Date

This airworthiness directive (AD) is effective February 9, 2017.

(b) Affected ADs

This AD replaces AD 2014–22–01, 39–18005 (79 FR 67343, November 13, 2014).

(c) Applicability

This AD applies to PILATUS AIRCRAFT LTD. Models PC–12, PC–12/45, PC–12/47, and PC–12/47E airplanes, all manufacturer serial numbers (MSNs), certificated in any category.

(d) Subject

Air Transport Association of America (ATA) Code 5: Time Limits.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as a need to incorporate new revisions into the Limitations section, Chapter 4, of the FAA-approved maintenance program (*e.g.,* maintenance manual). The limitations were revised to include repetitive inspections of the main landing gear (MLG) attachment bolts. These actions are required to ensure the continued operational safety of the affected airplanes.

(f) Actions and Compliance

Unless already done, do the actions in paragraphs (f)(1) through (6) of this AD:

(1) Before further flight after February 9, 2017 (the effective date of this AD), insert the following revisions into the Limitations section of the FAA-approved maintenance program (*e.g.,* maintenance manual). Compliance with an electronic version of the Limitations section is acceptable provided the specifically referenced sections are followed even though there may be differences with the pagination:

(i) STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS, Data module code 12–A–04–00–00–00A–000A–A, dated July 12, 2016, of the Pilatus Model type—PC–12, PC–12/45, PC–12/47 MSN–101–888, Aircraft Maintenance Manual (AMM), Document No. 02049, 12–A–AM–00–00–00–I, revision 32, dated July 18, 2016; and

(ii) STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS, Data module code 12–B–04–00–00–00A–000A–A, dated July 19, 2016, of the Pilatus Model type—PC–12/47E MSN–1001–UP, Aircraft Maintenance Manual (AMM), Document No. 02300, 12–B–AM–00–00–00–I, revision 15, dated July 30, 2016.

(2) The new limitations section revisions listed in paragraphs (f)(1)(i) and (ii) of this AD specify the following:

(i) Establish inspections of the MLG attachment bolts,

(ii) Specify replacement of components before or upon reaching the applicable life limit, and

(iii) Specify accomplishment of all applicable maintenance tasks within certain thresholds and intervals.

(3) Only authorized Pilatus Service Centers can do the Supplemental Structural Inspection Document (SSID) as required by the documents in paragraphs (f)(1)(i) and (ii) of this AD because deviations from the type design in critical locations could make the airplane ineligible for this life extension.

(4) If no compliance time is specified in the documents listed in paragraphs (f)(1)(i) and (ii) of this AD when doing any corrective actions where discrepancies are found as required in paragraph (f)(2)(iii) of this AD, do these corrective actions before further flight after doing the applicable maintenance task.

(5) During the accomplishment of the actions required in paragraph (f)(2) of this AD, including all subparagraphs, if a discrepancy is found that is not identified in the documents listed in paragraphs (f)(1)(i) and (ii) of this AD, before further flight after finding the discrepancy, contact PILATUS AIRCRAFT LTD. at the address specified in paragraph (h) of this AD for a repair scheme and incorporate that repair scheme.

(6) Before or upon accumulating 6 years time-in-service (TIS) on the MLG attachment bolts or within the next 3 months TIS after February 9, 2017 (the effective date of this AD), whichever occurs later, inspect the MLG attachment bolts for cracks and corrosion and before further flight take all necessary corrective actions.

(g) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: *doug.rudolph@faa.gov.*

(i) Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(ii) AMOCs approved for AD 2014–22–01, 39–18005 (79 FR 67343, November 13, 2014) are not approved as AMOCs for this AD.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(h) Related Information

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2016–0083, dated April 28, 2016, for related information. You may examine the MCAI on the Internet at *https://www.regulations.gov/document?D=FAA-2016-7003-0002.*

(i) Material Incorporated by Reference

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

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

(i) STRUCTURAL, COMPONENT AND MISCELLANEOUS—AIRWORTHINESS LIMITATIONS, Data module code 12–A–04–00–00–00A–000A–A, dated July 12, 2016, of the Pilatus Model type—PC–12, PC–12/45, PC–12/47 MSN–101–888, Aircraft Maintenance Manual (AMM), Document No. 02049, 12–A–AM–00–00–00–I, revision 32, dated July 18, 2016.

(ii) STRUCTURAL AND COMPONENT LIMITATIONS—AIRWORTHINESS LIMITATIONS, Data module code 12–B–04–00–00–00A–000A–A, dated July 19, 2016, of the Pilatus Model type—PC–12/47E MSN–1001–UP, Aircraft Maintenance Manual (AMM), Document No. 02300, 12–B–AM–00–00–00–I, revision 15, dated July 30, 2016.

(3) For PILATUS AIRCRAFT LTD. service information identified in this AD, contact PILATUS AIRCRAFT LTD., Customer Service Manager, CH–6371 STANS, Switzerland; telephone: +41 (0) 41 619 33 33; fax: +41 (0) 41 619 73 11; Internet: *http://www.pilatus-aircraft.com* or email: *SupportPC12@pilatus-aircraft.com.*

(4) You may view this service information at FAA, FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. In addition, you can access this service information on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–7003.

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

Issued in Kansas City, Missouri, on January 24, 2017.

Melvin Johnson,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–02772 Filed 2–15–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2013–0797; Directorate Identifier 2013–NM–007–AD; Amendment 39–18776; AD 2017–01–09]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: The FAA is correcting an airworthiness directive (AD) that published in the **Federal Register**. That AD applies to certain The Boeing Company Model 767–300 and 767–300F airplanes. Certain service information citations in the preamble and regulatory text are incorrect. This document corrects those errors. In all other respects, the original document remains the same.

DATES: This final rule is effective February 21, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of February 21, 2017 (82 FR 4778, January 17, 2017).

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone: 562–797–1717; Internet: *https://www.myboeingfleet.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2013–0797.

Examining the AD Docket

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

FOR FURTHER INFORMATION CONTACT: Francis Smith, Aerospace Engineer, Cabin Safety and Environmental Controls Branch, ANM–150S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6596; fax: 425–917–6590; email: *francis.smith@faa.gov.*

SUPPLEMENTARY INFORMATION: Airworthiness Directive 2017–01–09, amendment 39–18776 (82 FR 4778, January 17, 2017), requires modification and installation of components in the main equipment center for certain Model 767–300 and 767–300F series airplanes. For certain airplanes, AD 2017–01–09 also requires modification, replacement, and installation of flight deck air relief system (FDARS) components.

Need for the Correction

As published, certain service information citations in the preamble and regulatory text were incorrect. The incorrectly specified citation in the preamble and regulatory text was Boeing Service Bulletin 767–27–0244, Revision 1, dated March 8, 2010 (''SB 767–27–0244, R1''); the correct citation is Boeing Service Bulletin 767–21–0244, Revision 1, dated March 8, 2010 (''SB 767–21–0244, R1'').

Related Service Information Under 1 CFR Part 51

We reviewed the following service information.

- Boeing Service Bulletin 767–21–0235, dated October 8, 2009; and Revision 1, dated July 29, 2011 (''SB 767–21–0235, R1''). The service information describes procedures for a relay installation and related wiring changes (which change (modify) the 3-way valve control logic for the cooling system for the flight deck display equipment on freighter airplanes).
- Boeing Service Bulletin 767–21–0244, Revision 1, dated March 8, 2010 (''SB 767–21–0244, R1''). The service information describes procedures for changing (modifying) the 3-way valve control logic and installing a cooling system for the flight deck display equipment.
- Boeing Alert Service Bulletin 767–21A0245, Revision 2, dated September 27, 2013 (''ASB 767–21A0245, R2''); and Boeing Alert Service Bulletin 767–21A0247, Revision 1, dated April 9, 2013 (''ASB 767–21A0247, R1''). The service information describes procedures for changing (modifying) the 3-way valve control logic and main cargo air distribution system (MCADS), and installing an FDARS. These documents are distinct since they apply to different airplane models.
- Boeing Alert Service Bulletin 767–21A0253, dated October 12, 2012. The service information describes procedures for replacing the existing duct, installing an FDARS, changing (modifying) the 3-way valve control logic, and installing a new altitude switch and pitot tube.
- Boeing Alert Service Bulletin 767–21A0254, dated June 7, 2013. The service information describes procedures for replacing the duct with a new duct; installing an FDARS (including the installation of mounting brackets, ducts, orifice, outlet valve, and screen); and activating the 3-way valve logic (including modification of the associated wiring and related actions).
- Boeing Service Bulletin 767–31–0073, dated October 12, 1995. The service information describes procedures for installing a maintenance data selection system for the engine indication and crew alerting system.

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

Correction of Publication

This document corrects errors in the citation of certain service information and correctly adds the AD as an amendment to 14 CFR 39.13. Although no other part of the preamble or regulatory information has been corrected, we are publishing the entire rule in the **Federal Register**.

The effective date of this AD remains February 21, 2017.

Since this action only corrects errors in the citation of certain service information, it has no adverse economic impact and imposes no additional burden on any person. Therefore, we have determined that notice and public procedures are unnecessary.

List of Subjects in 14 CFR Part 39

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

Adoption of the Correction

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Corrected]

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

2017–01–09 The Boeing Company: Amendment 39–18776; Docket No. FAA–2013–0797; Directorate Identifier 2013–NM–007–AD.

(a) Effective Date

This AD is effective February 21, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 767–300 and 767–300F series airplanes, certificated in any category; as identified in the service information specified in paragraphs (c)(1) through (c)(5) of this AD. This AD does not apply to The Boeing Company Model 767–300 (passenger) series airplanes.

(1) Boeing Service Bulletin 767–21–0244, Revision 1, dated March 8, 2010 (''SB 767–21–0244, R1'').

(2) Boeing Alert Service Bulletin 767–21A0245, Revision 2, dated September 27, 2013 (''ASB 767–21A0245, R2'').

(3) Boeing Alert Service Bulletin 767–21A0247, Revision 1, dated April 9, 2013 (''ASB 767–21A0247, R1'').

(4) Boeing Alert Service Bulletin 767–21A0253, dated October 12, 2012.

(5) Boeing Alert Service Bulletin 767–21A0254, dated June 7, 2013.

(d) Subject

Air Transport Association (ATA) of America Code 21, Air Conditioning.

(e) Unsafe Condition

This AD was prompted by reports of malfunctions in the flight deck display units, which resulted in blanking, blurring, or loss of color on the display. We are issuing this AD to prevent malfunctions of the flight deck display units, which could affect the ability of the flight crew to read the displays for airplane attitude, altitude, or airspeed, and consequently reduce the ability of the flight crew to maintain control of the airplane.

(f) Compliance

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

(g) Installation of Flight Deck Air Relief System (FDARS) and 3-Way Valve Logic Change or Activation

(1) For Model 767–300F series airplanes, as identified in Boeing Alert Service Bulletin 767–21A0253, dated October 12, 2012: Within 72 months after the effective date of this AD, in the main equipment center and the area under the left and right sides of the flight deck floor, replace the existing duct with a new duct; install an FDARS (including the installation of mounting brackets, ducts, orifice, outlet valve, and screen); change the 3-way valve logic (including modification of the associated wiring and related actions); and install a new altitude switch and pitot tube; in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–21A0253, dated October 12, 2012.

(2) For Model 767–300F series airplanes, as identified in Boeing Alert Service Bulletin 767–21A0254, dated June 7, 2013: Within 72 months after the effective date of this AD, in the main equipment center and the area under the left and right sides of the flight deck floor, replace the duct with a new duct; install an FDARS (including the installation of mounting brackets, ducts, orifice, outlet valve, and screen); and activate the 3-way valve logic (including modification of the associated wiring and related actions); in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 767–21A0254, dated June 7, 2013.

(h) Installation of FDARS and a 3-Way Valve Control Logic and Main Cargo Air Distribution System Change

(1) For Model 767–300F series airplanes, as identified in ASB 767–21A0245, R2: Within 72 months after the effective date of this AD, in the main equipment center and the area under the left and right sides of the flight deck floor, change (modify) the 3-way valve control logic and main cargo air distribution system (MCADS), and install an FDARS, in accordance with the Accomplishment Instruction of ASB 767–21A0245, R2, except as provided by paragraph (j) of this AD.

(2) For Model 767–300F series airplanes, as identified in ASB 767–21A0247, R1: Within 72 months after the effective date of this AD, change (modify) the 3-way valve control logic and MCADS, and install an FDARS, in accordance with the Accomplishment Instructions of ASB 767–21A0247, R1.

(i) Installation of a Flight Deck Display Equipment Cooling System and a 3-Way Valve Logic Change

For Model 767–300 series airplanes that have been converted by Boeing to Model 767–300BCF (Boeing Converted Freighter) airplanes, as identified in SB 767–21–0244, R1: Within 72 months after the effective date of this AD, change (modify) the 3-way valve control logic and install a flight deck display equipment cooling system, in accordance with the Accomplishment Instructions of SB 767–21–0244, R1.

(j) Exception to Paragraph (h)(1) of This AD

For Model 767–300F series airplanes, as identified in ASB 767–21A0245, R2: If the 3 way valve control logic change (modification) specified in Boeing Service Bulletin 767–21–0235, dated October 8, 2009; or Revision 1, dated July 29, 2011 (''SB 767–21–0235, R1''); is done prior to or concurrent with the actions required by paragraph (h)(1) of this AD, operators need to do only the functional test, FDARS installation, and flex duct change, in accordance with the Accomplishment Instructions of ASB 767–21A0245, R2. Operators do not need to do the other actions specified in the Accomplishment Instructions of ASB 767–21A0245, R2, if the actions in the Accomplishment Instructions of Boeing Service Bulletin 767–21–0235, dated October 8, 2009; or SB 767–21–0235, R1; are done concurrently. If the functional test fails, before further flight, do corrective actions that are approved in accordance with the procedures specified in paragraph (l) of this AD.

(k) Concurrent Requirements

(1) For Groups 1 and 3 airplanes, as identified in ASB 767–21A0245, R2: Prior to or concurrently with accomplishing the requirements of paragraph (h)(1) of this AD, do the relay installation and related wiring changes specified in, and in accordance with, the Accomplishment Instructions of Boeing Service Bulletin 767–21–0235, dated October 8, 2009; or SB 767–21–0235, R1.

(2) For Group 1 airplanes, as identified in ASB 767–21A0247, R1: Prior to or concurrently with accomplishing the requirements of paragraph (h)(2) of this AD, do the relay installation and related wiring changes specified in the Accomplishment Instructions of Boeing Service Bulletin 767–21–0235, dated October 8, 2009; or SB 767–21–0235, R1.

(3) For Model 767–300 series airplanes that have been converted by Boeing to Model 767–300BCF airplanes, as identified in SB 767–21–0244, R1: Prior to or concurrently with accomplishing the requirements of paragraph (i) of this AD, do all the actions (installation) specified in the Accomplishment Instructions of Boeing Service Bulletin 767–31–0073, dated October 12, 1995.

(l) Alternative Methods of Compliance (AMOCs)

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

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

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

(m) Related Information

For more information about this AD, contact Francis Smith, Aerospace Engineer, Cabin Safety and Environmental Controls Branch, ANM–150S, FAA, Seattle ACO, 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6596; fax:425 917–6590; email: *francis.smith@faa.gov.*

(n) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on February 21, 2017 (82 FR 4778, January 17, 2017).

(i) Boeing Service Bulletin 767–21–0235, dated October 8, 2009.

(ii) Boeing Service Bulletin 767–21–0235, Revision 1, dated July 29, 2011.

(iii) Boeing Service Bulletin 767–21–0244, Revision 1, dated March 8, 2010.

(iv) Boeing Alert Service Bulletin 767–21A0245, Revision 2, dated September 27, 2013.

(v) Boeing Alert Service Bulletin 767–21A0247, Revision 1, dated April 9, 2013.

(vi) Boeing Alert Service Bulletin 767–21A0253, dated October 12, 2012.

(vii) Boeing Alert Service Bulletin 767–21A0254, dated June 7, 2013.

(viii) Boeing Service Bulletin 767–31–0073, dated October 12, 1995.

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

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

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

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

Michael Kaszycki,

Assistant Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–03028 Filed 2–15–17; 8:45 am]

BILLING CODE 4910–13–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1614

RIN 3046–AA94

Affirmative Action for Individuals With Disabilities in Federal Employment

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the Presidential directive in the memorandum from the Assistant to the President and Chief of Staff, dated January 20, 2017, and entitled ''Regulatory Freeze Pending Review,'' the U.S. Equal Employment Opportunity Commission (''EEOC'') is delaying the effective date of a final rule published in the **Federal Register** on January 3, 2017.

DATES: The effective date of the EEOC final rule published on January 3, 2017, at 82 FR 654, is delayed from March 6, 2017, to March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Christopher Kuczynski, Assistant Legal Counsel, (202) 663–4665, or Aaron Konopasky, Senior Attorney-Advisor, (202) 663–4127 (voice), or (202) 663–7026 (TTY), Office of Legal Counsel, U.S. Equal Employment Opportunity Commission. (These are not toll free numbers.) Requests for this document in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY). (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: On January 3, 2017, the EEOC published a final rule amending 29 CFR 1614.203 to clarify the affirmative action obligations that Section 501 of the Rehabilitation Act of 1973, 29 U.S.C. 791, imposes on federal agencies as employers. As clarified in a correction published on January 11, 2017, at 32 FR 3170, the rule was to become effective on March 6, 2017. On January 20, 2017, the White House issued a memorandum instructing Federal agencies to postpone until 60 days after January 20, 2017, the effective dates of any regulations that had been published in the **Federal Register** but had not yet taken effect, for the purpose of ''reviewing questions of fact, law, and policy they raise.'' The EEOC is, therefore, delaying the effective date of its final rule published on January 3, 2017, at 82 FR 654, until March 21, 2017.

For the Commission.

Dated: February 10, 2017.

Victoria A. Lipnic,

Acting Chair.

[FR Doc. 2017–03146 Filed 2–15–17; 8:45 am]

BILLING CODE 6570–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

42 CFR Part 2

[SAMHSA–4162–20]

RIN 0930–AA21

Confidentiality of Substance Use Disorder Patient Records; Delay of Effective Date

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Final rule; delay of effective date.

SUMMARY: On January 18, 2017, the Substance Abuse and Mental Health Services Administration (SAMHSA) published a final rule on Confidentiality of Substance Use Disorder Patient Records. That rule is scheduled to take effect on February 17, 2017. In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' published in the **Federal Register** on January 24, 2017 (82 FR 8346), this action delays for 60 days from the date of the memorandum the effective date of the rule entitled ''Confidentiality of Substance Use Disorder Patient Records'' published in the **Federal Register** on January 18, 2017 (82 FR 6052).

DATES: The effective date of the Confidentiality of Substance Use Disorder Patient Records final rule, published in the **Federal Register** on January 18, 2017 (82 FR 6052) is delayed from February 17, 2017, to a new effective date of March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Danielle Tarino, Telephone number: (240) 276–2857, Email address: *PrivacyRegulations@samhsa.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Confidentiality of Substance Use Disorder Patient Records Final Rule updates and modernizes the Confidentiality of Alcohol and Drug Abuse Patient Records regulations (42 CFR part 2) to facilitate integration of care and new health care delivery models while protecting the privacy of patients diagnosed, treated, or referred for treatment for a substance use disorder. To the extent that 5 U.S.C. 553 applies to this action to delay the rule's effective date, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, the Department's implementation of this rule without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exception in 5 U.S.C. 553(b)(B) in that seeking public comment is impracticable, unnecessary and contrary to the public interest. The 60-day delay in effective date is necessary to give Department officials the opportunity for further review and consideration of new regulations, consistent with the Assistant to the President's memorandum of January 20, 2017. This memorandum instructed federal agencies to delay the effective date of rules published in the **Federal Register**, but which have not yet taken effect, for a period of 60-days from the date of the memorandum. Given the imminence of the effective date, seeking prior public

comment on this delay would have been impractical, as well as contrary to the public interest in the orderly promulgation and implementation of regulations.

This notice does not impact the Supplemental Notice of Proposed Rulemaking (SNPRM) also entitled Confidentiality of Substance Use Disorder Patient Records and issued on January 18, 2017 (82 FR 5485). The SNPRM proposes for public comment additional provisions beyond those in the final rule to clarify the scope of permissible disclosures to contractors, subcontractors, and legal representatives. The SNPRM comment period will remain unchanged and will close on February 17, 2017.

Dated: February 10, 2017.

Kana Enomoto,

Acting Deputy Assistant Secretary for Mental Health and Substance Use.

Approved:

Thomas E. Price, M.D.,

Secretary, Department of Health and Human Services.

[FR Doc. 2017–03185 Filed 2–15–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Docket No. CDC–2015–0045]

42 CFR Part 73

RIN 0920–AA59

Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review and Enhanced Biosafety Requirements; Delay of Effective Date

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS)

ACTION: Final rule; delay of effective date.

SUMMARY: The Centers for Disease Control and Prevention (CDC) in the Department of Health and Human Services (HHS) announces a delay in the effective date of the final rule titled ''Possession, Use, and Transfer of Select Agents and Toxins, Biennial Review and Enhanced Biosafety Requirements'' that published on January 19, 2017. In a companion document published in this issue of the **Federal Register**, the U.S. Department of Agriculture (USDA) is making a parallel change in the effective date of their final rule. This action is undertaken in accordance with the memorandum of January 20, 2017 from the Assistant to the President and Chief of Staff entitled ''Regulatory Freeze Pending Review.''

DATES: The effective date for the final rule published January 19, 2017, at 82 FR 6278, is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel S. Edwin, Director, Division of Select Agents and Toxins, Centers for Disease Control and Prevention, 1600 Clifton Road NE., MS A–46, Atlanta, Georgia, 30329. Telephone: 404–718–2000.

SUPPLEMENTARY INFORMATION: On January 19, 2017, HHS/CDC published a final rule titled ''Possession, Use, and Transfer of Select Agents and Toxins; Biennial Review and Enhanced Biosafety Requirements'' (82 FR 6278) with an effective date of February 21, 2017. With this document, HHS/CDC announces a new effective date of March 21, 2017 for this final rule. In a companion document published in this issue of the **Federal Register**, the U.S. Department of Agriculture (USDA) is making a parallel change in the effective date of their final rule.

HHS/CDC bases this action on the memorandum of January 20, 2017 from the Assistant to the President and Chief of Staff entitled ''Regulatory Freeze Pending Review.'' This memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for sixty days from the date of the memorandum the effective dates of all regulations that had been published in the **Federal Register** but had not yet taken effect.

Dated: February 9, 2017.

Norris Cochran,

Acting Secretary, Department of Health and Human Services.

[FR Doc. 2017–03044 Filed 2–15–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary of the Interior

43 CFR Part 10

[NPS–WASO–NAGPRA–22726; GPO Deposit Acct. 4311H2]

RIN 1024–AE37

Civil Penalties Inflation Adjustments

AGENCY: Office of the Secretary, Interior.

ACTION: Final rule.

SUMMARY: This rule revises U.S. Department of the Interior regulations implementing the Native American Graves Protection and Repatriation Act to provide for annual adjustments of civil penalties to account for inflation under the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget guidance. The purpose of these adjustments is to maintain the deterrent effect of civil penalties and to further the policy goals of the underlying statutes.

DATES: This rule is effective on February 16, 2017.

FOR FURTHER INFORMATION CONTACT: Melanie O'Brien, Manager, National NAGPRA Program, National Park Service, 1849 C Street NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

I. Background

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Sec. 701 of Pub. L. 114–74) (''the Act''). The Act requires Federal agencies to adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through rulemaking and then make subsequent annual adjustments for inflation no later than January 15 of each year.

The Office of Management and Budget (OMB) issued guidance for Federal agencies on calculating the catch-up adjustment. *See* February 24, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: *Implementation of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M–16–06). Under the guidance, the U.S. Department of the Interior (Department) identified applicable civil monetary penalties and calculated the catch-up adjustment. A civil monetary penalty is any assessment with a dollar amount that is levied for a violation of a Federal civil statute or regulation, and is assessed or enforceable through a civil action in Federal court or an administrative proceeding. A civil monetary penalty does not include a penalty levied for violation of a criminal statute, or fees for services, licenses, permits, or other regulatory review. The calculated catch-up adjustment was based on the percent change between the Consumer Price Index for all Urban Consumers (CPI0–U) for the month of October in the year of the previous adjustment (or in the year of establishment, if no adjustment has been made) and the October 2015 CPI–U.

The Department issued an interim final rule providing for calculated catch-up adjustments to civil monetary penalties contained in regulations

implementing the Native American Graves Protection and Repatriation Act (NAGPRA) on June 28, 2016 (81 FR 41858) and requested comments post-promulgation. The Department issued a correcting amendment to the interim final rule on September 20, 2016 (81 FR 64356) that adjusted the following civil monetary penalties, effective on September 20, 2016:

CFR citation	Description of the penalty	Current penalty	Catchup adjustment	Adjusted penalty
43 CFR 10.12(g)(2)	Failure of Museum to Comply	$5,000	$1,428	$6,428
43 CFR 10.12(g)(3)	Continued Failure to Comply Per Day	1,000	268	1,286

II. Calculation of Annual Adjustments

OMB recently issued guidance to assist Federal agencies in implementing the annual adjustments required by the Act which agencies must complete by January 15, 2017. *See* December 16, 2016, Memorandum for the Heads of Executive Departments and Agencies, from Shaun Donovan, Director, Office of Management and Budget, re: *Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015* (M–17–11). The guidance states that the cost-of-living adjustment multiplier for 2017, based on the Consumer Price Index (CPI–U) for the month of October 2016, not seasonally adjusted, is 1.01636. (The annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year's October CPI–U. For 2017, OMB explains, October 2016 CPI–U (241.729) / October 2015 CPI–U (237.838) = 1.01636.) The guidance instructs agencies to complete the 2017 annual adjustment by multiplying each applicable penalty by the multiplier, 1.01636, and rounding to the nearest dollar. Further, the guidance instructs agencies to apply the multiplier to the most recent penalty amount that includes the catch-up adjustment required by the Act.

The annual adjustment applies to all civil monetary penalties with a dollar amount that are subject to the Act. This final rule adjusts the following civil monetary penalties contained in the Department regulations implementing NAGPRA for 2017 by multiplying 1.01636 (*i.e.,* the cost-of-living adjustment multiplier for 2017) by each penalty amount as updated by the catch-up adjustment made in 2016:

CFR citation	Description of the penalty	Current penalty including catch-up adjustment	Annual adjustment (multiplier)	Adjusted penalty
43 CFR 10.12(g)(2)	Failure of Museum to Comply	$6,428	1.01636	$6,533
43 CFR 10.12(g)(3)	Continued Failure to Comply Per Day	1,286	1.01636	1,307

Consistent with the Act, the adjusted penalty levels for 2017 will take effect immediately upon the effective date of the adjustment. The adjusted penalty levels for 2017 will apply to penalties assessed after that date including, if consistent with agency policy, assessments associated with violations that occurred on or after November 2, 2015. The Act does not, however, change previously assessed penalties that the Department is collecting or has collected. Nor does the Act change an agency's existing statutory authorities to adjust penalties.

III. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) requires an agency to prepare a regulatory flexibility analysis for rules unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. The RFA applies only to rules for which an agency is required to first publish a proposed rule. See 5 U.S.C. 603(a) and 604(a). The RFA does not apply to this final rule because the Office of the Secretary is not required to publish a proposed rule for the reasons explained below in Section III.L.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments, or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A

statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule does not effect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of E.O. 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian tribes through a commitment to consultation with Indian tribes and recognition of their right to self-governance and tribal sovereignty. We have evaluated this rule under the Department's consultation policy and under the criteria in Executive Order 13175 and have determined that it has no substantial direct effects on federally recognized Indian tribes and that consultation under the Department's tribal consultation policy is not required.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (NEPA) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. (For further information see 43 CFR 46.210(i).) We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Administrative Procedure Act

The Act requires agencies to publish annual inflation adjustments by no later than January 15, 2017, and by no later than January 15 each subsequent year, notwithstanding section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553). OMB has interpreted this direction to mean that the usual APA public procedure for rulemaking—which includes public notice of a proposed rule, an opportunity for public comment, and a delay in the effective date of a final rule—is not required when agencies issue regulations to implement the annual adjustments to civil penalties that the Act requires. Accordingly, we are issuing the 2017 annual adjustments as a final rule without prior notice or an opportunity for comment and with an effective date immediately upon publication in the **Federal Register**.

List of Subjects in 43 CFR Part 10

Administrative practice and procedure, Hawaiian Natives, Historic preservation, Indians—claims, Indians—lands, Museums, Penalties, Public lands, Reporting and recordkeeping requirements.

For the reasons given in the preamble, the Office of the Secretary amends 43 CFR part 10 as follows.

PART 10—NATIVE AMERICAN GRAVES PROTECTION AND REPATRIATION REGULATIONS

■ 1. The authority citation for part 10 continues to read as follows:

Authority: 16 U.S.C. 470dd; 25 U.S.C. 9, 3001 *et seq.*

§ 10.12 [Amended]

■ 2. In § 10.12, in paragraph (g)(2) introductory text, remove ''$6,428'' and add in its place ''$6,533'' and in paragraph (g)(3), remove ''$1,286'' and add in its place ''$1,307''.

Maureen Foster,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 2017–03138 Filed 2–15–17; 8:45 am]

BILLING CODE 4312–52–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 05–142; RM–11220; DA 17–124]

Radio Broadcasting Services; Roma and San Isidro, Texas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: At the request of La Voz Latina (LVL) and Charles Crawford (Crawford), respectively, the Audio Division amends the FM Table of Allotments, by allotting Channel 278A at San Isidro, Texas, and deleting Channel 278A at Roma, Texas. Channel 278A at San Isidro, Texas, will be the community's second local service. The Audio Division, therefore, grants both LVL's counterproposal and Crawford's ''Withdrawal of Expression of Interest.'' A staff engineering analysis indicates Channel 278A can be allotted to San Isidro consistent with the minimum distance separation requirements of the Commission's rules with a site restriction 6 kilometers west of the community. The reference coordinates are 26–42–15 NL and 98–29–48 WL.

DATES: Effective March 20, 2017.

FOR FURTHER INFORMATION CONTACT: Adrienne Y. Denysyk, Media Bureau, (202) 418–2700.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's *Memorandum Report and Order,* MB Docket No. 05–142, adopted February 2, 2017, and released February 3, 2017. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC's Reference Information Center at Portals II, CY–A257, 445 12th Street SW., Washington, DC 20554. The full text is also available online at *http://apps.fcc.gov/ecfs/.* This document does not contain information collection requirements subject to the Paperwork Reduction Act of 1995,

Public Law 104–13. The Commission will send a copy of the *Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio, Radio broadcasting.

Federal Communications Commission.

Nazifa Sawez,

Assistant Chief, Audio Division, Media Bureau.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336 and 339.

■ 2. Section 73.202(b), the table is amended under Texas, by removing Roma, Channel 278A and by adding an entry for San Isidro in alphabetical order to read as follows:

§ 73.202 Table of Allotments.

* * * * *

(b) * * *

	Channel No.
* * * * *	
Texas	
* * * * *	
San Isidro	278A
* * * * *	

* * * * *

[FR Doc. 2017–03130 Filed 2–15–17; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 82, No. 31
Thursday, February 16, 2017

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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 101

[Docket No. FDA–2016–D–2335]

Use of the Term ''Healthy'' in the Labeling of Human Food Products; Public Meeting; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notification of public meeting; request for comments.

SUMMARY: The Food and Drug Administration (FDA or we) is announcing the following public meeting entitled ''Use of the Term 'Healthy' in the Labeling of Human Food Products.'' The purpose of the public meeting is to give interested persons an opportunity to discuss the use of the term ''healthy'' in the labeling of human food.

DATES: The public meeting will be held on March 9, 2017, from 8:30 a.m. until 5:30 p.m. See section III ''How to Participate in the Public Meeting'' in the **SUPPLEMENTARY INFORMATION** section of this document for dates and times of the public meetings, closing dates for advance registration, requesting special accommodations due to disability, and other information regarding meeting participation.

ADDRESSES: The public meeting will be held at the Hilton Washington DC/Rockville Hotel, 1750 Rockville Pike, Rockville, MD 20852.

You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2016–D–2335 for ''Use of the Term 'Healthy' in the Labeling of Human Food Products; Request for Information and Comments.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' We will review this copy, including the claimed confidential information, in our consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.fda.gov/regulatoryinformation/dockets/default.htm.*

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

FOR FURTHER INFORMATION CONTACT:

For questions about registering for the meeting or to register by phone: Jim Nakayama, The Nakamoto Group, Inc., 11820 Parklawn Dr., Suite 240, Rockville, MD 20852, 301–468–6535, ext. 212, FAX: 301–468–6536, email: *events@nakamotogroup.com.*

For general questions about the meeting or for special accommodations due to a disability: Juanita Yates, Center for Food Safety and Applied Nutrition (HFS–009), Food and Drug Administration, 5001 Campus Dr., College Park, MD 20740, 240–402–1731, email: *Juanita.yates@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of September 28, 2016, we published a document inviting public comment on the possibility of redefining the ''healthy'' nutrient content claim for food labeling (81 FR 66562). This action was

consistent with our recently released 2016–2025 Foods and Veterinary Medicine (FVM) Program's strategic plan with specific goals for nutrition and other planned and recent activity including the issuance of final rules updating certain of our nutrition labeling regulations. The document also contained several specific questions on which we sought input (81 FR 66562 at 66564 to 66565). In the **Federal Register** of December 30, 2016, we published a document extending the comment period for the docket to receive information and comments on the use of the term ''healthy'' in the labeling of human food (81 FR 96404); the comment period, which was originally scheduled to end on January 26, 2017, was extended to April 26, 2017.

We also recently announced the availability of a guidance for industry entitled ''Use of the Term 'Healthy' in the Labeling of Human Food Products: Guidance to Industry'' (81 FR 66527). The guidance advises manufacturers who wish to use the implied nutrient content claim ''healthy'' to label their food products as provided by our regulations. More specifically, the guidance advises food manufacturers of FDA's intent to exercise enforcement discretion with respect to the implied nutrient content claim ''healthy'' on foods that have a fat profile of predominantly mono and polyunsaturated fats, but do not meet the regulatory definition of ''low fat,'' or that contain at least 10 percent of the Daily Value (DV) per reference amount customarily consumed (RACC) of potassium or vitamin D.

In addition, we received a citizen petition asking that we update, among other things, our nutrient content claim regulations to be consistent with current federal dietary guidance (see Docket No. FDA–2015–P–4564 (citizen petition from KIND LLC)). In particular, the petitioners requested that FDA amend the regulation defining the nutrient content claim ''healthy'' with respect to total fat intake and amend the regulation to emphasize whole foods and dietary patterns rather than specific nutrients.

II. Purpose and Format of the Public Meeting

We are holding the public meeting to give interested parties an opportunity to discuss the use of the term ''healthy'' in the labeling of human food. At the meeting, following introductory presentations, parties will have an opportunity to participate in their choice of breakout sessions on topics referenced in the notice and related documents and engage in an open comment and question and answer session. We invite interested parties to provide information, share experiences, and raise issues specifically related to the nutrient content claim ''healthy,'' including (but not limited to): ''healthy'' as a nutrient-based claim, food component-based claim, or both; ''healthy'' single definition or definition by category; consumer understanding of and responses to the term ''healthy''; and when, if ever, the use of the term ''healthy'' may be false or misleading. Interested parties may also submit electronic or written comments to the docket by April 26, 2017. The agenda and other documents will be accessible on our FDA public meetings Web site at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm* before the public meeting.

In general, the meeting format will include introductory presentations, perspectives panels, and multiple opportunities for individuals to express their opinions at the meeting through oral presentations, participation in breakout sessions, and submission of electronic or written comments (see **ADDRESSES** for information on submitting comments). There will be an opportunity for parties who are unable to participate in person to join the meeting via Webcast. (See section III for more information on the Webcast option.)

III. How To Participate in the Public Meeting

Due to limited space and time, we encourage all persons who wish to attend the meeting to register in advance. There is no fee to register for the public meeting, and registration will be on a first-come, first-served basis. Early registration is recommended because seating is limited. Onsite registration will be accepted, if 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 should submit a request in advance (see table 1 for details) and provide the specific topic or issue to be addressed. Due to the anticipated high level of interest in presenting public comment and the limited time available, we are allocating 3 minutes to each speaker to make an oral presentation. Speakers will be limited to making oral remarks; 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. We 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.

We encourage persons and groups who have similar interests to consolidate their information for presentation by a single representative. After reviewing the presentation requests, we 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.,* 3-minute oral presentation without visual media).

Table 1 of this document provides information on participation in the public meeting.

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

Activity	Date	Electronic addresses	Address	Other information
Attend public meeting	March 9, 2017, from 8:30 a.m. to 5:30 p.m.	Preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*	.....	Registration check-in begins at 8 a.m.
View Webcast	March 9, 2017, from 8:30 a.m. to 5:30 p.m.	Webcast participants are asked to preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*	.....	The Webcast will have closed captioning.

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

Activity	Date	Electronic addresses	Address	Other information
Advance registration ..	Register by March 2, 2017.	To participate in person preregister at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.	We encourage the use of electronic registration, if possible [1].	There is no registration fee for the public meeting.
Request to make an oral presentation.	By February 21, 2017	To request to make an oral presentation sign-up at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm*.		
Submit either electronic or written comments.	Submit comments by April 26, 2017.	*http://www.regulations.gov*	Division of Dockets Management (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.	See **ADDRESSES** for information on submitting comments.
Request special accommodations due to a disability.	Request by February 21, 2017.	Juanita Yates, email: *Juanita.yates@fda.hhs.gov*.	See **FOR FURTHER INFORMATION CONTACT**.	

[1] You may also register via email, mail, or fax. Please include your name, title, firm name, address, and phone and fax numbers in your registration information and send to: Jim Nakayama (see **FOR FURTHER INFORMATION CONTACT**).

IV. Transcripts and Recorded Video

Please be advised that as soon as a transcript of the public meeting is available, it will be accessible at *https://www.regulations.gov.* The transcript will also be accessible at the Division of Dockets Management (see **ADDRESSES**) and FDA public meetings Web site at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

Additionally, we will be video recording the public meeting. Once the recorded video is available, it will be accessible on our FDA public meetings Web site at *http://www.fda.gov/Food/NewsEvents/WorkshopsMeetingsConferences/default.htm.*

Dated: February 10, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–03117 Filed 2–15–17; 8:45 am]

BILLING CODE 4164–01–P

Notices

Federal Register

Vol. 82, No. 31

Thursday, February 16, 2017

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

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 13, 2017.

The Department of Agriculture will submit the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13 on or after the date of publication of this notice. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20503. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@omb.eop.gov* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602.

Comments regarding these information collections are best assured of having their full effect if received by March 20, 2017. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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

Agricultural Marketing Service

Title: Processed Egg and Egg Products Verification Program.

OMB Control Number: 0581–New.

Summary of Collection: The Agricultural Marketing Act of 1946 (AMA) (7 U.S.C. 1621–1627), authorizes the Secretary of Agriculture to provide consumers with voluntary Federal certification services that facilitate the marketing of agricultural commodities. The Agricultural Marketing Service (AMS) provides these services under the authority of 7 CFR part 62—Livestock, Meat, and Other Agricultural Commodities (Quality System Verification Program (QSVP)). QSVP is a voluntary audit-based, user-fee programs collection that allows applicants to have program documentation and program processes assessed by AMS auditors. QSVP programs are available to respondents who request these services with fees based on an approved hourly rate established under 7 CFR part 62. The Processed Egg and Egg Products Export Verification (PEEPEV) Program is a voluntary export verification program that aids domestic food manufacturers in exporting processed food products containing eggs to other countries. As part of this service AMS will issue an official certificate for product from facilities verified by AMS as meeting the requirements of the Program. To facilitate this process, AMS will use a new form LPS–234, USDA Processed Egg and Egg Products Export Certificate.

Need and Use of the Information: The information is collected from domestic food manufacturers who request to participate in the PEEPEV program to export processed food products containing egg to other countries. The information will be used by authorized representatives of the USDA (AMS, Livestock, Poultry, and Seed Program's QAD national and field staff) to complete the form LPS–234. The information collection requirements in this request are essential to carry out the intent of the AMA, to provide respondents the type of service they request and to administer the program.

Description of Respondents: Business or other for-profit; Farms.

Number of Respondents: 43.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 129.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–03132 Filed 2–15–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Supplemental Nutrition Assistance Program (SNAP), Store Applications, Forms FNS–252, FNS–252–E, FNS–252–FE, FNS–252–R, FNS–252–2 and FNS–252–C

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the proposed collection. This is a revision of a currently approved collection in the Supplemental Nutrition Assistance Program and concerns Retail Store Applications (Forms FNS–252; FNS–252–E; FNS–252–FE; FNS–252–R; FNS–252–2; and FNS–252–C).

DATES: Written comments must be received on or before April 17, 2017.

ADDRESSES: 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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical or other technological collection

techniques or other forms of information technology.

Comments may be sent to: Shelly Pierce, Chief, Retailer Administration Branch, Supplemental Nutrition Assistance Program, Retailer Policy and Management Division, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 438, Alexandria, VA 22302. Comments may be faxed to the attention of Ms. Pierce at (703) 305–1863 or via email to: *RPMDHQ-WEB@fns.usda.gov.* Comments will also be accepted through the Federal eRulemaking Portal. Go to *http://www.regulations.gov,* and follow the online instructions for submitting comments electronically.

All written comments will be open for public inspection at the FNS office located at 3101 Park Center Drive, Room 438, Alexandria, Virginia 22302, during regular business hours (8:30 a.m. to 5 p.m. Monday through Friday).

All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will be a matter of public record.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of this information collection should be directed to Shelly Pierce at *RPMDHQ-WEB@fns.usda.gov.*

SUPPLEMENTARY INFORMATION:

Title: Supplemental Nutrition Assistance Program (SNAP)—Store Applications.

Form Number: FNS–252; 252–E; 252–FE; 252–R; 252–2; and 252–C.

OMB Number: 0584–0008.

Expiration Date: August 31, 2017.

Type of Request: Revision of a currently approved collection of information.

Abstract: Section 9(a) of the Food and Nutrition Act of 2008, as amended, (the Act) (7 U.S.C. 2011 *et seq.*) requires that FNS determine the eligibility of retail food stores and certain food service organizations to accept SNAP benefits and to monitor them for compliance and continued eligibility and to ensure Program integrity.

FNS is also responsible for requiring updates to application information and reviewing retail food store applications at least once every five years to ensure that each firm is under the same ownership and continues to meet eligibility requirements. The Act specifies that only those applicants whose participation will ''effectuate the purposes of the program'' should be authorized.

There are six forms associated with this approved Office of Management and Budget (OMB) information collection number 0584–0008—the Supplemental Nutrition Assistance Program Application for Stores, Forms FNS–252 (English and Spanish) and FNS–252–E (paper and online version respectively); Farmer's Market Application, Form FNS–252–FE; Meal Service Application, Form FNS–252–2; Reauthorization Application, Form FNS–252–R; and the Corporation Supplemental Application, Form FNS–252–C used for individual (chain) stores under a corporation. For new authorizations, the majority of applicants use form FNS–252 or FNS–252–E (paper or online, respectively). FNS is responsible for reviewing retail food store applications at least once every five years to ensure that each firm is under the same ownership and continues to meet eligibility guidelines. In order to accomplish this regulatory requirement, form FNS–252–R is used for reauthorization. In addition to these forms, during authorization or reauthorization, FNS may conduct an on-site store visit of the firm. The store visit of the firm helps FNS confirm that the information provided on the application is correct. An FNS representative or store visit contractor obtains permission to fill in the store visit checklist, photograph the store and asks the store owner or manager about the continued ownership of the store.

Applicants using form FNS–252–E or FNS–252–FE must also first self-register for a Level 1 access account through the USDA eAuthentication system in order to start an online application. USDA eAuthentication facilitates the electronic authentication of an individual.

The Agricultural Act of 2014 (2014 Farm Bill) amended the Food and Nutrition Act of 2008 (the Act) to increase the requirement that certain SNAP authorized food stores have available on a continual basis at least three varieties of items in each of four staple food categories, to a mandatory minimum of seven varieties. The 2014 Farm Bill also amended the Act to increase, for certain SNAP authorized retail food stores, the minimum number of categories which perishable foods are required from two to three. Further, using existing authority in the Act and feedback from a Request for Information that was published in the **Federal Register** on August 20, 2013, FNS proposed some additional changes. Among other items, these proposed changes would address depth of stock, amend the definition of ''staple foods'', and amend the definition of ''retail food store'' to clarify when a retailer is a restaurant rather than a retail food store. These changes were made in the final rule titled ''Enhancing Retailer in the Supplemental Nutrition Assistance Program (SNAP) which was published in the **Federal Register** on December 15, 2016 (81 FR 90675).

FNS seeks to renew the current information collection, and where appropriate, revise the information collection of all SNAP application forms (paper and electronic), in order to clarify and/or reword questions, instructions, and examples as a result of these regulatory changes required by the Act and amended by the Farm Bill. Such changes would include (1) revision to the Food Inventory section; (2) additional inventory stock examples of perishables and varieties of staple food items; (3) additional questions that ask whether the store has a Web site, whether optical scanners are used at the store, the name and address of the financial institution where SNAP deposits will be made, and whether the store offers any incentives or discounts to SNAP recipients; and (4) update assistance materials such as the General and Specific Instruction sections and on-line help screens.

FNS used FY 2016 data in our calculation of burden estimates associated with this information collection as this was the most complete data available to us at this time. Table A below clarifies the burden of this information collection.

The total burden hours associated with this information collection increased by approximately 2.33 minutes. The response time per respondent varies from 1 minute to 14.11 minutes. We estimate the new burden, on average, to be 6.34 minutes per respondent, an increase from 6.11 minutes. There is no recordkeeping burden associated with these forms.

Affected Public: Business for Profit; Retail food stores; Farmers' Markets.

Estimated Number of Respondents: The total estimated number of respondents is 127,597 annually.

Estimated Number of Responses per Respondent: Respondents complete either 1 application form at initial authorization or 1 reauthorization application, as appropriate, for a total of 1 response each.

Estimated Total Annual Responses: 127,597.

Estimated Time per Response: 6.34 minutes (0.109548). The estimated time response varies from 1 minute to 14.11 minutes depending on respondent group, as shown in the table below:

TABLE A—REPORTING ESTIMATE OF HOUR BURDEN: SUMMARY OF BURDEN—#0584–0008

Affected public	(a) Description of collection activity	(b) Form number	(c) Number respondents	(d) Number responses per respondent	(e) Total annual responses (c × d)	(f) Hours per response	(g) Total burden (e × f)
Reporting							
Retailers	Applications Received	252	1,240	1	1,240	0.23638	293
	Applications Received	252–E	31,919	1	31,919	0.16861	5,382
	E-Authentication	252–E and FNS–252–FE.	33,399	1	33,399	0.13360	4,462
	Applications Received	252–FE	1,480	1	1,480	0.21861	324
	Applications Received	252–2	372	1	372	0.19416	72
	Applications Received	252–C	4,594	1	4,594	0.08350	384
	Store Visits		40,522	1	40,522	0.01670	677
	Reauthorization	252–R	14,071	1	14,071	0.16944	2,384
Total Reporting Burden			127,597	1	127,597	13,978	
			Number of respondents	Estimate annual responses per respondent	Estimate total annual responses	Estimate hours per response	Estimate total annual burden for this ICR
Summary of Burden for This Collection			127,597	1	127,597	0.1029542	13,978

Dated: February 8, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2017–03078 Filed 2–15–17; 8:45 am]

BILLING CODE 3410–30–P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meeting of the South Carolina Advisory Committee

AGENCY: U.S. Commission on Civil Rights.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission) and the Federal Advisory Committee Act that the South Carolina (State) Advisory Committee will hold a meeting on Thursday, March 2, 2017, for the purpose of discussing potential projects.

DATES: The meeting will be held on Thursday, March 2, 2017 12:00 p.m. EST.

ADDRESSES: The meeting will be by teleconference. Toll-free call-in number: 888–891–7634, conference ID: 4442689.

FOR FURTHER INFORMATION CONTACT: Jeff Hinton, DFO, at *jhinton@usccr.gov* or (404) 562–7006.

SUPPLEMENTARY INFORMATION: Members of the public can listen to the discussion. This meeting is available to the public through the following toll-free call-in number: 888–891–7634, conference ID: 4442689. Any interested member of the public may call this number and listen to the meeting. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free telephone number. Persons with hearing impairments may also follow the proceedings by first calling the Federal Relay Service at 1–800–977–8339 and providing the Service with the conference call number and conference ID number.

Members of the public are also entitled to submit written comments; the comments must be received in the regional office by February 24, 2017. Written comments may be mailed to the Southern Regional Office, U.S. Commission on Civil Rights, 61 Forsyth Street, Suite 16T126, Atlanta, GA 30303. They may also be faxed to the Commission at (404) 562–7005, or emailed to Regional Director, Jeffrey Hinton at *jhinton@usccr.gov.* Persons who desire additional information may contact the Southern Regional Office at (404) 562–7000.

Records generated from this meeting may be inspected and reproduced at the Southern Regional Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, South Carolina Advisory Committee link *http://facadatabase.gov/committee/meetings.aspx?cid=273.* Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Southern Regional Office at the above email or street address.

Agenda:

Welcome and Call to Order
- Walter Caudle, South Carolina SAC Chairman
- Jeff Hinton, Regional Director

Regional Update—Jeff Hinton
- New Business: Discussion/Open Comment—Best-practices to Reduce Violent Police-Civilian Interactions—Walter Caudle, S. Carolina SAC Chairman

Public Participation

Adjournment

Dated: February 10, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–03084 Filed 2–15–17; 8:45 am]

BILLING CODE 6335–01–P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Colorado Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the Colorado Advisory Committee to the Commission will convene at 2:30 p.m. (MST) on Thursday, March 9, 2017, via

teleconference. The purpose of the meeting is to hear from SAC members as they share and discuss civil rights issues among the Committee. The issues are in preparation of selecting a topic for future study.

DATES: Thursday, March 9, 2017, at 2:30 p.m. (MST)

ADDRESSES: To be held via teleconference:

Conference Call Toll-Free Number: 1–888–208–1815, Conference ID: 6280737.

TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference call number and conference ID.

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

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion by dialing the following Conference Call Toll-Free Number: 1–888–208–1815; Conference ID: 6280737. Please be advised that before being placed into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and an email address (if available) prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free phone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–977–8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1–888–208–1815, Conference ID: 6280737. Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, April 10, 2017. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov*. Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

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

Agenda:

- Welcome and Roll-call
  Malee V. Craft, Regional Director, Rocky Mountain Regional Office (RMRO)
- Discussion of Civil Rights Issues
  Alvina L. Earnhart, Chair, Colorado State Advisory Committee
- Next Steps

Dated: February 10, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–03095 Filed 2–15–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Notice of Public Meetings of the Minnesota Advisory Committee To Continue Preparations for a Public Hearing To Gather Testimony Regarding Civil Rights and Policing Practices in Minnesota

AGENCY: U.S. Commission on Civil Rights.

ACTION: Announcement of meeting.

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

- Friday, February 17, 2017, at 2:00 p.m. CST; and on
- Monday, February 27, 2017, at 12:00 p.m. CST for the purpose of preparing for a public hearing to gather testimony regarding civil rights and policing practices in Minnesota.

DATES: The meetings will be held on Friday, February 17, 2017, at 2:00 p.m. CST; and on Monday February 27th at 12:00 p.m. CST.

ADDRESSES: Public call information:

- Friday February 17th, Dial: 877–440–5787, Conference ID: 1262900
- Monday, February 27th, Dial: 888–428–9506, Conference ID: 1094465

FOR FURTHER INFORMATION CONTACT: Melissa Wojnaroski, DFO, at *mwojnaroski@usccr.gov* or 312–353–8311

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

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

Records generated from this meeting may be inspected and reproduced at the Regional Programs Unit Office, as they become available, both before and after the meeting. Records of the meeting will be available via *www.facadatabase.gov* under the Commission on Civil Rights, Minnesota Advisory Committee link (*http://www.facadatabase.gov/committee/meetings.aspx?cid=256*). Click on ''meeting details'' and then ''documents'' to download. Persons interested in the work of this Committee are directed to the Commission's Web site, *http://www.usccr.gov,* or may contact the Regional Programs Unit at the above email or street address.

Agenda

Welcome and Roll Call
Discussion of Hearing Preparation: Civil Rights and Policing Practices in Minnesota
Public Comment
Future Plans and Actions
Adjournment

Exceptional Circumstance: Pursuant to the Federal Advisory Committee

Management Regulations (41 CFR 102–3.150), the notice for the February 17, 2017, meeting is given fewer than 15 calendar days prior to the first meeting date due to exceptional circumstance of the Committee's pending public hearing.

Dated: February 10, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–03097 Filed 2–15–17; 8:45 am]

BILLING CODE P

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the New Mexico Advisory Committee

AGENCY: Commission on Civil Rights.

ACTION: Announcement of meetings.

SUMMARY: Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights (Commission), and the Federal Advisory Committee Act (FACA), that a planning meeting of the New Mexico Advisory Committee to the Commission will convene at 11:00 a.m. (MST) on Wednesday, March 8, 2017, via teleconference. The purpose of the meeting is to discuss draft outline in preparation of SAC report on Elder Abuse in New Mexico.

DATES: Wednesday, March 8, 2017, at 11:00 a.m. (MST)

ADDRESSES: To be held via teleconference:

Conference Call Toll-Free Number: 1–888–946–0720, Conference ID: 6052239.

TDD: Dial Federal Relay Service 1–800–977–8339 and give the operator the above conference call number and conference ID.

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

SUPPLEMENTARY INFORMATION: Members of the public may listen to the discussion by dialing the following Conference Call Toll-Free Number: 1–888–946–0720; Conference ID: 6052239. Please be advised that before being placed into the conference call, the operator will ask callers to provide their names, their organizational affiliations (if any), and an email address (if available) prior to placing callers into the conference room. Callers can expect to incur charges for calls they initiate over wireless lines, and the Commission will not refund any incurred charges. Callers will incur no charge for calls they initiate over land-line connections to the toll-free phone number.

Persons with hearing impairments may also follow the discussion by first calling the Federal Relay Service (FRS) at 1–800–977–8339 and provide the FRS operator with the Conference Call Toll-Free Number: 1–888–946–0720, Conference ID: 6052239. Members of the public are invited to submit written comments; the comments must be received in the regional office by Monday, April 10, 2017. Written comments may be mailed to the Rocky Mountain Regional Office, U.S. Commission on Civil Rights, 1961 Stout Street, Suite 13–201, Denver, CO 80294, faxed to (303) 866–1050, or emailed to Evelyn Bohor at *ebohor@usccr.gov.* Persons who desire additional information may contact the Rocky Mountain Regional Office at (303) 866–1040.

Records and documents discussed during the meeting will be available for public viewing as they become available at *https://database.faca.gov/committee/meetings.aspx?cid=264* and clicking on the ''Meeting Details'' and ''Documents'' links. Records generated from this meeting may also be inspected and reproduced at the Rocky Mountain Regional Office, as they become available, both before and after the meeting. Persons interested in the work of this advisory committee are advised to go to the Commission's Web site, *www.usccr.gov,* or to contact the Rocky Mountain Regional Office at the above phone number, email or street address.

Agenda

- Welcome and Roll-call
  Malee V. Craft, Regional Director, Rocky Mountain Regional Office (RMRO)
- Discussion of Draft Outline
  Sandra Rodriguez, Chair, New Mexico Advisory Committee
- Next Steps

Dated: February 10, 2017.

David Mussatt,

Supervisory Chief, Regional Programs Unit.

[FR Doc. 2017–03096 Filed 2–15–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Economic Development Administration

Notice of Petitions by Firms for Determination of Eligibility To Apply for Trade Adjustment Assistance

AGENCY: Economic Development Administration, Department of Commerce.

ACTION: Notice and opportunity for public comment.

Pursuant to Section 251 of the Trade Act 1974, as amended (19 U.S.C. 2341 *et seq.*), the Economic Development Administration (EDA) has received petitions for certification of eligibility to apply for Trade Adjustment Assistance from the firms listed below. Accordingly, EDA has initiated investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each of these firms contributed importantly to the total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

LIST OF PETITIONS RECEIVED BY EDA FOR CERTIFICATION ELIGIBILITY TO APPLY FOR TRADE ADJUSTMENT ASSISTANCE

[2/4/2017 through 2/10/2017]

Firm name	Firm address	Date accepted for investigation	Product(s)
BH, Inc., d/b/a Britz & Company	1302 9th Street Wheatland, WY 82201.	2/7/2017	The firm manufactures animal housing systems and related equipment for the biomedical research industry.

Any party having a substantial interest in these proceedings may request a public hearing on the matter. A written request for a hearing must be submitted to the Trade Adjustment Assistance for Firms Division, Room 71030, Economic Development Administration, U.S. Department of Commerce, Washington, DC 20230, no later than ten (10) calendar days following publication of this notice.

Please follow the requirements set forth in EDA's regulations at 13 CFR 315.9 for procedures to request a public hearing. The Catalog of Federal Domestic Assistance official number and title for the program under which these petitions are submitted is 11.313, Trade Adjustment Assistance for Firms.

Miriam Kearse,

Lead Program Analyst.

[FR Doc. 2017–03128 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–WH–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–69–2016]

Production Activity Not Authorized, Foreign-Trade Zone (FTZ) 27—Boston, Massachusetts, Claremont Flock, a Division of Spectro Coating Corporation, (Textile Flock), Leominster, Massachusetts

On October 13, 2016, Claremont Flock, a Division of Spectro Coating Corporation, submitted a notification of proposed production activity to the Foreign-Trade Zones (FTZ) Board for its facility within Subzone 27N, in Leominster, Massachusetts.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (81 FR 72038, October 19, 2016). Pursuant to Section 400.37, the FTZ Board has determined that further review is warranted and has not authorized the proposed activity. If the applicant wishes to seek authorization for this activity, it will need to submit an application for production authority, pursuant to Section 400.23.

Dated: February 10, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–03145 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–11–2017]

Foreign-Trade Zone 30—Salt Lake City, Utah; Application for Subzone; Scott USA, Inc.; Ogden, Utah

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Salt Lake City Corporation, grantee of FTZ 30, requesting subzone status for the facility of Scott USA, Inc. (Scott USA), located in Ogden, Utah. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on February 10, 2017.

The proposed subzone (7.5 acres) is located at 651 Critchlow Street, #2, Ogden, Utah. No authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Christopher Kemp of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is March 28, 2017. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to April 12, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Kemp at *Christopher.Kemp@trade.gov* or (202) 482–0862.

Dated: February 10, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–03143 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–929]

Small Diameter Graphite Electrodes From the People's Republic of China: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2015–2016

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

SUMMARY: On October 21, 2016, the Department of Commerce (the Department) published the preliminary results of the seventh administrative review of the antidumping duty order on small diameter graphite electrodes (graphite electrodes) from the People's Republic of China (PRC). The Department preliminarily determined that the three manufacturers or exporters of the subject merchandise covered by the review, the Fangda Group, Fushun Jinly Petrochemical Carbon Co., Ltd. (Fushun Jinly), and Jilin Carbon Import and Export Company (Jilin Carbon), had no shipments of the subject merchandise during the period of review (POR). No interested party commented on the preliminary results. As a result, the Department has made no changes for the final results of this review.

DATES: Effective February 16, 2017.

FOR FURTHER INFORMATION CONTACT: Irene Gorelik or John Anwesen, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Ave. NW., Washington, DC, 20230; telephone (202) 482–6905 or (202) 482–0131, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers three manufacturers or exporters of the subject merchandise: The Fangda Group,[1] Fushun Jinly,[2] and Jilin Carbon. On October 21, 2016, the Department published the *Preliminary Results.*[3] We invited parties to comment on the *Preliminary Results.* No interested party submitted comments. The Department conducted this administrative review in

[1] The Fangda Group consists of the following five companies: Beijing Fangda Carbon Tech Co., Ltd., Chengdu Rongguang Carbon Co., Ltd., Fangda Carbon New Material Co., Ltd., Fushun Carbon Co., Ltd., and Hefei Carbon Co., Ltd. *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 20324, 29341 (April 7, 2016) (initiating a review of the Fangda Group for the 2015–2016 period of review); *see also Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value, Postponement of Final Determination, and Affirmative Preliminary Determination of Critical Circumstances, in Part,* 73 FR 49408, 49411–12 (August 21, 2008) (where the Department determined that the individual members of the Fangda Group should be treated as a single entity pursuant to 19 CFR 351.401(f)(1)), unchanged in *Final Determination of Sales at Less Than Fair Value and Affirmative Determination of Critical Circumstances: Small Diameter Graphite Electrodes from the People's Republic of China,* 74 FR 2049 (January 14, 2009).

[2] In the *Preliminary Results* the Department inadvertently refered to Fushun Jinly as Fushun Jinly Petrochemical Co., Ltd. instead of Fushun Jinly Petrochemical Carbon Co., Ltd. *See Small Diameter Graphite Electrodes from the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016,* 81 FR 72777 (October 21, 2016) (*Preliminary Results*).

[3] *See id.*

accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Order

The merchandise covered by the order includes all small diameter graphite electrodes of any length, whether or not finished, of a kind used in furnaces, with a nominal or actual diameter of 400 millimeters (16 inches) or less, and whether or not attached to a graphite pin joining system or any other type of joining system or hardware. The merchandise covered by the order also includes graphite pin joining systems for small diameter graphite electrodes, of any length, whether or not finished, of a kind used in furnaces, and whether or not the graphite pin joining system is attached to, sold with, or sold separately from, the small diameter graphite electrode. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes are most commonly used in primary melting, ladle metallurgy, and specialty furnace applications in industries including foundries, smelters, and steel refining operations. Small diameter graphite electrodes and graphite pin joining systems for small diameter graphite electrodes that are subject to the order are currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8545.11.0010,[4] 3801.10,[5] and 8545.11.0020.[6] Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the merchandise is dispositive.

Period of Review

The period of review is February 1, 2015, through January 31, 2016.

Final Determination of No Shipments

In the *Preliminary Results,* the Department preliminarily determined that the Fangda Group, Fushun Jinly, and Jilin Carbon had no shipments during the POR.[7] Consistent with the Department's assessment practice in non-market economy cases, we stated in the *Preliminary Results* that the Department would not rescind the review in these circumstances but, rather, would complete the review with respect to these three respondents and issue appropriate instructions to U.S. Customs and Border Protection (CBP) based on the final results of the review. Following publication of the *Preliminary Results,* we received no comments from interested parties regarding these companies, nor did we receive information from CBP indicating that there were reviewable transactions from the three respondents during the POR. Because there are no changes from, or comments on, the *Preliminary Results,* the Department finds that there is no reason to modify its analysis. Therefore, we continue to find that Fangda Group, Fushun Jinly, and Jilin Carbon did not have reviewable transactions during the POR.

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries, in accordance with section 751(a)(2)(A) of the Act and 19 CFR 351.212(b). The Department intends to issue appropriate assessment instructions for the respondents subject to this review directly to CBP 15 days after the date of publication of the final results of this review. The Department has determined that the Fangda Group, Fushun Jinly, and Jilin Carbon had no shipments of subject merchandise; therefore, pursuant to the Department's practice in non-market economy cases, any suspended entries of subject merchandise during the POR from these companies will be liquidated at the PRC-wide rate.[8]

Cash Deposit Requirements

The following cash deposit requirements, which are currently in effect, will remain in effect for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of the final results of this administrative review, as provided by section 751(a)(2)(C) of the Act: (1) For previously investigated or reviewed PRC and non-PRC exporters that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (2) for all PRC exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the PRC-wide rate of 159.64 percent; and (3) for all non-PRC exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the PRC exporter that supplied the non-PRC exporter. These deposit requirements shall remain in effect until further notice.

Notification to Importers

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

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

This administrative review and notice are published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221.

Dated: February 10, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–03141 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–DS–P

[4] The scope described in the order refers to the HTSUS subheading 8545.11.0000. We note that, starting in 2010, imports of small diameter graphite electrodes are classified in the HTSUS under subheading 8545.11.0010 and imports of large diameter graphite electrodes are classified under subheading 8545.11.0020.

[5] HTSUS subheading 3801.10 was added to the scope of the graphite electrodes order based on a determination in *Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order,* 77 FR 47596 (August 9, 2012) (first circumvention determination). The products covered by the first circumvention determination are graphite electrodes (or graphite pin joining system) that were (1) produced by UK Carbon and Graphite Co., Ltd. (UKCG) from PRC-manufactured artificial/synthetic graphite forms, of a size and shape (*e.g.,* blanks, rods, cylinders, billets, blocks, *etc.*), (2) which required additional machining processes (*i.e.,* tooling and shaping) that UKCG performed in the United Kingdom (UK), and (3) were re-exported to the United States as UK-origin merchandise.

[6] HTSUS subheading 8545.11.0020 was added to the scope of the graphite electrodes order based on a determination in *Small Diameter Graphite Electrodes from the People's Republic of China: Affirmative Final Determination of Circumvention of the Antidumping Duty Order and Rescission of Later-Developed Merchandise Anticircumvention Inquiry,* 78 FR 56864 (September 16, 2013) (second circumvention determination). The products covered by the second circumvention determination are graphite electrodes produced and/or exported by Jilin Carbon Import and Export Company with an actual or nominal diameter of 17 inches.

[7] *See Preliminary Results,* 81 FR at 72778.

[8] For a full discussion of this practice, *see Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011).

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–010, C–570–011, A–583–853]

Certain Crystalline Silicon Photovoltaic Products From the People's Republic of China and From Taiwan: Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke Antidumping Duty Orders and Countervailing Duty Order in Part

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

SUMMARY: On April 20, 2016, the Department of Commerce (the ''Department'') received a request for revocation, in part, of the antidumping duty (''AD'') and countervailing duty (''CVD'') orders on certain crystalline silicon photovoltaic products from the People's Republic of China (''PRC'') and the AD order on certain crystalline silicon photovoltaic products from Taiwan (collectively ''*Orders*'') with respect to certain solar panels. We preliminarily determine that the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to certain solar panels that are incorporated in the battery charging and maintaining units described below. Accordingly, we intend to revoke, in part, the *Orders* as to imports of certain solar panels that are incorporated in the battery charging and maintaining units, as described below. The Department invites interested parties to comment on these preliminary results.

DATES: Effective February 16, 2017.

FOR FURTHER INFORMATION CONTACT: Magd Zalok or Howard Smith, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–4162 or (202) 482–5193, respectively.

Background

On February 18, 2015, the Department published an AD order on crystalline silicon photovoltaic products from Taiwan, and AD and CVD orders on crystalline silicon photovoltaic products from the PRC in the **Federal Register**.[1] On April 20, 2016, the Department received a request on behalf of PulseTech Products Corporation (''PulseTech'') for changed circumstances reviews to revoke, in part, the *Orders* with respect to certain stand-alone solar panels and certain solar panels incorporated in a specific type of battery charging and maintaining unit.[2] In subsequent submissions filed between May 12, 2016, and September 2, 2016, PulseTech modified the description of the exclusion request for solar panels incorporated in battery charging and maintaining units. On September 6, 2016, SolarWorld Americas, Inc. (''Petitioner'') stated that it agrees with the scope exclusion language proposed by PulseTech.[3] Ultimately, Pulsetech withdrew its request for changed circumstances reviews with respect to the stand-alone solar panels not incorporated in battery charging and maintaining units.[4]

On November 2, 2016, the Department published the notice of initiation of the requested changed circumstances reviews.[5] Because the statement submitted by Petitioner in support of PulseTech's Request did not indicate whether Petitioner accounts for substantially all of the domestic production of crystalline silicon photovoltaic products, in the *Initiation Notice,* we invited interested parties to submit comments concerning industry support for the potential revocation, in part, as well as comments and/or factual information regarding the changed circumstances reviews. No comments or factual information were submitted by any party.

Scope of the AD and CVD Orders on Certain Crystalline Silicon Photovoltaic Products From the PRC

The merchandise covered by these orders are modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials. For purposes of these orders, subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells produced in a customs territory other than the PRC.

Subject merchandise includes modules, laminates and/or panels assembled in the PRC consisting of crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including, but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Excluded from the scope of these orders are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of these orders are modules, laminates and/or panels assembled in the PRC, consisting of crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one module, laminate and/or panel is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all modules, laminates and/or panels that are integrated into the consumer good. Further, also excluded from the scope of these orders are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, laminates and/or panels, from the PRC.[6]

Merchandise covered by these orders is currently classified in the Harmonized Tariff Schedule of the United States (''HTSUS'') under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030, and

[1] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China: Antidumping Duty Order; and Amended Final Affirmative Countervailing Duty Determination and Countervailing Duty Order,* 80 FR 8592 (Feb. 18, 2015); *see also Certain Crystalline Silicon Photovoltaic Products From Taiwan: Antidumping Duty Order,* 80 FR 8596 (Feb. 18, 2015).

[2] *See* April 20, 2016 letter from PulseTech Products Corporation Re: Resubmission of Requests for Changed Circumstances Review—Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan (''PulseTech's Request'').

[3] *See* September 6, 2016 letter from Petitioner Re: Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and Taiwan: Changed Circumstances Review Request—Letter of No Opposition.

[4] *See* PulseTech's October 28, 2016 submission.

[5] *See Certain Crystalline Silicon Photovoltaic Products from the People's Republic of China and from Taiwan: Notice of Initiation of Changed Circumstances Reviews, and Consideration of Revocation of the Antidumping and Countervailing Duty Orders in Part,* 81 FR 78967 (Nov. 10, 2016) (''*Initiation Notice*'').

[6] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (Dec. 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (Dec. 7, 2012).

8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Scope of the AD Order on Certain Crystalline Silicon Photovoltaic Products From Taiwan

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.

Subject merchandise includes crystalline silicon photovoltaic cells of thickness equal to or greater than 20 micrometers, having a p/n junction formed by any means, whether or not the cell has undergone other processing, including but not limited to, cleaning, etching, coating, and/or addition of materials (including, but not limited to, metallization and conductor patterns) to collect and forward the electricity that is generated by the cell.

Modules, laminates, and panels produced in a third-country from cells produced in Taiwan are covered by this order. However, modules, laminates, and panels produced in Taiwan from cells produced in third-country are not covered by this order.

Excluded from the scope of this order are thin film photovoltaic products produced from amorphous silicon (a-Si), cadmium telluride (CdTe), or copper indium gallium selenide (CIGS). Also excluded from the scope of this order are crystalline silicon photovoltaic cells, not exceeding 10,000 mm^2 in surface area, that are permanently integrated into a consumer good whose function is other than power generation and that consumes the electricity generated by the integrated crystalline silicon photovoltaic cells. Where more than one cell is permanently integrated into a consumer good, the surface area for purposes of this exclusion shall be the total combined surface area of all cells that are integrated into the consumer good.

Further, also excluded from the scope of this order are any products covered by the existing antidumping and countervailing duty orders on crystalline silicon photovoltaic cells, whether or not assembled into modules, from the PRC.[7] Also excluded from the scope of this order are modules, laminates, and panels produced in the PRC from crystalline silicon photovoltaic cells produced in Taiwan that are covered by an existing proceeding on such modules, laminates, and panels from the PRC.

Merchandise covered by this order are currently classified in the HTSUS under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030, and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope of this order is dispositive.

Scope of Changed Circumstances Reviews

PulseTech requests that the Department revoke the *Orders,* in part, to exclude certain solar panels incorporated in battery charging and maintaining units, as described below. The solar panels subject to PulseTech's request are:

(1) Less than 300,000 mm^2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (''ABS'') box that incorporates a light emitting diode (''LED'')) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.''

Preliminary Results of Changed Circumstances Reviews, and Intent To Revoke the Orders, in Part

Pursuant to section 751(d)(1) of the Tariff Act of 1930, as amended (the ''Act''), and 19 CFR 351.222(g), the Department may revoke an AD or CVD order, in whole or in part, based on a review under section 751(b) of the Act (*i.e.,* a changed circumstances review). Section 751(b)(1) of the Act requires a changed circumstances review to be conducted upon receipt of a request which shows changed circumstances sufficient to warrant a review. Section 782(h)(2) of the Act gives the Department the authority to revoke an order if producers accounting for substantially all of the production of the domestic like product have expressed a lack of interest in the order. Section 351.222(g) of the Department's regulations provides that the Department will conduct a changed circumstances review under 19 CFR 351.216, and may revoke an order (in whole or in part), if it concludes that: (i) Producers accounting for substantially all of the production of the domestic like product to which the order pertains have expressed a lack of interest in the relief provided by the order, in whole or in part; or (ii) if other changed circumstances sufficient to warrant revocation exist. Both the Act and the Department's regulations require that ''substantially all'' domestic producers express a lack of interest in the order for the Department to revoke the order, in whole or in part.[8] The Department has interpreted ''substantially all'' to represent producers accounting for at least 85 percent of U.S. production of the domestic like product.[9]

The Department's regulations do not specify a deadline for the issuance of the preliminary results of a changed circumstances review, but provide that the Department will issue the final results of review within 270 days after the date on which the changed circumstances review is initiated.[10] The Department did not issue a combined notice of initiation and preliminary results. As discussed above, the statement provided by Petitioner and offered in support of PulseTech's Request did not indicate whether Petitioner accounts for substantially all domestic production of certain crystalline silicon photovoltaic products.[11] Thus, the Department did not determine in the *Initiation Notice* that producers accounting for substantially all of the production of the domestic like product lacked interest in the continued application of the *Orders* as to the certain solar panels under consideration here. Further, the Department requested interested party comments on the issue of domestic industry support of a potential partial revocation of the *Orders.*[12] The

[7] *See Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Amended Final Determination of Sales at Less Than Fair Value, and Antidumping Duty Order,* 77 FR 73018 (Dec. 7, 2012); *Crystalline Silicon Photovoltaic Cells, Whether or Not Assembled into Modules, from the People's Republic of China: Countervailing Duty Order,* 77 FR 73017 (Dec. 7, 2012).

[8] *See* section 782(h) of the Act and 19 CFR 351.222(g).

[9] *See Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012), unchanged in *Honey From Argentina; Final Results of Antidumping and Countervailing Duty Changed Circumstances Reviews; Revocation of Antidumping and Countervailing Duty Orders,* 77 FR 77029 (December 31, 2012).

[10] 19 CFR 351.216(e).

[11] *See Initiation Notice.*

[12] *Id.*

Department received no comments concerning a lack of industry support with respect to these changed circumstances reviews.

As noted in the *Initiation Notice,* PulseTech requested revocation of the *Orders,* in part, and supported its request. In light of PulseTech's Request, Petitioner's agreement with the scope exclusion language proposed by PulseTech, and in the absence of any interested party comments received during the comment period, we preliminarily conclude that changed circumstances warrant revocation of the *Orders,* in part, because the producers accounting for substantially all of the production of the domestic like product to which the *Orders* pertain lack interest in the relief provided by the *Orders* with respect to certain solar panels incorporated in battery charging and maintaining units, as described above. We will consider comments from interested parties on these preliminary results of reviews before issuing the final results of these reviews.[13]

Accordingly, we are notifying the public of our intent to revoke the *Orders,* in part. We intend to carry out this revocation by including the following exclusion language in the scope of each of the *Order*s:

Additionally, excluded from the scope of the order are solar panels that are: (1) Less than 300,000 mm^2 in surface area; (2) less than 27.1 watts in power; (3) coated across their entire surface with a polyurethane doming resin; and (4) joined to a battery charging and maintaining unit (which is an acrylonitrile butadiene styrene (''ABS'') box that incorporates a light emitting diode (''LED'')) by coated wires that include a connector to permit the incorporation of an extension cable. The battery charging and maintaining unit utilizes high-frequency triangular pulse waveforms designed to maintain and extend the life of batteries through the reduction of lead sulfate crystals. The above-described battery charging and maintaining unit is currently available under the registered trademark ''SolarPulse.''

If we make a final determination to revoke the *Orders* in part, then the Department will apply this determination to each order as follows. If, at the time of the final determinations, there have been no completed administrative reviews of an order, then the partial revocation will be applied to unliquidated entries of merchandise subject to the changed circumstances review that were entered or withdrawn from warehouse, for consumption, on or after the date that corresponds to the date suspension of liquidation first began in the relevant proceeding.[14] If, at the time of the final determinations, there have been completed administrative reviews of an order, then the partial revocation will be retroactively applied to unliquidated entries of merchandise subject to the changed circumstances reviews that were entered or withdrawn from warehouse, for consumption, on or after the day following the last day of the period covered by the most recently completed administrative review of the applicable order. Specifically, under this scenario, the partial revocation for merchandise subject to the AD orders would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after February 1, 2016, and the partial revocation for merchandise subject to the CVD order would be applied retroactively to unliquidated entries of merchandise entered or withdrawn from warehouse, for consumption, on or after January 1, 2016, as applicable.

Public Comment

Interested parties are invited to comment on these preliminary results of reviews in accordance with 19 CFR 351.309(c)(1)(ii). Case briefs may be submitted no later than 14 days after the date of publication of these preliminary results.[15] Rebuttals to case briefs, limited to issues raised in the case briefs, may be filed no later than seven days after the due date for case briefs.[16] All submissions must be filed electronically using Enforcement and Compliance's AD and CVD Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, room B8024 of the main Department of Commerce building. An electronically filed document must be received successfully in its entirety by ACCESS, by 5 p.m. Eastern Time on the day it is due.

Any interested party may request a hearing within 14 days of publication of this notice.[17] Hearing requests should contain the following information: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Oral presentations at the hearing will be limited to issues raised in the briefs. If a request for a hearing is made, parties will be notified of the time and date for the hearing to be held at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230 in a room to be determined.[18]

The Department intends to issue the final results of these changed circumstances reviews, which will include its analysis of any written comments received, no later than 270 days after the date on which these reviews were initiated.

If, in the final results of these reviews, the Department continues to determine that changed circumstances warrant the revocation of the *Orders,* in part, we will instruct U.S. Customs and Border Protection to liquidate without regard to AD or CVD duties, and to refund any estimated AD or CVD duties, on all unliquidated entries of the merchandise covered by the revocation that are not covered by the final results of an administrative review or automatic liquidation.

The current requirement for cash deposits of estimated AD and CVD duties on all entries of subject merchandise will continue unless they are modified pursuant to the final results of these changed circumstances reviews.

These preliminary results of reviews and notice are in accordance with sections 751(b) and 777(i) of the Act and 19 CFR 351.221 and 19 CFR 351.222.

Dated: February 9, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–03142 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–DS–P

[13] *See, e.g., Honey from Argentina; Antidumping and Countervailing Duty Changed Circumstances Reviews; Preliminary Intent to Revoke Antidumping and Countervailing Duty Orders,* 77 FR 67790, 67791 (November 14, 2012); *Aluminum Extrusions from the People's Republic of China: Preliminary Results of Changed Circumstances Reviews, and Intent to Revoke Antidumping and Countervailing Duty Orders in Part,* 78 FR 66895 (November 7, 2013); *see also* 19 CFR 351.222(g)(1)(v).

[14] Suspension of liquidation first began for merchandise subject to the CVD order on June 10, 2014; suspension of liquidation first began for merchandise subject to the AD orders on July 31, 2014.

[15] The Department is altering the deadline for the submission of case briefs, as authorized by 19 CFR 351.309(c)(1)(ii).

[16] The Department is altering the deadline for the submission of rebuttal briefs, as authorized by 19 CFR 351.309(d)(1).

[17] The Department is exercising its discretion under 19 CFR 351.310(c) to alter the time limit for requesting a hearing.

[18] See 19 CFR 351.310(d).

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Manufacturing Extension Partnership Advisory Board

AGENCY: National Institute of Standards and Technology, Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Institute of Standards and Technology (NIST) announces that the Manufacturing Extension Partnership (MEP) Advisory Board will hold an open meeting on March 7, 2017.

DATES: The meeting will be held Tuesday, March 7, 2017, from 8:00 a.m. to 5:00 p.m. Eastern Time.

ADDRESSES: The meeting will be held at the Department of Commerce, Herbert C. Hoover Building, 1401 Constitution Avenue, Auditorium, Washington, DC 20230. Please note admittance instructions in the **SUPPLEMENTARY INFORMATION** section below.

FOR FURTHER INFORMATION CONTACT: Cheryl L. Gendron, Manufacturing Extension Partnership, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, Maryland 20899–4800, telephone number (301) 975–2785, email: *Cheryl.Gendron@nist.gov*.

SUPPLEMENTARY INFORMATION: The MEP Advisory Board is authorized under Section 3003(d) of the America COMPETES Act (Pub. L. 110–69), as amended by the Manufacturing Extension Partnership Improvement Act, Public Law 114–329 sec. 501 (2017), and codified at 15 U.S.C. 278k(m), in accordance with the provisions of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. The Hollings MEP Program (Program) is a unique program, consisting of centers in each state in the United States and Puerto Rico with partnerships at the state, federal, and local levels. The MEP Advisory Board provides the NIST Director with: (1) Advice on the activities, plans, and policies of the Program; (2) assessments of the soundness of the plans and strategies of the Program; and (3) assessments of current performance against the plans of the Program.

Background information on the MEP Advisory Board is available at *http://www.nist.gov/mep/about/advisory-board.cfm*.

Pursuant to the Federal Advisory Committee Act, as amended, 5 U.S.C. App., notice is hereby given that the MEP Advisory Board will hold an open meeting on Tuesday, March 7, 2017, from 8:00 a.m. to 5:00 p.m. Eastern Time. This meeting will focus on several topics. The MEP Advisory Board will receive an update on Hollings MEP programmatic operations, as well as provide guidance and advice to Hollings MEP senior management on the drafting of the 2017–2022 Strategic Plan. The MEP Advisory Board will also provide input to Hollings MEP on developing protocols that will connect user facilities, research, and technologies at NIST and other federal laboratories with the help of the Hollings MEP national network to support small and mid-size manufacturers, and make recommendations on the establishment of a Hollings MEP Learning Organization. This encompasses an effort to strengthen connections by sharing best practices and building Working Groups and Communities of Practice for furtherance of the Hollings MEP Program's mission. The final agenda will be posted on the MEP Advisory Board Web site at *http://www.nist.gov/mep/about/advisory-board.cfm*.

Admittance Instructions: Anyone wishing to attend the MEP Advisory Board meeting must submit their name, email address and phone number to Cheryl Gendron (*Cheryl.Gendron@nist.gov* or 301–975–2785) no later than Tuesday, February 28, 2017, 5:00 p.m. Eastern Time.

Individuals and representatives of organizations who would like to offer comments and suggestions related to the MEP Advisory Board's business are invited to request a place on the agenda. Approximately 15 minutes will be reserved for public comments at the end of the meeting. Speaking times will be assigned on a first-come, first-served basis. The amount of time per speaker will be determined by the number of requests received but is likely to be no more than three to five minutes each. The exact time for public comments will be included in the final agenda that will be posted on the MEP Advisory Board Web site at *http://www.nist.gov/mep/about/advisory-board.cfm*. Questions from the public will not be considered during this period. Speakers who wish to expand upon their oral statements, those who had wished to speak but could not be accommodated on the agenda, and those who were unable to attend in person are invited to submit written statements to the MEP Advisory Board, National Institute of Standards and Technology, 100 Bureau Drive, Mail Stop 4800, Gaithersburg, Maryland 20899–4800, via fax at (301) 963–6556, or electronically by email to *Cheryl.Gendron@nist.gov*.

Phillip A. Singerman,

Associate Director for Innovations and Industry Services.

[FR Doc. 2017–03094 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF225

Pacific Fishery Management Council (Pacific Council); Public Meetings

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of public meetings.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) and its advisory entities will hold public meetings.

DATES: The Pacific Council and its advisory entities will meet March 7–13, 2017. The Pacific Council meeting will begin on Wednesday, March 8, 2017 at 9 a.m., reconvening at 8 a.m. each day through Monday, March 13, 2017. All meetings are open to the public, except a closed session will be held from 8 a.m. to 9 a.m., Wednesday, March 8 to address litigation and personnel matters. The Pacific Council will meet as late as necessary each day to complete its scheduled business. To view Instructions for attending the meeting via live stream broadcast see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The Pacific Council and its advisory entities will hold the meetings, at the Hilton Vancouver Hotel, 301 West Sixth Street, Vancouver, Washington; telephone 360–993–4500.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, Oregon 97220.

FOR FURTHER INFORMATION CONTACT: Mr. Chuck Tracy, Executive Director; telephone: 503–820–2280 or 866–806–7204 toll-free; or access the Pacific Council Web site, at *http://www.pcouncil.org,* for the current meeting location, proposed agenda, and meeting briefing materials.

SUPPLEMENTARY INFORMATION: The March 7–13, 2017 meeting of the Pacific Council will be streamed live on the internet. The broadcasts begin initially at 9 a.m. Pacific Time (PT) Wednesday, March 8, 2017 and continue at 8 a.m. daily through Monday, March 13, 2017. Broadcasts end daily at 6 p.m. PT or when business for the day is complete. Only the audio portion and presentations displayed on the screen at the Pacific Council meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the Pacific Council via the broadcast. To access the meeting online please use the

following link: *http://www.gotomeeting.com/online/webinar/join-webinar* and enter the March Webinar ID, 897–986–459, and your email address. You can attend the Webinar online using a computer, tablet, or smart phone, using the GoToMeeting application. It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio portion only of the meeting. The audio portion may be attended using a telephone by dialing the toll number 1–562–247–8422 (not a toll-free number), audio access code 862–846–290, and enter the audio pin shown after joining the Webinar.

The following items are on the Pacific Council agenda, but not necessarily in this order. Agenda items noted as ''Final Action'' refer to actions requiring the Council to transmit a proposed fishery management plan, proposed plan amendment, or proposed regulations to the U.S. Secretary of Commerce, under sections 304 or 305 of the Magnuson-Stevens Fishery Conservation and Management Act. Additional detail on agenda items, Council action, advisory entity meeting times, and meeting rooms are described in Agenda Item A.4, Proposed Council Meeting Agenda, and will be in the advance March 2017 briefing materials and posted on the Pacific Council Web site, at *www.pcouncil.org* no later than Friday, February 17, 2017.

A. Call to Order
1. Opening Remarks
2. Roll Call
3. Executive Director's Report
4. Approve Agenda

B. Open Comment Period
1. Comments on Non-Agenda Items

C. Administrative Matters
1. National Marine Sanctuaries Coordination Report
2. National Standard 1 Guidelines Carryover Provisions
3. Approval of Council Meeting Record
4. Membership Appointments and Council Operating Procedures
5. Future Council Meeting Agenda and Workload Planning

D. Habitat
1. Current Habitat Issues

E. Salmon Management
1. National Marine Fisheries Service Report
2. Review of 2016 Fisheries and Summary of 2017 Stock Abundance Forecasts
3. Identification of Management Objectives and Preliminary Definition of 2017 *Salmon* Management Alternatives
4. Council Recommendations for 2017 Management Alternative Analysis
5. Further Council Direction for 2017 Management Alternatives
6. Adoption of 2017 Management Alternatives for Public Review
7. *Salmon* Hearings Officers

F. Ecosystem-Based Fishery Management
1. Annual State of the California Current Ecosystem Report
2. *Sablefish* Ecosystem Indicators
3. Review of Fishery Ecosystem Plan Initiatives

G. Enforcement Issues
1. Annual U.S. Coast Guard Fishery Enforcement Report

H. Pacific Halibut Management
1. Report on the International Pacific *Halibut* Commission (IPHC) Meeting
2. Incidental Catch Recommendations Options for the *Salmon* Troll and Final Recommendations for Fixed Gear *Sablefish* Fisheries (Final Action)

I. Groundfish Management
1. *Salmon* Endangered Species Act (ESA) Consultation Analysis
2. Reports and Recommendations from *Groundfish* Science Workshops and Methodology Reviews
3. Consideration of Inseason Adjustments, Including Carryover (Final Action)
4. Implementation of the 2017 Pacific *Whiting* Fishery Under the U.S./Canada Agreement (Final Action)

J. Highly Migratory Species Management
1. National Marine Fisheries Service Report
2. Update on Existing Deep-Set Buoy Gear Exempted Fishing Permits (EFPs)
3. Proposed Deep-Set Buoy Gear Exempted Fishing Permits
4. Amendment 4 to the Fishery Management Plan for West Coast Fisheries for Highly Migratory Species (HMS FMP)
5. Recommendations for International Management Activities
6. Fishery Management Plan Amendment 5: Final Action Authorizing Federal Drift Gillnet Permit (Final Action)

Advisory Body Agendas

Advisory body agendas will include discussions of relevant issues that are on the Pacific Council agenda for this meeting, and may also include issues that may be relevant to future Council meetings. Proposed advisory body agendas for this meeting will be available on the Pacific Council Web site *http://www.pcouncil.org/council-operations/council-meetings/current-briefing-book/* no later than Friday, February 17, 2017.

Schedule of Ancillary Meetings

Day 1—Tuesday, March 7, 2017
Ecosystem Advisory Subpanel 8 a.m.
Ecosystem Workgroup 8 a.m.
Habitat Committee 8 a.m.
Scientific and Statistical Committee 8 a.m.

Day 2—Wednesday, March 8, 2017
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Ecosystem Advisory Subpanel 8 a.m.
Ecosystem Workgroup 8 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Scientific and Statistical Committee 8 a.m.
Enforcement Consultants 3 p.m.
Tribal Policy Group Ad Hoc
Tribal and Washington Technical Group Ad Hoc

Day 3—Thursday, March 9, 2017
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad Hoc
Tribal Policy Group Ad Hoc
Tribal and Washington Technical Group Ad Hoc

Day 4—Friday, March 10, 2017
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad Hoc
Tribal Policy Group Ad Hoc
Tribal and Washington Technical Group Ad Hoc

Day 5—Saturday, March 11, 2017
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.

Washington State Delegation 7 a.m.
Groundfish Advisory Subpanel 8 a.m.
Groundfish Management Team 8 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad Hoc
Tribal Policy Group Ad Hoc
Tribal and Washington Technical Group Ad Hoc

Day 6—Sunday, March 12, 2017
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.
Highly Migratory Species Advisory Subpanel 8 a.m.
Highly Migratory Species Management Team 8 a.m.
Salmon Advisory Subpanel 8 a.m.
Salmon Technical Team 8 a.m.
Enforcement Consultants Ad Hoc
Tribal Policy Group Ad Hoc
Tribal and Washington Technical Group Ad Hoc

Day 7—Monday, March 13, 2017
California State Delegation 7 a.m.
Oregon State Delegation 7 a.m.
Washington State Delegation 7 a.m.

Although non-emergency issues not contained in this agenda may come before this Pacific Council for discussion, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Pacific Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris Kleinschmidt, at 503–820–2280, ext. 411 (see **ADDRESSES**) at least ten business days prior to the meeting date.

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

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

Dated: February 10, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–03089 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF226

Gulf of Mexico Fishery Management Council; Public Meetings

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

ACTION: Notice of public hearings and Webinar.

SUMMARY: The Gulf of Mexico Fishery Management Council (Council) will hold five public hearings and Webinar to solicit public comments on Draft Amendment 46; the Gray *Triggerfish* Rebuilding Plan.

DATES: The meetings and Webinar will convene Monday, March 6, 2017; starting at 6 p.m. and will adjourn on Wednesday, March 15, 2017, no later than 9 p.m., to view the agenda see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The public hearings will be held in Destin and St. Petersburg, FL, Corpus Christi and Galveston, TX, and Spanish Fort, AL.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; (813) 348–1630 or on their Web site, at *www.gulfcouncil.org.*

Public comments: Written comments must be received on Tuesday, February 28, 2017, before 5 p.m. Comments may also be submitted online through the Council's public portal by visiting *www.gulfcouncil.org* and clicking on ''CONTACT US''.

FOR FURTHER INFORMATION CONTACT: Douglas Gregory, Executive Director, Gulf of Mexico Fishery Management Council; telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Agenda

The agenda for the following five hearings and Webinar are as follows: Council staff will brief the public on the results of the gray *triggerfish* stock assessment and rebuilding status. Council staff will also provide an overview of the actions and alternatives considered in the amendment including the Council preferred alternatives. The Council is currently considering modifications to: The rebuilding time period, commercial and recreational annual catch limits (ACLs) and annual catch targets (ACTs), recreational management measures including modifications to the fixed closed seasons, and bag limit and minimum size limits. The Council is also considering modifying the commercial trip limit while maintaining the current fixed closed season of June 1, 2017 through July 31, 2017. Staff and a Council member will be available to answer any questions and the public will have the opportunity to provide testimony on the amendment and other related testimony.

The schedule is as follows:

Locations

Monday, March 6, 2017; Hilton Garden Inn, 6717 S. Padre Island Drive, Corpus Christi, TX 78412; telephone: (361) 991–8200; Five Rivers Delta Resource Center, 30945 Five Rivers Boulevard, Spanish Fort, AL 36527; telephone: (251) 625–0814.

Tuesday, March 7, 2017; Destin Community Center, 101 Stahlman Ave, Destin, FL 32541; telephone: (850) 654–5184; Courtyard by Marriott, 9550 Seawall Boulevard, Galveston, TX 77554; telephone: (409) 497–2850.

Thursday, March 9, 2017; Hilton St. Petersburg Carillon Park, 950 Lake Carillon Drive, St. Petersburg, FL 33716; telephone: (727) 540–0050.

Wednesday, March 15, 2017, Webinar will convene at 6 p.m., at *https://attendee.gotowebinar.com/register/2003305067287307265.*

After registering, you will receive a confirmation email containing information about joining the Webinar.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira (see **ADDRESSES**), at least 5 business days prior to the meeting date.

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

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

Dated: February 13, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–03119 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the

following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Statement of Financial Interests, Regional Fishery Management Councils.

OMB Control Number: 0648–0192.

Form Number(s): NOAA88–195.

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

Number of Respondents: 330.

Average Hours per Response: 45 minutes.

Burden Hours: 247 hours.

Needs and Uses: This request is for revision and extension of a current information collection. The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson Stevens Act) authorizes the establishment of Regional Fishery Management Councils to exercise sound judgment in the stewardship of fishery resources through the preparation, monitoring, and revision of such fishery management plans under circumstances (a) which will enable the States, the fishing industry, consumers, environmental organizations, and other interested persons to participate in the development of such plans, and (b) which take into account the social and economic needs of fishermen and dependent communities.

Section 302(j) of the Magnuson-Stevens Act requires that Council members appointed by the Secretary, Scientific and Statistical Committee (SSC) members appointed by a Council under Section 302(g)(1), or individuals nominated by the Governor of a State for possible appointment as a Council member, disclose their financial interest in any Council fishery. These interests include harvesting, processing, lobbying, advocacy, or marketing activity that is being, or will be, undertaken within any fishery over which the Council concerned has jurisdiction, or with respect to an individual or organization with a financial interest in such activity. The authority to require this information and reporting and filing requirements has not changed. Revision: NOAA Fisheries is in the process of conducting minor revisions to the form by adding clearer instructions and clarifying some of the questions asked to ensure the questions are consistent with the regulatory requirements. Revisions will also include a specific check box to indicate that a Council nominee, and not a member, is completing the form.

The Secretary is required to submit an annual report to Congress on action taken by the Secretary and the Councils to implement the disclosure of financial interest and recusal requirements, including identification of any conflict of interest problems with respect to the Councils and SSCs and recommendations for addressing any such problems.

The Act further provides that a member shall not vote on a Council decision that would have a significant and predictable effect on a financial interest if there is a close causal link between the Council decision and an expected and substantially disproportionate benefit to the financial interest of the affected individual relative to the financial interest of other participants in the same gear type or sector of the fishery. However, an affected individual who is declared ineligible to vote on a Council action may participate in Council deliberations relating to the decision after notifying the Council of his/her recusal and identifying the financial interest that would be affected.

The form has been revised to increase clarity for the respondents. No new information is being requested.

Affected Public: Individuals or households.

Frequency: Annually or updated as needed.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 10, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–03085 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Gear Identification.

OMB Control Number: 0648–0353.

Form Number(s): None.

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

Number of Respondents: 988.

Average Hours per Response: Tag requests and replacements, 15 minutes; buoy marking, 15 minutes per buoy.

Burden Hours: 1,841.

Needs and Uses: Regulations specify that all hook-and-line, longline pot, and pot-and-line marker buoys carried on board or used by any vessel must be marked with Federal Fisheries Permit number or State of Alaska Department of Fish and Game vessel registration number. Regulations that marker buoys be marked with identification information are essential to facilitate fisheries enforcement and actions concerning damage, loss, and civil proceedings. The ability to link fishing gear to the vessel owner or operator is crucial to enforcement of regulations.

This collection also provides a voluntary opportunity for Gulf of Alaska (GOA) individual fishing quota (IFQ) sablefish fishermen to use a gear that physically protects caught sablefish from depredation by whales. That option, the use of pot longline gear, currently exists in sablefish IFQ fisheries in the Bering Sea and Aleutian Islands management areas. Potential benefits of pot longline gear for sablefish fishing include: Mitigation of whale interaction with fishing gear, reduced mortality of seabirds, reduced bycatch of non-target fish species, reduced overall halibut mortality when targeting sablefish, and better accounting of total sablefish fishing mortality.

Whales are able to strip hooked fish from hook-and-line gear, which reduces the amount of sablefish caught by fishermen. As such, whale depredation represents undocumented fishing mortality.

Many seabird species are attracted to fishing vessels in order to forage on bait, offal, discards, and other prey made available by fishing operations. These interactions can result in direct mortality for seabirds if they become entangled in fishing gear or strike the vessel or fishing gear while flying.

Each vessel must use mandatory logbooks (see OMB Control No. 0648–0213 and 0648–0515) when participating in a longline pot fishery. When the number of pots deployed by a vessel is self-reported through logbooks, the use of pot tags provides an additional enforcement tool to ensure

that the pot limits are not exceeded. The use of pot tags requires a uniquely identified tag to be securely affixed to each pot. This allows at-sea enforcement and post-trip verification of the number of pots fished.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

This information collection request may be viewed at *reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: February 10, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–03076 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

XRIN 0648–XE941

Takes of Marine Mammals Incidental to Specified Activities; Taking Marine Mammals Incidental to the Kodiak Transient Float Replacement Project

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

ACTION: Notice; issuance of an Incidental Harassment Authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the City of Kodiak (the City) to incidentally harass, by Level B harassment only, marine mammals during construction activities associated with pile driving and removal and down hole drilling activities in Kodiak, Alaska.

DATES: This Authorization is effective from January 1, 2017 through December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Laura McCue, Office of Protected Resources, NMFS, (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Summary of Request

On August 15, 2016, NMFS received an application from the City for the taking of marine mammals incidental to the Kodiak transient float replacement project (Project) in Kodiak, Alaska. On October 17, 2016 NMFS received a revised application with updated take numbers. NMFS determined that the application was adequate and complete on October 21, 2016. Subsequent to NMFS accepting the application, changes were made to the injury zones, take numbers, and shutdown zones. The City provided a memo to NMFS on November 1, 2016 noting these changes. This memo, along with the City's application, and other supporting documents can be found on our Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.*

The City will conduct in-water construction work (*i.e.,* pile driving and removal) that may incidentally harass marine mammals. The activity may occur between January 1, 2017 and December 31, 2017, with restrictions on impact driving between May 1, 2017 and June 30, 2017.

Activities included as part of the Project with the potential to take marine mammals include vibratory and impact pile-driving operations and use of a down-hole drill/hammer to install piles in bedrock. Take by Level B harassment of individuals of six species is anticipated to result from the specified activity.

On August 4, 2016, NMFS released its Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (Guidance). This new guidance established new thresholds for predicting auditory injury, which equates to Level A harassment under the MMPA. The transient float project used this new guidance when determining the injury (Level A) zones.

Description of the Specified Activity

Overview

The City plans to replace its existing transient float located in Kodiak's Near Island Channel. The purpose of this project is to replace the transient float with one that meets modern standards for vessel mooring and public safety for the next 50 years. The existing float has structural issues due to failing walers, stringers, and bullrails. Due to these structural problems, the float's capacity has been reduced. The existing float needs to be replaced due to its poor condition and reduced capacity. The planned action includes in-water construction, including the removal of the existing timber float and its associated timber and steel piles, and installation of the replacement float and steel piles. The replacement float will be located within nearly the same footprint as the existing facility; however, the overall float length will be shortened to improve all around accessibility within City right-of-way limits. A detailed description of the planned Project is provided in the **Federal Register** notice for the proposed IHA (81 FR 79350; November 10, 2016). Since that time, no changes have been made to the planned Project activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Dates and Duration

Pile installation and extraction associated with the Project is scheduled to begin in January 2017 and end in March 2017. Pile installation and removal will take approximately 57 hours and is expected to take place over a period of 12 days (not necessarily consecutive days). To minimize impacts to pink salmon fry (*Oncorhynchus gorbuscha*) and coho salmon smolt (*O. kisutch*), all in-water pile extraction and installation is planned to be completed by April 30, 2016. However, if work cannot be completed by that date, the Alaska Department of Fish & Game (ADF&G) has recommended that the City refrain from impact pile installation from May 1 through June 30 within the 12-hour period beginning daily at the start of civil dawn (Marie 2015). If impact pile-driving occurs from May 1 through June 30, it will occur in the evenings during daylight hours, after the end of the 12-hour period that begins at civil dawn.

The 2.5-month long construction period accounts for the time required to mobilize materials and resources, remove and replace piles, remove the existing float, and install the new float, abutment, gangway, electrical components, and other safety features. The 2.5-month long construction period also accounts for potential delays in material deliveries, equipment maintenance, inclement weather, and shutdowns that could occur if marine mammals come within disturbance zones associated with the project area. However, the City has requested an authorization for up to one year of construction activities in case unforeseen construction delays occur.

Pile extraction, pile driving, and drilling will occur intermittently over the work period, from minutes to hours at a time (Table 1 in the City's application). The planned transient float replacement project will require an estimated 12 days total of pile extraction and installation, including eight hours of vibratory extraction and installation, 48 hours of down-hole drilling, and less than one hour of impact hammering. Timing will vary based on the weather, delays, substrate type (the rock is layered and is of varying hardness across the site, so some holes will be drilled quickly and others may take longer), and other factors.

Specified Geographic Region

The Kodiak transient float is located in the City of Kodiak, Alaska, at 57.788162° N. −152.400287° W., in Near Island Channel in the Gulf of Alaska (See Figures 1–3 in the City's Application). The transient float provides moorage for vessels from villages as well as from the commercial fishing fleet located in Near Island Channel, which separates downtown Kodiak from Near Island (Figure 1–2 in the City's application). The channel is approximately 200 meters (m) (656 feet (ft)) wide and 15 m (50 ft) deep in the project area. In the project footprint, the shoreline along the Transient Float is heavily armored with riprap (see Figure 4 of the City's application) and impervious surfaces directly abut the shoreline adjacent to the float. The channel is located within Chiniak Bay which opens to the Gulf of Alaska.

The project is located in a busy industrial area (Figure 3 of the City's application). Channel Side Services' seafood packing facility is located approximately 25 m (82 ft) east of the float and Petro Marine Services floating fuel dock is located approximately 20 m (66 ft) west of the float. Pier 1, the Alaska Marine Highway Ferry dock, is located 100 m (328 ft) southwest of the float and Trident Seafood's shore-based seafood processing plant is located approximately 175 m (574 ft) to the southwest (See Figure 3 in the City's application). When in operation, Trident's plant receives numerous commercial fishing vessels daily for offloading and processing of catch.

Detailed Description of Activities

The planned action for this IHA request includes in-water construction, including the removal of the existing timber float and its associated steel piles (19 12-inch steel piles), and installation of the replacement float and steel piles (12 24-inch steel piles). The replacement float will be located within nearly the same footprint as the existing facility; however, the overall float length will be shortened to improve all around accessibility within City right-of-way limits. The planned transient float project will require an estimated 58 hours over 12 days total of pile extraction and installation, including approximately eight hours of vibratory extraction and installation, 48 hours of down-hole drilling, and less than one hour of impact hammering. In water construction activities are expected to occur over 2.5 months.

While work is conducted in the water, anchored barges will be used to stage construction materials and equipment. The existing piles, fixed pier, float and gangway will be removed and disposed of properly and the new float will be installed.

It is estimated that it will take 10 minutes of vibratory pile-driving and 4 hours of down-hole drilling per pile for installation, and 20 minutes of vibratory pile-driving per pile for extraction. For the installation of 12 piles, this is an estimated 2 hours of total time using active vibratory equipment and 48 hours of total time using down-hole drilling. For the in-water extraction of 19 piles, this is an estimated 6.33 hours of total time using active vibratory equipment. Two piles will remain in place, and two piles to be removed are above the high tide line. No temporary piles are associated with this project.

The 24-inch steel piles will be driven 3–4.6 m (10–15 ft) through sediment and drilled another 3 m (10 ft) into bedrock. The sequence for installing the 24-inch piles will begin with insertion through overlying sediment with a vibratory hammer for about eight minutes per pile. Next, a hole will be drilled in the underlying bedrock by using a down-hole drill. A down-hole drill is a drill bit that drills through the sediment and a pulse mechanism that functions at the bottom of the hole, using a pulsing bit to break up the harder materials or rock to allow removal of the fragments and insertion of the pile. The head extends so that the drilling takes place below the pile. Drill cuttings are expelled from the top of the pile as dust or mud. It is estimated that drilling piles through the layered bedrock will take about four hours per pile. Finally, the vibratory hammer will be used again to finish driving the piles into bedrock, for approximately two minutes per pile (Table 1).

Although impact pile-driving is not expected for this project, the contractor may choose to impact proof the piles after down-hole drilling. In this case, two to five blows of an impact hammer will be used to confirm that piles are set into bedrock, for an expected maximum time of three minutes of impact hammering per pile. When the impact hammer is employed for proofing, a pile cap or cushion will be placed between the impact hammer and the pile.

TABLE 1—ESTIMATED NUMBER OF HOURS PLANNED FOR PILE EXTRACTION AND INSTALLATION

Pile type, location, method	Number of piles	Vibratory hammer		Down-hole drill		Impact hammer	
		Number of piles	Hours	Number of piles	Hours	Number of piles	Hours
12-inch Steel Existing Float Extraction	19	19	6.33	0	0	0	0
24-inch Steel Replacement Float Installation	12	12	2	12	48	12	0.6
Total hours in-water			8.33		48		0.6

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the City was published in the **Federal Register** on November 10, 2016 (81 FR 79350). That notice described, in detail, the City's activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission. The Marine Mammal Commission recommended that NMFS issue the IHA, subject to inclusion of the proposed mitigation, monitoring, and reporting measures.

Description of Marine Mammals in the Area of the Specified Activity

Marine waters near Kodiak Island support many species of marine mammals, including pinnipeds and cetaceans; however, the number of species regularly occurring near the project area is limited. Steller sea lions (*Eumatopias jubatus*) are the most common marine mammals in the project area and are part of the western Distinct Population Segment (wDPS) that is listed as endangered under the Endangered Species Act (ESA). Harbor seals (*Phoca vitulina*), harbor porpoises (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), killer whales (*Orcinus orca*), and humpback whales (*Megaptera novaeangliae*) may also occur in the project area, especially in the waters between Near Island Channel and Woody Island, but far less frequently and in lower abundance than Steller sea lions. Fin whales (*Balaenoptera physalus*) and grey whales (*Eschrichtius robustus*) occur in the nearshore waters around Kodiak Island, but are not expected to be found near the project area because of the narrow channel and high level of boat traffic. The relatively large numbers of Steller sea lions in the area may serve as an additional deterrent for some marine mammals. Table 2 provides information about the species that are potentially present in the project area. Steller sea lion, harbor seal, harbor porpoise, Dall's porpoise, killer whale, and humpback whale, are the species that regularly occur or that may occur in the project area. A detailed description of the species likely to be affected by the Project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (81 FR 79350; November 10, 2016). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. Please refer to that **Federal Register** notice for these descriptions. Please also refer to NMFS' Web site (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA

Species	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Relative occurrence in Kodiak
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Phocoenidae (porpoises)					
Dall's porpoise	Alaska	-: N	83,400 (0.097; n/a; 1993)	Undet	Rare.
Harbor porpoise	Gulf of Alaska	-: S	31,046 (n/a; n/a; 2010)	Undet	Common.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Delphinidae (dolphins)					
Killer whale	Eastern North Pacific Alaska Resident.	-: N	2,347 (n/a; 2,347; 2012)	23.4	Common.
	Eastern North Pacific Gulf of AK, Aleutian Islands, and Bering Sea Transient.	-: N	587 (n/a; 587; 2012)	5.9	Common.
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Balaenopteridae					
Humpback whale	Central North Pacific	n/a [4]; S	10, 103 (0.300; 7,890; 2006)	83	Rare.
	Western North Pacific	n/a [4]; S	1,107 (0.300; 865; 2006)	3	Rare.
Fin whale	Northeast Pacific	E/D; S	n/a (n/a; n/a; 2010)	undet	Rare.

TABLE 2—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN THE PROJECT AREA—Continued

Species	Stock	ESA/MMPA status; Strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR [3]	Relative occurrence in Kodiak
Order Cetartiodactyla—Cetacea—Superfamily Odontoceti (toothed whales, dolphins, and porpoises)					
Family Eschrichtiidae					
Grey whale	Eastern North Pacific	-: N	20,990 (0.05; 20,125; 2011)	624	Rare.
Order Carnivora—Superfamily Pinnipedia					
Family Otariidae (eared seals and sea lions)					
Steller sea lion	wDPS	E/D; S	49,497 (n/a; 49,497; 2014)	297	Common.
Order Carnivora—Superfamily Pinnipedia					
Family Phocidae (earless seals)					
Harbor seal	South Kodiak	-; N	19,199 (n/a; 17,479; 2011)	314	Common.

[1] ESA status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR (see footnote 3) or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable. For certain stocks of pinnipeds, abundance estimates are based upon observations of animals (often pups) ashore multiplied by some correction factor derived from knowledge of the specie's (or similar species') life history to arrive at a best abundance estimate; therefore, there is no associated CV. In these cases, the minimum abundance may represent actual counts of all animals ashore.

[3] Potential biological removal, defined by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population size (OSP).

[4] The newly defined DPSs do not currently align with the stocks under the MMPA.

Potential Effects of the Specified Activity on Marine Mammals and Their Habitat

The effects of underwater noise from construction activities for the Project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The **Federal Register** notice for the proposed IHA (81 FR 79350; November 10, 2016) included a discussion of the effects of anthropogenic noise on marine mammals, therefore that information is not repeated here; please refer to the **Federal Register** notice for that information.''

Effects on Marine Mammal Habitat

The primary impacts to marine mammal habitat are associated with elevated sound levels produced by vibratory and impact pile driving and removal in the area, and down-hole drilling. However, other potential impacts to the surrounding habitat from physical disturbance are also possible. The Project would not result in permanent impacts to habitats used directly by marine mammals, such as haulout sites, but may have potential short-term impacts to food sources and minor impacts to the immediate substrate during installation and removal of piles during the Project. These potential effects are discussed in detail in the **Federal Register** notice for the proposed IHA (81 FR 79350; November 10, 2016), therefore that information is not repeated here; please refer to that **Federal Register** notice for that information.

Mitigation Measures

In order to issue an IHA under section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, ''and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking'' for certain subsistence uses.

For the Project, the City worked with NMFS on the following mitigation measures to minimize the impacts to marine mammals in the project vicinity. The primary purposes of these mitigation measures are to minimize sound levels from the activities, and to monitor marine mammals within designated zones of influence corresponding to NMFS' current Level A and B harassment thresholds. The Level B zones are depicted in Table 5 found later in the *Estimated Take by Incidental Harassment* section.

Observer Qualifications—Monitoring will be conducted before, during, and after pile driving and removal activities. Monitoring will be conducted by a minimum of two qualified marine mammal observers (MMOs), who will be placed at the best vantage point(s) practicable to monitor for marine mammals and implement shutdown/delay procedures when applicable by calling for the shutdown to the hammer operator. NMFS has minimum requirements for MMOs at the construction site, as well as specific qualifications (*e.g.* experience) needed of each MMO. MMO requirements for construction actions are as follows:

1. Independent observers (*i.e.,* not construction personnel) are required.
2. At least one observer must have prior experience working as an observer.
3. Other observers (that do not have prior experience) may substitute education (undergraduate degree in biological science or related field) or training for experience.
4. Where a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer.
5. NMFS will require submission and approval of observer CVs.

Qualified MMOs are trained biologists, and need the following additional minimum qualifications:

(a) Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the

water's surface with ability to estimate target size and distance; use of binoculars may be necessary to correctly identify the target;

(b) Ability to conduct field observations and collect data according to assigned protocols

(c) Experience or training in the field identification of marine mammals, including the identification of behaviors

(d) Sufficient training, orientation, or experience with the construction operation to provide for personal safety during observations

(e) Writing skills sufficient to prepare a report of observations including but not limited to the number and species of marine mammals observed; dates and times when in-water construction activities were conducted; dates and times when in-water construction activities were suspended to avoid potential incidental injury from construction sound of marine mammals observed within a defined shutdown zone; and marine mammal behavior.

(f) Ability to communicate orally, by radio or in person, with project personnel to provide real-time information on marine mammals observed in the area as necessary.

Monitoring Protocols—The City will conduct briefings between construction supervisors and crews, marine mammal monitoring team, and City staff prior to the start of all pile driving activity, and when new personnel join the work, in order to explain responsibilities, communication procedures, marine mammal monitoring protocol, and operational procedures.

Prior to the start of pile driving activity, the shutdown zone will be monitored for 30 minutes to ensure that it is clear of marine mammals. Pile driving will only commence once observers have declared the shutdown zone clear of marine mammals; animals will be allowed to remain in the shutdown zone (*i.e.,* must leave of their own volition) and their behavior will be monitored and documented. The shutdown zone may only be declared clear, and pile driving started, when the entire shutdown zone is visible (*i.e.,* when not obscured by dark, rain, fog, etc.).

If a marine mammal approaches or enters the shutdown zone during the course of pile driving operations, activity will be halted and delayed until either the animal has voluntarily left and been visually confirmed beyond the shutdown zone or 30 minutes have passed without re-detection of large cetaceans (*e.g.* killer whales, humpback whales) or 15 minutes for small cetaceans (*e.g.* Dall's and harbor porpoise) and pinnipeds. Monitoring will be conducted throughout the time required to drive a pile, through 30 minutes post-completion of pile driving activities. Pile driving activities include the time to remove a single pile or series of piles, as long as the time elapsed between uses of the pile driving equipment is no more than 30 minutes.

Observers will record all incidents of marine mammal occurrence, regardless of distance from activity, and shall document any behavioral reactions in concert with distance from piles being driven. Observations made outside the shutdown zone will not result in shutdown; that pile segment will be completed without cessation, unless the animal approaches or enters the shutdown zone, at which point all pile driving activities will be halted, as described below. Please see Appendix B of the City's application for details on the marine mammal monitoring plan developed by the City with NMFS' cooperation.

Ramp Up or Soft Start—The use of a soft start procedure is believed to provide additional protection to marine mammals by warning or providing a chance to leave the area prior to the impact hammer operating at full capacity, and typically involves a requirement to initiate sound from the hammer at reduced energy followed by a waiting period. This procedure is repeated two additional times. It is difficult to specify the reduction in energy for any given hammer because of variation across drivers. The project will utilize soft start techniques for all impact pile driving. NMFS will require the City to initiate sound from impact driving with an initial set of three strikes from the impact hammer at reduced energy, followed by a 1-minute waiting period, then two subsequent three strike sets. Soft start will be required at the beginning of each day's impact pile driving work and at any time following a cessation of pile driving of 30 minutes or longer.

If a marine mammal is present within the Level A harassment zone, ramping up will be delayed until the animal(s) leaves the Level A harassment zone. Activity will begin only after the MMO has determined, through sighting, that the animal(s) has moved outside the Level A harassment zone.

If a Steller sea lion, harbor seal, harbor porpoise, Dall's porpoise, humpback whale, or killer whale is present in the Level B harassment zone, ramping up will begin and a Level B take will be documented. Ramping up will occur when these species are in the Level B harassment zone whether they entered the Level B zone from the Level A zone, or from outside the project area.

If any marine mammal other than Steller sea lions, harbor seals, harbor porpoises, Dall's porpoise, humpback whale, or killer whales is present in the Level B harassment zone, ramping up will be delayed until the animal(s) leaves the zone. Ramping up will begin only after the MMO has determined, through sighting, that the animal(s) has moved outside the harassment zone.

Pile Caps—Pile caps or cushions will be used during all impact pile-driving activities.

Shutdown Zone—For all pile driving activities, the City will establish a shutdown zone. Shutdown zones are intended to contain the area in which sound pressure levels (SPL) equal or exceed acoustic injury criteria, with the purpose being to define an area within which shutdown of activity will occur upon sighting of a marine mammal (or in anticipation of an animal entering the defined area), thus preventing injury of marine mammals. Using the user spreadsheet for the new acoustic guidance, injury zones were determined for each of the hearing groups. These zones will be rounded to the nearest 10 or 100 m to be more conservative (Table 3). Isopleths for impact driving have been updated from the proposed IHA due to changes in the values used in the user spreadsheet (pulse duration changed from 0.05 to 0.1, and the duration was changed from hours per day to number of piles per day). As a precautionary measure, intended to reduce the unlikely possibility of injury from direct physical interaction with construction operations, the City will implement a minimum shutdown zone of 10 m radius around each pile for all construction methods for all marine mammals. Additionally, to avoid acoustic injury, the following shutdown zones will be in place for all construction methods (vibratory extraction and installation, down-hole drilling, and impact driving): 100m for humpback whales, harbor porpoise, and Dall's porpoise, 50 m for harbor seals, and 10 m for killer whales and Steller sea lions (Table 3).

TABLE 3—INJURY ZONES AND SHUTDOWN ZONES FOR HEARING GROUPS FOR EACH CONSTRUCTION METHOD

Hearing group	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Vibratory installation/extraction [1]					
PTS Isopleth to threshold (m)	7.1 (8)	1.4 (2)	9.3 (10)	5.1 (6)	0.8 (1)
Down-hole drilling [2]					
PTS Isopleth to threshold (m)	71.7 (100)	7.3 (8)	64.6 (100)	43.7 (100)	5.5 (6)
Impact driving [3]					
PTS Isopleth to threshold (m)	23.1 (25)	2.0 (2)	26.2 (30)	14.5 (15)	2.1 (3)
Shutdown zone (m)	100	*10	100	50	*10

Note: Numbers in parentheses are the rounded zones (to the nearest 1 if under 10 m, and 10 or 100 m).
*The minimum 10 m shutdown in place for all construction projects will cover the injury zones for these hearing groups.
[1] For vibratory driving, SL is 183.8, TL is 21.9logR, weighting function is 2.5, duration is 0.69 hours, and distance from the source is one meter.
[2] For down-hole drilling, SL is 192.5, TL is 18.9logR, weighting function is two, duration is four hours, and distance from the source is one meter.
[3] For impact driving, SL is 205.9, weighting function is two, duration is 6 piles per day, pulse duration is 0.1, TL is 20.3log R, strikes per pile is five, and distance from the source is one meter.

For in-water heavy machinery work other than pile driving (using, *e.g.,* standard barges, tug boats, barge-mounted excavators, or clamshell equipment used to place or remove material), if a marine mammal comes within 10 m, operations shall cease and vessels shall reduce speed to the minimum level required to maintain steerage and safe working conditions.

Disturbance Zone—Disturbance zones are the areas in which SPLs equal or exceed 120 decibels (dB) root mean square (rms) (for continuous sound) and 160 dB rms (for impulsive sound) for pile driving installation and removal. Disturbance zones provide utility for monitoring conducted for mitigation purposes (*i.e.,* shutdown zone monitoring) by establishing monitoring protocols for areas adjacent to the shutdown zones. The disturbance zone will be monitored by appropriately stationed MMOs. Monitoring of disturbance zones enables observers to be aware of and communicate the presence of marine mammals in the project area but outside the shutdown zone and thus prepare for potential shutdowns of activity. However, the primary purpose of disturbance zone monitoring is for documenting incidents of Level B harassment.

Any marine mammal documented within the Level B harassment zone will constitute a Level B take (harassment), and will be recorded and reported as such. Nominal radial distances for disturbance zones are shown in Table 4. Given the size of the disturbance zone for down-hole drilling, it is impossible to guarantee that all animals will be observed or to make comprehensive observations of fine-scale behavioral reactions to sound, and only a portion of the zone (*e.g.,* what may be reasonably observed by visual observers) will be observed.

In order to document observed incidents of harassment, monitors record all marine mammal observations, regardless of location. The observer's location, as well as the location of the pile being driven or removed, is known from a GPS. The location of the animal is estimated as a distance from the observer, which is then compared to the location from the pile. It may then be estimated whether the animal was exposed to sound levels constituting incidental harassment on the basis of predicted distances to relevant thresholds in post-processing of observational and acoustic data, and a precise accounting of observed incidences of harassment created. This information may then be used to extrapolate observed takes to reach an approximate understanding of actual total takes.

Level B take of grey whales and fin whales is not requested and will be avoided by shutting down before individuals of these species enter the Level B zones.

TABLE 4—CALCULATED THRESHOLD DISTANCES (m) FROM AN ACOUSTIC MONITORING STUDY CONDUCTED AT THE PIER 1 IN MARCH 2016

Source	Threshold distances (m)	
	160 dB	120 dB
Vibratory pile driving/extraction	n/a	821 (900)
Down-hole drilling	n/a	6,846 (7,000)

TABLE 4—CALCULATED THRESHOLD DISTANCES (m) FROM AN ACOUSTIC MONITORING STUDY CONDUCTED AT THE PIER 1 IN MARCH 2016—Continued

Source	Threshold distances (m)	
	160 dB	120 dB
Impact pile driving	183 (200)	n/a

Note: Numbers in parentheses are the rounded zones (to the nearest 100 or 1,000 m).

Time Restrictions—Work will occur only during daylight hours when visual monitoring of marine mammals can be conducted. To minimize impacts to pink salmon (*Oncorhynchus gorbuscha*) fry and coho salmon (*O. kisutch*) smolt, the City will observe time restrictions on impact pile driving from May 1, 2017 through June 30, 2017. If impact pile-driving occurs from May 1 through June 30, it will occur in the evenings during daylight hours, after the 12-hour period that begins at civil dawn.

Mitigation measures to ensure availability of such species or stock for taking for certain subsistence uses are discussed later in this document (see *Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses* section).

Mitigation Conclusions

NMFS has carefully evaluated the applicant's mitigation measures and considered a range of other measures in the context of ensuring that NMFS prescribes the means of effecting the least practicable impact on the affected marine mammal species and stocks and their habitat. Our evaluation of the mitigation measures included

consideration of the following factors in relation to one another:

- The manner in which, and the degree to which, the successful implementation of the measure is expected to minimize adverse impacts to marine mammal species or stocks;
- The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and
- The practicability of the measure for applicant implementation.

Any mitigation measure(s) prescribed by NMFS should be able to accomplish, have a reasonable likelihood of accomplishing (based on current science), or contribute to the accomplishment of one or more of the general goals listed below:

1. Avoidance or minimization of injury or death of marine mammals wherever possible (goals 2, 3, and 4 may contribute to this goal).
2. A reduction in the numbers of marine mammals (total number or number at biologically important time or location) exposed to received levels of pile driving and down-hole drilling, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
3. A reduction in the number of times (total number or number at biologically important time or location) individuals will be exposed to received levels of pile driving and down-hole drilling, or other activities expected to result in the take of marine mammals (this goal may contribute to 1, above, or to reducing harassment takes only).
4. A reduction in the intensity of exposures (either total number or number at biologically important time or location) to received levels of pile driving and down-hole drilling, or other activities expected to result in the take of marine mammals (this goal may contribute to a, above, or to reducing the severity of harassment takes only).
5. Avoidance or minimization of adverse effects to marine mammal habitat, paying special attention to the food base, activities that block or limit passage to or from biologically important areas, permanent destruction of habitat, or temporary destruction/disturbance of habitat during a biologically important time.
6. For monitoring directly related to mitigation—an increase in the probability of detecting marine mammals, thus allowing for more effective implementation of the mitigation.

Based on our evaluation of the applicant's mitigation measures and other measures considered by NMFS, we have determined that the mitigation measures provide the means of effecting the least practicable impact on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an Incidental Take Authorization (ITA) for an activity, section 101(a)(5)(D) of the MMPA states that NMFS must set forth, ''requirements pertaining to the monitoring and reporting of such taking.'' The MMPA implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for ITAs must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. The City submitted a marine mammal monitoring plan as part of the IHA application. It can be found in Appendix B of their application.

Monitoring measures prescribed by NMFS should accomplish one or more of the following general goals:

1. An increase in the probability of detecting marine mammals, both within the mitigation zone (thus allowing for more effective implementation of the mitigation) and in general to generate more data to contribute to the analyses mentioned below;
2. An increase in our understanding of how many marine mammals are likely to be exposed to levels of pile driving and down-hole drilling that we associate with specific adverse effects, such as behavioral harassment, Temporary Threshold Shift (TTS), or Permanent Threshold Shift (PTS);
3. An increase in our understanding of how marine mammals respond to stimuli expected to result in take and how anticipated adverse effects on individuals (in different ways and to varying degrees) may impact the population, species, or stock (specifically through effects on annual rates of recruitment or survival) through any of the following methods:
   - Behavioral observations in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Physiological measurements in the presence of stimuli compared to observations in the absence of stimuli (need to be able to accurately predict received level, distance from source, and other pertinent information);
   - Distribution and/or abundance comparisons in times or areas with concentrated stimuli versus times or areas without stimuli;
4. An increased knowledge of the affected species; and
5. An increase in our understanding of the effectiveness of certain mitigation and monitoring measures.

Visual Marine Mammal Observation

The City will collect sighting data and behavioral responses to construction for marine mammal species observed in the region of activity during the period of activity. All MMOs will be trained in marine mammal identification and behaviors and are required to have no other construction-related tasks while conducting monitoring. As discussed previously, the City will monitor the shutdown zone and disturbance zone before, during, and after pile driving. The MMOs and the City authorities will meet to determine the most appropriate observation platform(s) for monitoring during pile installation and extraction.

Based on our MMO requirements, the Marine Mammal Monitoring Plan will implement similar procedures as those described in the *Mitigation Measures section.*

Data Collection

We require that observers use approved data forms. Among other pieces of information, the City will record detailed information about any implementation of shutdowns, including the distance of animals to the pile and description of specific actions that ensued and resulting behavior of the animal, if any. In addition, the City will attempt to distinguish between the number of individual animals taken and the number of incidents of take. We require that, at a minimum, the following information be collected on the sighting forms:

- Date and time that monitored activity begins or ends;
- Construction activities occurring during each observation period;
- Weather parameters (*e.g.,* percent cover, visibility);
- Water conditions (*e.g.,* sea state, tide state);
- Species, numbers, and, if possible, sex and age class of marine mammals;
- Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;
- Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;
- Locations of all marine mammal observations; and

- Other human activity in the area.

Reporting Measures

The City will provide NMFS with a draft monitoring report within 90 days of the conclusion of the construction work. The report will include marine mammal observations pre-activity, during-activity, and post-activity during pile driving days, and will also provide descriptions of any behavioral responses to construction activities by marine mammals and a complete description of all mitigation shutdowns and the results of those actions and an extrapolated total take estimate based on the number of marine mammals observed during the course of construction. A final report must be submitted within thirty days following resolution of comments on the draft report. If no comments are received from NMFS within 30 days, the draft final report will constitute the final report. If comments are received, a final report must be submitted within 30 days after receipt of comments.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA, such as serious injury or mortality (*e.g.,* ship-strike, gear interaction, and/or entanglement), the City will immediately cease the specified activities and immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Stranding Coordinator. The report will include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities will not resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with the City to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. The City will not be able to resume their activities until notified by NMFS via letter, email, or telephone.

In the event that the City discovers an injured or dead marine mammal, and the lead MMO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), the City will immediately report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the Alaska Stranding Coordinator.

The report will include the same information identified in the paragraph above. Activities will be able to continue while NMFS reviews the circumstances of the incident. NMFS will work with the City to determine whether modifications in the activities are appropriate.

In the event that the City discovers an injured or dead marine mammal, and the lead MMO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), the City will report the incident to the Chief of the Permits and Conservation Division, Office of Protected Resources, NMFS, and the NMFS West Coast Stranding Hotline and/or by email to the Alaska Stranding Coordinator, within 24 hours of the discovery. The City will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS and the Marine Mammal Stranding Network.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as: Any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

All anticipated takes will be by Level B harassment resulting from vibratory pile driving and removal, impact pile driving, or down-hole drilling. Level B harassment may result in temporary changes in behavior. Note that injury, serious injury, and lethal takes are not expected, and are not authorized, for these activities due to the mitigation and monitoring measures that are expected to minimize the possibility of such take.

If a marine mammal responds to a stimulus by changing its behavior (*e.g.,* through relatively minor changes in locomotion direction/speed or vocalization behavior), the response may or may not constitute taking at the individual level, and is unlikely to affect the stock or the species as a whole. However, if a sound source displaces marine mammals from an important feeding or breeding area for a prolonged period, impacts on animals or on the stock or species could potentially be significant (*e.g.,* Lusseau and Bejder 2007; Weilgart 2007). Given the many uncertainties in predicting the quantity and types of impacts of sound on marine mammals, it is common practice to estimate how many animals are likely to be present within a particular distance of a given activity, or exposed to a particular level of sound, in order to estimate take.

Upland work can generate airborne sound and create visual disturbance that could potentially result in disturbance to marine mammals (specifically, pinnipeds) that are hauled out or at the water's surface with heads above the water. However, because there are no regular haul-outs in close proximity to the Kodiak transient float, NMFS believes that incidents of incidental take resulting from airborne sound or visual disturbance are unlikely.

The City has requested authorization for the incidental taking of small numbers, by Level B harassment, of harbor porpoise, Dall's porpoise, killer whale, humpback whale, Steller sea lion, and harbor seal near the project area that may result from impact and vibratory pile driving, vibratory pile removal, and down-hole drilling construction activities associated with the transient float project.

The calculation for estimating marine mammal exposures to underwater noise is:

Exposure estimate = number of animals exposed / day * number of days of activity

In order to estimate the potential incidents of take that may occur incidental to the specified activity, we must first estimate the extent of the sound field that may be produced by the activity and then consider the sound field in combination with information about marine mammal density or abundance in the project area. We first provide information on applicable sound thresholds for determining effects to marine mammals before describing the information used in estimating the sound fields, the available marine

mammal density or abundance information, and the method of estimating potential incidences of take.

Sound Thresholds

We use the following generic sound exposure thresholds (Table 5) to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by behavioral harassment (Level B) might occur.

TABLE 5—UNDERWATER DISTURBANCE THRESHOLD DECIBEL LEVELS FOR MARINE MAMMALS

Criterion	Criterion definition	Threshold *
Level B harassment	Behavioral disruption for impulse noise (*e.g.,* impact pile driving)	160 dB RMS
Level B harassment	Behavioral disruption for non-pulse noise (*e.g.,* vibratory pile driving, drilling)	120 dB RMS

* All decibel levels referenced to 1 micropascal (re: 1 μPa). Note all thresholds are based off root mean square (RMS) levels.

We use NMFS' new acoustic criteria (NMFS 2016a, 81 FR 51694; August 4, 2016) to determine sound exposure thresholds to determine when an activity that produces sound might result in impacts to a marine mammal such that a take by injury, in the form of PTS, might occur.

Distance to Sound Thresholds

The sound field in the project area is the existing ambient noise plus additional construction noise from the Project. The primary components of the project expected to affect marine mammals is the sound generated by impact pile driving, vibratory pile driving, vibratory pile removal, and down-hole drilling.

After vibratory hammering has installed the pile through the overburden to the top of the bedrock layer, the vibratory hammer will be removed, and the down-hole drill will be inserted through the pile. The head extends below the pile and the drill rotates through soils and rock. The drilling/hammering takes place below the sediment layer and, as the drill advances, below the bedrock layer as well. Underwater noise levels are relatively low because the impact is taking place below the substrate rather than at the top of the piling, which limits transmission of noise through the water column. Additionally, there is a drive shoe welded on the bottom of the pile, and the upper portion of the bit rests on the shoe, which aids in advancement of the pile as drilling progresses. When the proper depth is achieved, the drill is retracted and the pile is left in place. Impact hammering typically generates the loudest noise associated with pile driving, but for the transient float project, use will be limited to a few blows per 24-inch steel pile.

Several factors are expected to minimize the potential impacts of pile-driving and drilling noise associated with the project:

- The soft sediment marine seafloor and shallow waters in the project area
- Land forms across the channel that will block the noise from spreading
- The relatively high background noise level in the project area

Sound will dissipate relatively rapidly in the shallow waters over soft seafloors in the project area (NMFS 2013). St. Herman Harbor (Figure 2 in the application), where the Dog Bay float is located, is protected from the transient float construction noise by land projections and islands, which will block and redirect sound. Near Island and Kodiak Island, on either side of Near Island Channel, prevent the sound from travelling underwater to the north, south, and southeast, restricting the noise to most of the channel; however a narrow band of noise may extend to Woody Island, approximately 3.75 kilometers (km) to the East.

The project includes vibratory removal of 12-inch timber and steel piles; and vibratory installation and down-hole drilling of permanent 24-inch steel piles. Each 24-inch pile may also be subject to a few blows from an impact hammer for proofing. No data are available for vibratory removal of piles, so it will be conservatively assumed that vibratory removal of piles will produce the same source level as vibratory installation.

SPLs for this project were used from the nearby Pier 1 Kodiak ferry terminal measurements of 24-in steel piles from JASCO 2016 (Warner and Austin 2016). The ferry terminal is approximately 100 m from the transient float, and therefore has similar environmental conditions, and the project used the same installation methods and same size piles, making this a good proxy. Vibratory driving had a measured source level (SL) of 183.8 dB rms at one meter. Down-hole drilling had a measured SL of 192.5 dB at one meter. Impact pile driving had a measured SL of 205.9 at one meter.

Underwater Sound Propagation Formula—Pile driving generates underwater noise that can potentially result in disturbance to marine mammals in the project area. Transmission loss (TL) is the decrease in acoustic intensity as an acoustic pressure wave propagates out from a source. TL parameters vary with frequency, temperature, sea conditions, current, source and receiver depth, water depth, water chemistry, and bottom composition and topography. The general formula for underwater TL is:

Where

$TL = B * \log_{10} (R_1/R_2)$,

TL = transmission loss in dB

R_1 = the distance of the modeled SPL from the driven pile, and

R_2 = the distance from the driven pile of the initial measurement

NMFS typically recommends a default practical spreading loss of 15 dB per tenfold increase in distance. However, for this analysis for the transient float project area, a TL of 21.9Log(R/10) (*i.e.,* 21.9–dB loss per tenfold increase in distance) was used for vibratory pile driving, 18.9Log(R/10) was used for down-hole drilling, and a 20.3Log TL(R/10) function was used for impact driving (Warner and Austin, 2016). TL values were based on measured attenuation rates at the Pier 1, Kodiak Ferry Terminal, located approximately 100m away from the transient float project area.

Distances to the harassment isopleths vary by marine mammal type and pile extraction/driving tool. The isopleth for Level A harassment are summarized in Table 3, and the isopleths for Level B harassment are summarized in Table 4. The Zone of Influence ZOIs will be rounded up to the nearest 10, 100, or 1,000 meters for the transient float project.

Note that the actual area ensonified by pile driving activities is significantly constrained by local topography relative to the total threshold radius. The actual ensonified area was determined using a straight line-of-sight projection from the anticipated pile driving locations. Distances to the underwater sound isopleths for Level A and Level B harassment zones are illustrated respectively in Figures 15–17 in the City's application.

The method used for calculating potential exposures to impact and vibratory pile driving noise for each threshold was estimated using local marine mammal data sets, monitoring reports from previous projects in the same vicinity, best professional judgment from state and federal agencies, and data from take estimates on similar projects with similar actions. All estimates are conservative and include the following assumptions:

- All pilings installed at each site will have an underwater noise disturbance equal to the piling that causes the greatest noise disturbance (*i.e.,* the piling farthest from shore) installed with the method that has the largest ZOI. The largest underwater disturbance ZOI would be produced by down-hole drilling. The ZOIs for each threshold are not spherical and are truncated by land masses on either side of the channel which will dissipate sound pressure waves.
- Exposures were based on estimated work hours. Numbers of days were based on an average production rate of eight hours of vibratory driving/extraction, 48 hours of down-hole drilling, and less than one hour of impact driving. Note that impact driving is likely to occur only on days when vibratory driving occurs.
- In absence of site specific underwater acoustic propagation modeling, the practical spreading loss model was used to determine the ZOI.

Steller Sea Lion

Steller sea lions are common in the project area and may be encountered daily. Pinniped population estimates are typically made when the animals are hauled out and available to be counted. There have been numerous counts of Steller sea lions in this area over the past few years. Aerial surveys from 2004 through 2006 indicated peak winter (October–April) counts at the Dog Bay float ranging from 27 to 33 animals (Wynne *et al.,* 2011). More than 100 Steller sea lions were counted on the Dog Bay float at times in spring 2015, although the mean number was much smaller (Wynne 2015b). Counts in February 2015 during a site visit by biologists ranged from approximately 28 to 45 Steller sea lions. According to ABR (2016), however, maximal weekly counts of sea lions at Dog Bay float were only loosely correlated with weekly average-hourly rates of sea lion observations within the construction area. Near Island Channel counts of Steller sea lions adjacent to Pier 1 have ranged from zero to approximately 25 sea lions at one time (FHWA and DOT&PF 2015). More recent counts completed between November 2015 and June 2016 by protected species observers (PSOs) working on the Kodiak Ferry Terminal and Dock Improvements Project (approximately 100 m from the transient float) ranged from approximately 6 to 114 Steller sea lions, with an average of 33 (ABR 2016). It has been estimated that about 40 unique individual sea lions likely pass by the project site each day (Speckman 2015; Ward 2015; Wynne 2015a). Incidental take was estimated for Steller sea lions by conservatively assuming that, within any given day, approximately 40 unique individual Steller sea lions may be present at some time during that day within the Level B harassment zones during active pile extraction or installation.

It is assumed that Steller sea lions may be present every day, and also that take will include multiple harassments of the same individual(s) both within and among days, which means that these estimates are likely an overestimate of the number of individuals.

An estimated total of 480 Steller sea lions (40 sea lions / day * 12 days of pile installation or extraction) could be exposed to noise at the Level B harassment level during vibratory and impact pile driving (Table 6).

The attraction of sea lions to the seafood processing plant increases the possibility of individual Steller sea lions occasionally entering the Level A harassment zone (the largest injury zone is 5.5 m during down-hole drilling); however a minimum 10 m shutdown will be in effect for all construction methods, thereby eliminating the potential for Level A harassment. No Level A take is authorized for Steller sea lions.

Harbor Seal

Harbor seals are expected to be encountered in low numbers within the project area. However, based on the known range of the South Kodiak stock, 13 single sightings during 110 days of monitoring of the Kodiak Ferry Terminal and Dock Improvements Project, and occasional sightings during monitoring of projects at other locations on Kodiak Island, it is assumed that harbor seals could be present every day. This analysis conservatively assumes that harbor seals could be present on any one day during the 12 days of pile installation and removal. Using this number, it is estimated that 48 harbor seals could be exposed to noise at the Level B harassment level during in-water construction activities (Table 6). We assumed three harbor seals (the maximum number of seals observed during the Kodiak Ferry Terminal and Dock Improvements Project over 110 days of monitoring) may be seen in Near Island Channel for 36 takes, and included an additional one seal per day that may be present in the larger 120 dB zone for an additional 12 seals.

The shutdown zone for harbor seals is 50 m for all construction methods. Because this shutdown zone covers the entire injury zone (10 m for impact and vibratory, and 50 m for down-hole drilling), Level A harassment can be avoided. No Level A take is authorized for harbor seals.

Harbor Porpoise

Harbor porpoises are expected to be encountered in low numbers within the project area. Based on the known range of the Gulf of Alaska stock, 6 sightings of singles or pairs only during 110 days of monitoring of the Kodiak Ferry Terminal and Dock Improvements project, and occasional sightings during monitoring of projects at other locations on Kodiak Island, it is assumed that harbor porpoises could be present every day. Dahlheim (2009, 2015) states that the average group size of harbor porpoise is between one and two individuals. To be conservative, we assumed groups of two animals may be seen on any given day. NMFS will authorize 24 Level B takes (two animals on 12 days) of harbor porpoises by exposure to underwater noise over the duration of construction activities (Table 6).

A shutdown zone of 100 m will be established for all construction methods for harbor porpoise. The largest injury zone is 64.6 m (rounded to 100 m) for this species; therefore, level A take can be avoided. No Level A take is authorized for harbor porpoise.

Dall's Porpoise

Dall's porpoises are expected to be encountered within the project area rarely. Although no sightings of Dall's porpoise occurred during 110 days monitoring of the Kodiak Ferry Terminal and Dock Improvements Project, the project area is within the known range of the Gulf of Alaska stock and they have been observed at other locations on Kodiak Island. This project also includes a narrow band that will be ensonified extending to Woody Island, where Dall's porpoise may be present. There is minimal information on group sizes of this species in the Kodiak area. Dahlheim (2009) noted mean group size of Dall's porpoise in Southeast Alaska between the spring and fall of 1991–2007 ranged from 2.51 to 5.46 animals, with average group sizes between 2.77 and 3.55. OBIS SEAMAP states that

Dall's porpoise usually form small groups between 2 and 12 individuals, and had two observations of Dall's porpoise near Kodiak Island with group sizes of one and two individuals (Halpin 2009 at OBIS–SEAMAP 2016). We therefore, conservatively, assume that Dall's porpoises with an average group size of seven individuals could be present in the area every other day of in-water construction. NMFS will authorize 42 Dall's porpoise level B takes (7 animal / day * 6 days of pile activity).

No Level A takes are requested for this species. No Level A take is expected since Dall's porpoise are uncommon in the area, preferring deeper waters, and there will be a 100 m shutdown for all construction methods for Dall's porpoise to further reduce the likelihood of injury.

Killer Whale

Killer whales are expected to be in the Kodiak harbor area sporadically from January through April and to enter the project area in low numbers. Four killer whale pods were observed during 110 days of monitoring for the Kodiak Ferry Terminal and Dock Improvements Project with the largest pod size of 7 individuals. NMFS estimates that a pod of 7 individual whales may enter the project area on half of the days during the 12 days of pile installation and removal. NMFS therefore will authorize 42 Level B takes (7 killer whales / visit * 6 days) of killer whales by exposure to underwater noise over the duration of construction activities. This increased from the proposed IHA after reconsideration of how often this species may be in the action area, which may be more often than suggested in the proposed IHA. No Level A take is requested under this authorization, since the injury zones are very small (10 m for all methods), and it is unlikely a killer whale will come that close to the piles. NMFS also expects that construction could be shut down before the whales enter the Level A harassment area.

Humpback Whale

Humpback whales are rare in the action area. One solitary animal was observed in March 2016 during 110 days monitoring of the Kodiak Ferry Terminal and Dock Improvements Project. Conservatively, it assumed that one individual could be present in the area on half of the days of in-water construction. NMFS will therefore authorize six Level B takes (Table 6). Because humpback whales are rare in the area, and there will be a 100 m shutdown in place that covers the injury zones (10 m for impact and vibratory, and 100 m for down-hole drilling), no Level A takes are authorized for this species.

Based on Wade *et al.* (2016), the probability is that five of the humpback whales that would be taken through Level B acoustic harassment would be from the Hawaii DPS (not listed under ESA), one humpback whale would be from threatened Mexico DPS, and no humpback whales would be from the endangered Western North Pacific DPS.

TABLE 6—SUMMARY OF THE ESTIMATED NUMBERS OF MARINE MAMMALS POTENTIALLY EXPOSED TO LEVEL A AND LEVEL B HARASSMENT NOISE LEVELS

Species	Level A injury takes	Level B harassment takes	Total
Steller sea lion	0	480	480
Harbor seal	0	48	48
Harbor porpoise	0	24	24
Dall's porpoise	0	42	42
Killer whale	0	42	42
Humpback whale	0	6	6
Total	0	642	642

Analysis and Determinations

Negligible Impact

Negligible impact is ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival'' (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes, alone, is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken,'' NMFS must consider other factors, such as the likely nature of any responses (their intensity, duration, etc.), the context of any responses (critical reproductive time or location, migration, etc.), as well as the number and nature of estimated Level A harassment takes, the number of estimated mortalities, effects on habitat, and the status of the species.

To avoid repetition, the discussion of our analyses applies to all the species listed in Table 6, given that the anticipated effects of this pile driving project on marine mammals are expected to be relatively similar in nature. There is no information about the size, status, or structure of any species or stock that would lead to a different analysis for this activity, else species-specific factors would be identified and analyzed.

Pile extraction, pile driving, and down-hole drilling activities associated with the reconstruction of the transient float, as outlined previously, have the potential to disturb or displace marine mammals. Specifically, the specified activities may result in take, in the form of Level B harassment (behavioral disturbance) from underwater sounds generated from pile driving and drilling. Potential takes could occur if individuals of these species are present in the ensonified zone when in-water construction is under way.

The takes from Level B harassment will be due to potential behavioral disturbance. No injury, serious injury, or mortality is anticipated given the nature of the activity and measures designed to minimize the possibility of serious injury to marine mammals. These noise exposures may cause behavioral modification to a small number of each affected marine mammal species. However, the City's activities are fairly localized and of short duration, and the noise exposures are therefore expected to be localized and short-term. The entire project area is limited to the transient float area and its immediate surroundings with only a

small band extending out to Woody Island. Actions covered under the Authorization include extracting 19 12-inch steel piles and installing 12 24-inch steel piles to support the replacement float and gangway. Specifically, the use of impact driving will be limited to an estimated maximum of one hour over the course of 12 days of construction, and will likely require less time. Each 24-inch pile will require about two to five blows of an impact hammer to confirm that piles are set into bedrock for a maximum time expected of three minutes of impact hammering per pile. Vibratory driving will be necessary for an estimated maximum of eight hours and down-hole drilling will require a maximum of 48 hours. The likelihood that marine mammals will be detected by trained observers is high under the environmental conditions described for the reconstruction of the transient float. Therefore, the mitigation and monitoring measures are expected to reduce the likelihood of injury and behavior exposures.

No important feeding and/or reproductive areas for marine mammals are known to be near the action area. The project activities will not modify existing marine mammal habitat, nor will they result in the destruction or adverse modification of critical habitat designated for any threatened or endangered species. The activities may cause some fish to leave the area of disturbance, thus temporarily impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences.

Sea lions are common in the Kodiak harbor area, and the possibility exists that some of these sea lions are already hearing-impaired or deaf (Wynne 2014). Fishermen have been known to protect their gear and catches by using ''seal bombs'' in an effort to disperse sea lions away from fishing gear. The use of seal bombs requires appropriate permits from the Bureau of Alcohol, Tobacco, Firearms and Explosives. Sound levels produced by seal bombs are well above levels that are known to cause TTS (temporary loss of hearing), and PTS (partial or full loss of hearing) in marine mammals (Wynne 2014).

Sea lions in the Kodiak harbor area are habituated to fishing vessels and are skilled at gaining access to fish. It is likely that some of the same animals follow local vessels to the nearby fishing grounds and back to town. It is possible that these sea lions are also hearing-impaired or deaf due to seal bombs, although no studies have been published to confirm this. It is not known how a hearing-impaired or deaf sea lion would respond to typical mitigation efforts at a construction site such as ramping up of pile-driving equipment. It is also unknown whether a hearing-impaired or deaf sea lion would avoid pile-driving activity, or whether such an animal might approach closely, without responding to or being impacted by the noise level. However, there will be a minimum 10 m shutdown for all pile driving, to avoid additional exposure.

Effects on individuals that are taken by Level B harassment, on the basis of reports in the literature as well as monitoring from other similar activities, will likely be limited to reactions such as increased swimming speeds, increased surfacing time, or decreased foraging (if such activity were occurring) (*e.g.,* Thorson and Reyff, 2006; Lerma, 2014). Most likely, individuals will simply move away from the sound source and be temporarily displaced from the areas of pile driving, although even this reaction has been observed primarily only in association with impact pile driving. In response to vibratory driving, pinnipeds (which may become somewhat habituated to human activity in industrial or urban waterways) have been observed to orient towards and sometimes move towards the sound. The pile extraction and driving activities analyzed here are similar to, or less impactful than, numerous construction activities conducted in other similar locations, including the nearby Pier 1 Kodiak ferry terminal (approximately 100 m away), which have taken place with no reported injuries or mortality to marine mammals, and no known long-term adverse consequences from behavioral harassment. Repeated exposures of individuals to levels of sound that may cause Level B harassment are unlikely to result in hearing impairment or to significantly disrupt foraging behavior. Thus, even repeated Level B harassment of some small subset of the overall stock is unlikely to result in any significant realized decrease in fitness for the affected individuals, and thus will not result in any adverse impact to the stock as a whole.

In summary, this negligible impact analysis is founded on the following factors: (1) The possibility of non-auditory injury, serious injury, or mortality may reasonably be considered discountable; (2) the anticipated incidents of Level B harassment consist of, at worst, temporary modifications in behavior; (3) the short duration of in-water construction activities (12 days), and; (4) the presumed efficacy of the mitigation measures in reducing the effects of the specified activity to the level of least practicable impact. In combination, we believe that these factors, as well as the available body of evidence from other similar activities, demonstrate that the potential effects of the specified activity will have only short-term effects on individuals. The specified activity is not expected to impact rates of recruitment or survival and will therefore not result in population-level impacts.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the City's Project will have a negligible impact on the affected marine mammal species or stocks.

Small Numbers Analysis

Table 7 presents the number of animals that could be exposed to received noise levels that could cause Level B harassment for the work at the transient float project site. Our analysis shows that between <1 percent—7.16 percent of the populations of affected stocks that could be taken by harassment. Therefore, the numbers of animals authorized to be taken for all species are considered small relative to the relevant stocks or populations even if each estimated taking occurred to a new individual—an extremely unlikely scenario. For pinnipeds, especially Steller sea lions, occurring in the vicinity of the transient float, there will almost certainly be some overlap in individuals present day-to-day, and these takes are likely to occur only within some small portion of the overall regional stock.

TABLE 7—ESTIMATED NUMBERS AND PERCENTAGE OF STOCK THAT MAY BE EXPOSED TO LEVEL B HARASSMENT

Species	Authorized Level B takes	Stock Abundance estimate	Percentage of total stock (%)
Steller sea lion (*Eumatopias jubatus*) *wDPS*	480	49,497	0.97
Harbor seal (*Phoca vitulina*) *South Kodiak stock*	48	19,199	0.25
Harbor porpoise (*Phocoena phocoena*) *Gulf of Alaska stock*	24	31,046	0.08
Dall's porpoise (*Phocoenoides dalli*) *Alaska stock*	42	83,400	0.05
Killer whale (*Orcinus orca*):	42		
Eastern North Pacific Alaska Resident stock		2,347	1.79
Eastern North Pacific Gulf of Alaska, Aleutian Islands, and Bering Sea stock		587	7.16
Humpback whale (*Megaptera novaeangliae*):	6		
Central North Pacific Stock		10,103	0.06
Western North Pacific Stock		1,107	0.54

Based on the analysis contained herein NMFS finds that small numbers of marine mammals will be taken relative to the populations of the affected species or stocks.

Impact on Availability of Affected Species for Taking for Subsistence Uses

Alaska Natives have traditionally harvested subsistence resources in the Kodiak area for many hundreds of years, particularly Steller sea lions and harbor seals. No traditional subsistence hunting areas are within the project vicinity, however; the nearest haulouts and rookeries for Steller sea lions and harbor seals are the Long Island, Cape Chiniak, and Ugak Island haul-outs and the Marmot Island rookery, many miles away. These locations are, respectively 4, 13, 25 and 28 nautical miles distant from the project area. Since all project activities will take place within the immediate vicinity of the transient float site, the project will not have an adverse impact on the availability of marine mammals for subsistence use at locations farther away. No disturbance or displacement of sea lions or harbor seals from traditional hunting areas by activities associated with the transient project is expected. No changes to availability of subsistence resources will result from transient float replacement project activities.

The City contacted the Alaska Harbor Seal Commission and the Steller sea lion Commission. Neither Commission had concerns about the impacts of this activity on native Alaska subsistence hunts.

Endangered Species Act (ESA)

There are two marine mammal species that are listed as endangered under the ESA with confirmed or possible occurrence in the study area: The western North Pacific (WNP) DPS and Mexico DPS of humpback whale and the western DPS of Steller sea lion. The project location is also within critical habitat of two major Steller sea lion haulouts closest to the project area: Long Island and Cape Chiniak, which are approximately 4.6 nautical miles (8.5 kilometers) and 13.8 nautical miles (25.6 kilometers) away from the project site, respectively. There are no rookeries within 20 miles of the project location. The NMFS Alaska Regional Office Protected Resources Division issued a Biological Opinion on February 7, 2017 under Section 7 of the ESA, on the issuance of an IHA to the City under section 101(a)(5)(D) of the MMPA by the NMFS Permits and Conservation Division. The Biological Opinion concluded that the action is not likely to jeopardize the continued existence of western DPS Steller sea lions or the Mexico DPSs of humpback whales, and is not likely to destroy or adversely modify western DPS Steller sea lion critical habitat.

National Environmental Policy Act (NEPA)

NMFS prepared an EA and analyzed the potential impacts to marine mammals that would result from the City's construction project. A Finding of No Significant Impact (FONSI) was signed in February 2017. A copy of the EA and Finding of No Significant Impact (FONSI) is available upon request (see **ADDRESSES**).

Dated: February 13, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–03139 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Patent and Trademark Office

Initial Patent Applications

ACTION: Proposed collection; comment request.

SUMMARY: The United States Patent and Trademark Office (USPTO), as required by the Paperwork Reduction Act of 1995, invites comments on a proposed extension of an information collection: Initial Patent Applications.

DATES: Written comments must be submitted on or before April 17, 2017.

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

- *Email: InformationCollection@uspto.gov.* Include ''0651–0032 comment'' in the subject line of the message.
- *Mail:* Marcie Lovett, Records Management Division Director, Office of the Chief Information Officer, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450
- *Federal Rulemaking Portal: http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to the attention of Raul Tamayo, Senior Legal Advisor, Office of Patent Legal Administration, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313–1450; by telephone at 571–272–7728; or by email at *raul.tamayo@uspto.gov.* Additional information about this collection is also available at *http://www.reginfo.gov* under ''Information Collection Review.''

SUPPLEMENTARY INFORMATION:

I. Abstract

The USPTO is required by Title 35 of the United States Code, including 35 U.S.C. 131, to examine applications for patents. The USPTO administers the patent statutes through various rules in Chapter 37 of the Code of Federal Regulations, including 37 CFR 1.16 through 1.84. Each patent applicant must provide sufficient information to allow the USPTO to properly examine the application to determine whether it meets the criteria set forth in the patent statues and regulations for issuance as a

patent. For example, the patent statutes and regulations require that an application for patent include the following information:

(1) a specification containing a description of the invention and at least one claim defining the property right sought by the applicant;
(2) a drawing(s) or photograph(s), where necessary, for an understanding of the invention;
(3) an oath or declaration signed by the applicant; and
(4) a filing fee.

The following types of patent applications are covered under the present information collection:

- New original utility, plant, design, and provisional applications,
- Continuation/divisional applications of international applications,
- Continued prosecution applications (design), and
- Continuations/divisionals and continuation-in-part applications of utility, plant, and design applications.

In addition, the present collection covers petitions to accept an unintentionally delayed priority or benefit claim, petitions under 37 CFR 1.47 (pre-Leahy-Smith America Invents Act (AIA)) to accept a filing by other than all of the inventors or a person not the inventor, petitions under 37 CFR 1.6(g) to accord an application under 37 CFR 1.495(b) a receipt date, and papers filed under 37 CFR 1.41(c), 1.41(a)(2) (pre-AIA), 1.48(d), 1.53(c)(2), and 1.53(c)(2) (pre-Patent Law Treaty (PLT) (AIA)) (the particular items covered under this collection are identified in more detail at Table 1 below).

Most applications for patent, including new utility, design, and provisional applications, can be submitted to the USPTO through EFS–Web. EFS–Web is the USPTO's system for electronically filing of patent correspondence and is accessible via the Internet on the USPTO Web site. The Legal Framework for EFS-Web, available at *http://www.uspto.gov/patents/process/file/efs/guidance/Newlegalframework.jsp,* provides a listing of patent applications and documents permitted to be filed via EFS–Web and patent applications and documents not permitted to be filed via EFS–Web.

There are 69 forms in this collection. This total incudes versions of the inventor's oath and declaration forms that were created to comply with the changes resulting from the AIA, *e.g.,* forms AIA/01, AIA/02, etc., as well as pre-AIA versions of the oath and declaration forms, *e.g.,* forms SB/01, SB/02, etc., and foreign language translations of the oath and declaration forms, *e.g.,* forms AIA/01CN, SB/02CN, etc. Items in this collection that do not have forms associated with them include the petitions and the papers filed under 37 CFR 1.41(c), 1.41(a)(2) (pre-AIA), 1.48(d), 1.53(c)(2), and 1.53(c)(2) (pre-PLT (AIA)).

II. Method of Collection

By mail, hand delivery, or facsimile (except that, in accordance with 37 CFR 1.6(d), the items covered under this collection that may be submitted by facsimile are limited to the petitions and the papers filed under 37 CFR 1.41(c), 1.41(a)(2) (pre-AIA), 1.48(d), 1.53(c)(2), and 1.53(c)(2) (pre-PLT (AIA))). Most of these items can also be submitted through EFS-Web.

III. Data

OMB Number: 0651–0032.

Form Number(s): PTO/SB/01, 01A, 02, 02A, 02B, 02CN, 02DE, 02ES, 02FR, 02IT, 02JP, 02KR, 02LR, 02NL, 02RU, 02SE, 03, 03A, 04, 06, 07, 14 EFS–Web, 16, 16 EFS–Web, 17, 29, 29A, and 101–110. This collection also includes the following AIA forms: PTO/AIA01 through AIA04, AIA08 through AIA11, AIA14 and 15, AIA18 and 19, and AIA01CN and 01DE, 01ES, 01FR, 01IT, 01JP, 01KR, 01NL, 01RU, 01SE, 02CN, 02DE, 02ES, 02FR, 02IT, 02JP, 02KR, 02NL, 02RU, and 02SE.

Type of Review: Revision of a currently approved collection.

Affected Public: Individuals or households; businesses or other for profits; not-for-profits institutions; and the Federal Government.

Estimated Number of Respondents: 470,403 responses per year. The USPTO estimates that approximately 130,313 of these responses will be from small entities. This estimate reflects a 25% small entity responses rate for all items in the collection, except for design-related items in the collection, for which a 50% small entity response rate is estimated. The USPTO also estimates that 406,995 of the responses will be filed electronically.

Estimated Time Per Response: The USPTO estimates that it takes the public approximately 30 minutes to 40 hours (0.50 to 40 hours) to complete this information, depending on the complexity of the request. This includes the time to gather the necessary information, prepare the application, petition, or paper submission, and submit the completed request to the USPTO. The USPTO calculates that, on balance, it takes the same amount of time to complete these steps and submit items to the USPTO, whether the applicant submits in paper form or electronically.

Estimated Total Annual Respondent Burden Hours: 12,776,282 hours per year.

Estimated Total Annual Respondent Cost Burden: $5,238,275,620 per year. The USPTO expects that all of the information in this collection will be prepared by an attorney. Using the professional hourly rate of $410 for attorneys in private firms, the USPTO estimates that the total respondent cost for this collection is $5,238,275,620 per year.

TABLE 1—TOTAL HOURLY BURDEN

IC #	Item	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Estimated annual burden (c) × (d) = (e)
1	Original New Utility Applications—No Application Data Sheet.	40	300	12,000	$410	$4,920,000.00
1	Electronic Original New Utility Applications—No Application Data Sheets.	40	13,700	548,000	410	224,680,000.00
2	Original New Plant Applications—No Application Data Sheet.	9	300	2,700	410	1,107,000.00
3	Original New Design Applications—No Application Data Sheet.	7	100	700	410	287,000.00

TABLE 1—TOTAL HOURLY BURDEN—Continued

IC #	Item	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Estimated annual burden (c) × (d) = (e)
3	Electronic Original Design Applications—No Application Data Sheet.	7	3,200	22,400	410	9,184,000.00
4	Original New Utility Applications—Application Data Sheet.	40	5,400	216,000	410	88,560,000.00
4	Electronic Original New Utility Applications—Application Data Sheet.	40	265,600	10,624,000	410	4,355,840,000.00
5	Original New Plant Applications—Application Data Sheet.	9	1,100	9,900	410	4,059,000.00
6	Original New Design Applications—Application Data Sheet.	7	900	6,300	410	2,583,000.00
6	Electronic New Design Applications—Application Data Sheet.	7	42,800	299,600	410	122,836,000.00
7	Continuation/Divisional of an International Application.	4	200	800	410	328,000.00
7	Electronic Continuation/Divisional of an International Application.	4	10,800	43,200	410	17,712,000.00
8	Utility Continuation/Divisional Applications	4	1,500	6,000	410	2,460,000.00
8	Electronic Utility Continuation/Divisional Applications.	4	73,500	294,000	410	120,540,000.00
9	Plant Continuation/Divisional Application	3	200	600	410	246,000.00
10	Design Continuation/Divisional Application	1	100	100	410	41,000.00
10	Electronic Design Continuation/Divisional Applications.	1	2,900	2,900	410	1,189,000.00
11	Continued Prosecution Applications—Design (Request Transmittal and Receipt).	1	20	20	410	8,200.00
11	Electronic Continued Prosecution Applications—Design (Request Transmittal and Receipt).	1	880	880	410	360,800.00
12	Utility Continuation-in-Part Applications	20	300	6,000	410	2,460,000.00
12	Electronic Utility Continuation-in-Part Applications	20	13,300	266,000	410	109,060,000.00
13	Plant Continuation-in-Part Applications	5	1	5	410	2,050.00
14	Design Continuation-in-Part Applications	3	20	60	410	24,600.00
14	Electronic Design Continuation-in-Part Applications	3	830	2,490	410	1,020,900.00
15	Provisional Application for Patent Cover Sheet	18	4,000	72,000	410	29,520,000.00
15	Electronic Provisional Application for Patent Cover Sheet.	18	184,000	331,200	410	135,792,000.00
16	Petition to Accept Unintentionally Delay Priority/Benefit Claim.	1	100	100	410	41,000.00
16	Electronic Petition to Accept Unintentionally Delayed Priority/Benefit Claim.	1	3,400	3,400	410	1,394,000.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor.	1	1	1	410	4410
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor.	1	50	50	410	20,500.00
18	Petition under 37 CFR 1.6(g) to According the Application under 37 CFR 1.495(b) a Receipt Date.	0.50	1	1	410	410.00
19	Papers filed under the following: 1.41(c) or 1.41(a)(2) (pre-AIA)—to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by 37 CFR 1.51 (c)(1) in a provisional application.. 1.48(d)—for correction of inventorship in a provisional application.. 1.53 (c)(2) or 1.53(c)(2) (pre-PLT (AIA))—to convert a nonprovisional application filed under 1.53(b) to a provisional application filed under 1.53(c).	0.75	200	150	$410	$61,500.00

TABLE 1—TOTAL HOURLY BURDEN—Continued

IC #	Item	Estimated time for response (hours) (a)	Estimated annual responses (b)	Estimated annual burden hours (a) × (b) = (c)	Rate ($/hr) (d)	Estimated annual burden (c) × (d) = (e)
19	Electronic Papers filed under the following: ..... 1.41(c) or 1.41(a)(2) (pre-AIA)—to supply the name or names of the inventor or inventors after the filing date without a cover sheet as prescribed by 37 CFR 1.51 (c)(1) in a provisional application.. 1.48(d)—for correction of inventorship in a provisional application.. 1.53 (c)(2) or 1.53(c)(2) (pre-PLT (AIA))—to convert a nonprovisional application filed under 1.53(b) to a provisional application filed under 1.53(c).	0.75	6,300	4.725	$410	$1,937,250.00
Total	.....		470,403	12,776,282		$5,238,275,620.00

Estimated Total Annual Non-hour Respondent Cost Burden: $1,195,268,438.53.

There is no maintenance, operation, capital start-up, or recordkeeping costs associated with this information collection. However, this collection does have annual (non-hour) costs in the form of postage and drawing costs, as well as filing fees.

Although the USPTO prefers that the items in this collection be submitted electronically, the items may be submitted by mail through the United States Postal Service (USPS). The USPTO estimates that the average cost for sending a patent application by Priority Mail Express® will be $19.99 and that up to 14,441 may be mailed to the USPTO, resulting in $288,675.59 in the postage costs.

The USPTO estimates that the petitions and other papers covered under this collection, if submitted by mail, will be sent by first-class mail; a postage rate of $0.94. The USPTO estimates that up to 301 submissions may be mailed per year, thus resulting in $282.94 in first-class mailing costs.

Patent applicants can submit drawings with the applications covered under this collection. As a basis for estimating the drawing costs, the USPTO expects that all applicants will have their drawings prepared by patent illustration firms. Estimates for the drawings can vary greatly, depending on the number of figures that need to be produced, the total number of pages for the drawings, and the complexity of the drawings. Because there are many variables involved, the USPTO is using the average of the cost ranges found for the application drawings to derive the estimated cost per sheet that is then used to calculate the total drawing costs.

The utility, plant, and design continuation and divisional applications use the same drawings as the initial filings, so they are not included in these totals. The continuation-in-part applications may use some of the same drawings as the initial applications and some new drawings may be submitted, so those numbers are included in these estimates. The drawings for the continued prosecution applications also are included in the drawing cost totals.

The USPTO estimates that total drawing costs is $608,610,280. The break-down of costs for utility, design, plant, and provisional drawings is broken down in table 2 below.

TABLE 2—DRAWING COST TO RESPONDENTS

IC #	Item	Estimated annual response (a)	Drawing cost amounts ($) (b)	Drawing totals (c) (a) × (b)
	Utility Application Drawings	298,800	$1,150.00	$343,620,000.00
	Design Application Drawings	47,120	1,930.00	90,941,600.00
	Plant Application Drawings (Photographs).	1,601	680.00	1,088,680.00
	Provisional Application Drawings	150,400	1,150.00	172,960,000.00
	Total Drawing Costs	497,921		608,610,280.00

In this collection, there is also an annual (non-hour) cost burden in the way of filing fees. Many of the fees had previously been housed within information collection 0651–0072 (America Invents Act Section 10 Patent Fee Adjustments), but these fees have been returned to this collection. The total estimated filing costs for this collection is $586,369,200 and is detailed in table 3 below.

TABLE 3—TOTAL NON-HOUR RESPONDENT COST

IC #	Item	Estimated annual response (a)	Amount (b)	Totals (c) (a) × (b)
1, 4	Basic Filing fee—Utility (Paper Filing—Also Requires Non-Electronic Filing Fee Under 1.16(t)) (large entity).	235,200	$280.00	$65,856,000.00
1, 4	Basic Filing fee—Utility (Paper Filing—Also Requires Non-Electronic Filing Fee Under 1.16(t)) (small entity).	80,500	140.00	11,270,000.00
1, 4	Basic Filing fee—Utility (Paper Filing—Also Requires Non-Electronic Filing Fee Under 1.16(t)) (micro entity).	17,000	70.00	1,190,000.00
1, 4	Utility Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity).	13,500	400.00	5,400,000.00
1, 4	Utility Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity).	6,500	200.00	1,300,000.00
1, 4	Utility Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (micro entity).	160	100.00	16,000.00
1, 4	Utility Search Fee (large entity)	233,900	600.00	140,340,000.00
1, 4	Utility Search Fee (small entity)	79,600	300.00	23,880,000.00
1, 4	Utility Search Fee (micro entity)	16,700	150.00	2,505,000.00
1, 4	Utility Examination Fee (large entity)	234,900	720.00	169,128,000.00
1, 4	Utility Examination Fee (small entity)	80,000	360.00	28,800,000.00
1, 4	Utility Examination Fee (micro entity)	16,800	180.00	3,024,000.00
2, 5	Basic Filing Fee—Plant (large entity)	570	180.00	102,600.00
2, 5	Basic Filing Fee—Plant (small entity)	580	90.00	52,200.00
2, 5	Basic Filing Fee—Plant (micro entity)	10	45.00	450.00
2, 5	Plant Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity).	0	400.00	0.00
2, 5	Plant Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity).	0	200.00	0.00
2, 5	Plant Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (micro entity).	0	100.00	0.00
2, 5	Plant Search Fee (large entity)	570	380.00	216,600.00
2, 5	Plant Search Fee (small entity)	575	190.00	109,250.00
2, 5	Plant Search Fee (micro entity)	10	95.00	950.00
2, 5	Plant Examination Fee (large entity)	560	580.00	324,800.00
2, 5	Plant Examination Fee (small entity)	570	290.00	165,300.00
2, 5	Plant Examination Fee (micro entity)	10	145.00	1,450.00
3, 6	Basic Filing Fee—Design (large entity)	20,100	180.00	3,618,000.00
3, 6	Basic Filing Fee—Design (small entity)	17,900	90.00	1,611,000.00
3, 6	Basic Filing Fee—Design (micro entity)	4,700	45.00	211,500.00
3, 6	Basic Filing Fee—Design (CPA) (large entity).	550	180.00	99,000.00
3, 6	Basic Filing Fee—Design (CPA) (small entity).	340	90.00	30,600.00
3, 6	Basic Filing Fee—Design (CPA) (micro entity).	30	45.00	1,350.00
3, 6	Design Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity).	115	400.00	46,000.00
3, 6	Design Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity).	60	200.00	12,000.00
3, 6	Design Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (micro entity).	1	100.00	100.00
3, 6	Design Search Fee (large entity)	20,400	120.00	2,448,000.00
3, 6	Design Search Fee (small entity)	18,000	60.00	1,080,000.00
3, 6	Design Search Fee (micro entity)	4,600	30.00	138,000.00
3, 6	Design Examination Fee (large entity)	20,200	460.00	9,292,000.00
3, 6	Design Examination Fee (small entity)	17,800	230.00	4,094,000.00
3, 6	Design Examination Fee (micro entity)	4,600	115.00	529,000.00
15	Provisional Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (large entity).	4,300	400.00	1,720,000.00

TABLE 3—TOTAL NON-HOUR RESPONDENT COST—Continued

IC #	Item	Estimated annual response (a)	Amount (b)	Totals (c) (a) × (b)
15	Provisional Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (small entity).	4,600	200.00	920,000.00
15	Provisional Application Size Fee—for Each Additional 50 Sheets That Exceeds 100 Sheets (micro entity).	135	100.00	13,500.00
15	Provisional Application Filing Fee (large entity).	56,100	260.00	14,586,000.00
15	Provisional Application Filing Fee (small entity).	68,800	130.00	8,944,000.00
15	Provisional Application Filing Fee (micro entity).	30,000	65.00	1,950,000.00
16	Surcharge—Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (large entity).	86,400	140.00	12,096,000.00
16	Surcharge—Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (small entity).	38,200	70.00	2,674,000.00
16	Surcharge—Late Filing Fee, Search Fee, Examination Fee, Inventor's Oath or Declaration, or Application Filed Without at least One Claim or by Reference (micro entity).	4,500	35.00	157,500.00
16	Surcharge—Late Provisional Filing Fee or Cover Sheet (large entity).	1,800	60.00	108,000.00
16	Surcharge—Late Provisional Filing Fee or Cover Sheet (small entity).	2,700	30.00	81,000.00
16	Surcharge—Late Provisional Filing Fee or Cover Sheet (micro entity).	3,000	15.00	45,000.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor (large entity).	1	200.00	200.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor (small entity).	1	100.00	100.00
17	Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than all the Inventors or a Person not the Inventor (micro entity).	1	50.00	50.00
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than the Inventors or a Person not the Inventor (large entity).	38	200.00	7,600.00
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than the Inventors or a Person not the Inventor (small entity).	9	100.00	900.00
17	Electronic Petition Under 37 CFR 1.47 (pre-AIA) to Accept a Filing by Other Than the Inventors or a Person not the Inventor (micro entity).	3	50.00	150.00
18	Petition under 37 CFR 1.6(g) to accord the Application under 37 CFR 1.495(b) a Receipt Date.	1	0.00	0.00
	Each Independent Claim in Excess of Three (large entity).	55,100	420.00	23,142,000.00
	Each Independent Claim in Excess of Three (small entity).	20,500	210.00	4,305,000.00
	Each Independent Claim in Excess of Three (micro entity).	1,900	105.00	199,500.00
	Each Claim in Excess of 20 (large entity).	362,900	80.00	29,032,000.00
	Each Claim in Excess of 20 (small entity).	199,400	40.00	7,976,000.00

TABLE 3—TOTAL NON-HOUR RESPONDENT COST—Continued

IC #	Item	Estimated annual response (a)	Amount (b)	Totals (c) (a) × (b)
	Each Claim in Excess of 20 (micro entity).	12,600	20.00	252,000.00
	Multiple Dependent Claim (large entity)	1,200	780.00	936,000.00
	Multiple Dependent Claim (small entity)	800	390.00	312,000.00
	Multiple Dependent Claim (micro entity)	90	195.00	17,550.00
Total Filing Fee	.....	2,102,690	.....	586,369,200.00

The USPTO estimates that the total annual (non-hour) respondent cost burden for this collection in the form of postage costs, drawing costs, and filing fees is estimated to be approximately $1,164,394,638.53 per year.

IV. Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the USPTO's request for OMB approval. All comments will become a matter of public record.

Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

(b) The accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information;

(c) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(d) Ways to minimize the burden of the collection of information on respondents, *e.g.,* the use of automated collection techniques or other forms of information technology.

Dated: February 9, 2017.

Rhonda Foltz,

Office of Information Management Services Director, OCIO, United States Patent and Trademark Office.

[FR Doc. 2017–03124 Filed 2–15–17; 8:45 am]

BILLING CODE 3510–16–P

FEDERAL ELECTION COMMISSION

[Notice 2017–04]

Filing Dates for the Kansas Special Election in the 4th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: Kansas has scheduled a Special General Election on April 11, 2017, to fill the U.S. House of Representatives seat in the 4th Congressional District vacated by Representative Mike Pompeo.

Committees required to file reports in connection with the Special General Election on April 11, 2017, shall file a 12-day Pre-General Report, and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Kansas Special General Election shall file a 12-day Pre-General Report on March 30, 2017, and a 30-day Post-General Report on May 11, 2017. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semi-annual basis in 2017 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Kansas Special General Election by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Kansas Special General Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Kansas Special Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $17,900 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

CALENDAR OF REPORTING DATES FOR KANSAS SPECIAL GENERAL ELECTION

Report	Close of books [1]	Reg./cert. and overnight mailing deadline	Filing deadline
Quarterly Filing Committees Involved in the Special General (04/11/17) Must File:			
Pre-General	03/22/17	03/27/17	03/30/17
April Quarterly	03/31/17	04/15/17	[2] 04/15/17
Post-General	05/01/17	05/11/17	05/11/17
July Quarterly	06/30/17	07/15/17	[2] 07/15/17

CALENDAR OF REPORTING DATES FOR KANSAS SPECIAL GENERAL ELECTION—Continued

Report	Close of books [1]	Reg./cert. and overnight mailing deadline	Filing deadline
Semi–Annual Filing Committees Involved in the Special General (04/11/17) Must File:			
Pre-General	03/22/17	03/27/17	03/30/17
Post-General	05/01/17	05/11/17	05/11/17
Mid-Year	06/30/17	07/31/17	07/31/17

[1] These dates indicate the end of the reporting period. A reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee with the Commission up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail must be received by close of business on the last business day before the deadline.

Dated: February 2, 2017.

On behalf of the Commission.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–03092 Filed 2–15–17; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

[Notice 2017–02]

Price Index Adjustments for Contribution and Expenditure Limitations and Lobbyist Bundling Disclosure Threshold

AGENCY: Federal Election Commission.

ACTION: Notice of adjustments to contribution and expenditure limitations and lobbyist bundling disclosure threshold.

SUMMARY: As mandated by provisions of the Federal Election Campaign Act (''the Act''), the Federal Election Commission (''the Commission'') is adjusting certain contribution and expenditure limitations and the lobbyist bundling disclosure threshold set forth in the Act, to index the amounts for inflation. Additional details appear in the supplemental information that follows.

DATES: *Effective Date:* The effective date for the limitation at 52 U.S.C. 30116(a)(1)(A) is November 9, 2016. The effective date for the limitations at 52 U.S.C. 30104(i)(3)(A), 30116(a)(1)(B), 30116(d) and 30116(h) is January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW., Washington, DC 20463; (202) 694–1100 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: Under the Federal Election Campaign Act, 52 U.S.C. 30101–46, coordinated party expenditure limits (52 U.S.C. 30116(d)(3)), certain contribution limits (52 U.S.C. 30116(a)(1)(A) and (B), and (h)), and the disclosure threshold for contributions bundled by lobbyists (52 U.S.C. 30104(i)(3)(A)) are adjusted periodically to reflect changes in the consumer price index. *See* 52 U.S.C. 30104(i)(3), 30116(c)(1); 11 CFR 109.32 and 110.17(a), (f). The Commission is publishing this notice to announce the adjusted limits and disclosure threshold.

Coordinated Party Expenditure Limits for 2017

Under 52 U.S.C. 30116(c), the Commission must adjust the expenditure limitations established by 52 U.S.C. 30116(d) (the limits on expenditures by national party committees, state party committees, or their subordinate committees in connection with the general election campaign of candidates for Federal office) annually to account for inflation. This expenditure limitation is increased by the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 1974). 52 U.S.C. 30116(c).

1. Expenditure Limitation for House of Representatives in States With More Than One Congressional District

Both the national and state party committees have an expenditure limitation for each general election held to fill a seat in the House of Representatives in states with more than one congressional district. *See* 52 U.S.C. 30116(d)(3)(B). This limitation also applies to the District of Columbia and territories that elect individuals to the office of Delegate or Resident Commissioner.[1] *Id.* The formula used to calculate the expenditure limitation in such states and territories multiplies the base figure of $10,000 by the difference in the price index (4.86767), rounding to the nearest $100. *See* 52 U.S.C. 30116(c)(1)(B), (d)(3)(B); 11 CFR 109.32(b), 110.17. Based upon this formula, the expenditure limitation for 2017 general elections for House candidates in these states, districts, and territories is $48,700.

2. Expenditure Limitation for Senate and for House of Representatives in States With Only One Congressional District

Both the national and state party committees have an expenditure limitation for a general election held to fill a seat in the Senate or in the House of Representatives in states with only one congressional district. *See* 52 U.S.C. 30116(d)(3)(A). The formula used to calculate this expenditure limitation considers not only the price index but also the voting age population (''VAP'') of the state. *Id.* The VAP figures used to calculate the expenditure limitations were certified by the U.S. Census Bureau. The VAP of each state is also published annually in the **Federal Register** by the U.S. Department of Commerce. 11 CFR 110.18. The general election expenditure limitation is the greater of: The base figure ($20,000) multiplied by the difference in the price index, 4.86767 (which totals $97,400); or $0.02 multiplied by the VAP of the state, multiplied by 4.86767. Amounts are rounded to the nearest $100. *See* 52 U.S.C. 30116(c)(1)(B), (d)(3)(A); 11 CFR 109.32(b), 110.17. The chart below provides the state-by-state breakdown of the 2017 general election expenditure limitation for Senate elections. The expenditure limitation for 2017 House elections in states with only one congressional district[2] is $97,400.

[1] .Currently, these are the Commonwealth of Puerto Rico, and the territories of American Samoa, Guam, the United States Virgin Islands and the Northern Mariana Islands. *See http://www.house.gov/representatives.*

[2] Currently, these states are: Alaska, Delaware, Montana, North Dakota, South Dakota, Vermont and Wyoming. See *http://www.house.gov/representatives/.*

SENATE GENERAL ELECTION COORDINATED EXPENDITURE LIMITS—2017 ELECTIONS

State	Voting age population (VAP)	VAP × .02 × the price index (4.86767)	Senate expenditure limit (the greater of the amount in column 3 or $97,400)
Alabama	3,766,477	$366,700	$366,700
Alaska	554,567	54,000	97,400
Arizona	5,299,579	515,900	515,900
Arkansas	2,283,195	222,300	222,300
California	30,157,154	2,935,900	2,935,900
Colorado	4,279,173	416,600	416,600
Connecticut	2,823,158	274,800	274,800
Delaware	747,791	72,800	97,400
Florida	16,465,727	1,603,000	1,603,000
Georgia	7,798,827	759,200	759,200
Hawaii	1,120,541	109,100	109,100
Idaho	1,245,967	121,300	121,300
Illinois	9,875,430	961,400	961,400
Indiana	5,057,601	492,400	492,400
Iowa	2,403,962	234,000	234,000
Kansas	2,192,338	213,400	213,400
Kentucky	3,426,345	333,600	333,600
Louisiana	3,567,717	347,300	347,300
Maine	1,076,765	104,800	104,800
Maryland	4,667,719	454,400	454,400
Massachusetts	5,433,677	529,000	529,000
Michigan	7,737,243	753,200	753,200
Minnesota	4,231,619	412,000	412,000
Mississippi	2,267,438	220,700	220,700
Missouri	4,706,137	458,200	458,200
Montana	814,909	79,300	97,400
Nebraska	1,433,791	139,600	139,600
Nevada	2,262,631	220,300	220,300
New Hampshire	1,074,207	104,600	104,600
New Jersey	6,959,717	677,600	677,600
New Mexico	1,590,352	154,800	154,800
New York	15,564,730	1,515,300	1,515,300
North Carolina	7,848,068	764,000	764,000
North Dakota	581,641	56,600	97,400
Ohio	9,002,201	876,400	876,400
Oklahoma	2,961,933	288,400	288,400
Oregon	3,224,738	313,900	313,900
Pennsylvania	10,109,422	984,200	984,200
Rhode Island	848,045	82,600	97,400
South Carolina	3,863,498	376,100	376,100
South Dakota	652,167	63,500	97,400
Tennessee	5,149,399	501,300	501,300
Texas	20,568,009	2,002,400	2,002,400
Utah	2,129,444	207,300	207,300
Vermont	506,066	49,300	97,400
Virginia	6,541,685	636,900	636,900
Washington	5,658,502	550,900	550,900
West Virginia	1,456,034	141,700	141,700
Wisconsin	4,491,015	437,200	437,200
Wyoming	446,600	43,500	97,400

Limitations on Contributions by Individuals, Non-Multicandidate Committees and Certain Political Party Committees Giving to U.S. Senate Candidates for the 2017–2018 Election Cycle

The Act requires inflation indexing to: (1) The limitations on contributions made by persons under 52 U.S.C. 30116(a)(1)(A) (contributions to candidates) and 30116(a)(1)(B) (contributions to national party committees); and (2) the limitation on contributions made to U.S. Senate candidates by certain political party committees at 52 U.S.C. 30116(h). *See* 2 U.S.C. 30116(c). These contribution limitations are increased by multiplying the respective statutory contribution amount by 1.35550, the percent difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 2001). The resulting amount is rounded to the nearest multiple of $100. *See* 52 U.S.C. 30116(c); 11 CFR 110.17(b). Contribution limitations shall be adjusted accordingly:

Statutory provision	Statutory amount	2017–2018 limit
52 U.S.C. 30116(a)(1)(A)	$2,000	$2,700
52 U.S.C. 30116(a)(1)(B)	25,000	33,900
52 U.S.C. 30116(h)	35,000	47,400

The limitation at 52 U.S.C. 30116(a)(1)(A) is to be in effect for the two-year period beginning on the first day following the date of the general election in the preceding year and ending on the date of the next regularly scheduled election. Thus the $2,700 figure above is in effect from November 9, 2016, to November 6, 2018. The limitations under 52 U.S.C. 30116(a)(1)(B) and 30116(h) shall be in effect beginning January 1st of the odd-numbered year and ending on December 31st of the next even-numbered year. Thus the new contribution limitations under 52 U.S.C. 30116(a)(1)(B) and 30116(h) are in effect from January 1, 2017, to December 31, 2018. *See* 11 CFR 110.17(b)(1).

Lobbyist Bundling Disclosure Threshold for 2017

The Act requires certain political committees to disclose contributions bundled by lobbyists/registrants and lobbyist/registrant political action committees once the contributions exceed a specified threshold amount. 52 U.S.C. 30104(i)(1), (3)(A). The Commission must adjust this threshold amount annually to account for inflation. The disclosure threshold is increased by multiplying the $15,000 statutory disclosure threshold by 1.19052, the difference between the price index, as certified to the Commission by the Secretary of Labor, for the 12 months preceding the beginning of the calendar year and the price index for the base period (calendar year 2006). The resulting amount is rounded to the nearest multiple of $100. *See* 52 U.S.C. 30104(i)(3), 30116(c)(1)(B); 11 CFR 104.22(g). Based upon this formula ($15,000 × 1.19052), the lobbyist bundling disclosure threshold for calendar year 2017 is $17,900.

Dated: February 2, 2017.

On behalf of the Commission.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–03090 Filed 2–15–17; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

[Notice 2017–03]

Filing Dates for the California Special Election in the 34th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special election.

SUMMARY: California has scheduled a Special General Election on April 4, 2017, to fill the U.S. House of Representatives seat in the 34th Congressional District vacated by Representative Xavier Becerra. Under California law, a majority winner in a special election is declared elected. Should no candidate achieve a majority vote, a Special Runoff Election will be held on June 6, 2017, between the top two vote-getters.

Political committees participating in the California special elections are required to file pre- and post-election reports. Filing deadlines for these reports are affected by whether one or two elections are held.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street, NW., Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the California Special General and Special Runoff Elections shall file a 12-day Pre-General Report on March 23, 2017; a 12-day Pre-Runoff Report on May 25, 2017; and a 30-day Post-Runoff Report on July 6, 2017. (See charts below for the closing date for each report.)

If only one election is held, all principal campaign committees of candidates in the Special General Election shall file a 12-day Pre-General Report on March 23, 2017; and a 30-day Post-General Report on May 4, 2017. (See charts below for the closing date for each report.)

Note that these reports are in addition to the campaign committee's regular quarterly filings. (See charts below for the closing date for each report).

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a semi-annual basis in 2017 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the California Special General Election and/or Special Runoff Election by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the California Special General or Special Runoff Election will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the California Special Election may be found on the FEC Web site at *http://www.fec.gov/info/report_dates.shtml.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of $17,900 during the special election reporting periods. (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

CALENDAR OF REPORTING DATES FOR CALIFORNIA SPECIAL ELECTION

Report	Close of Books [1]	Reg./Cert. and Overnight Mailing Deadline	Filing Deadline
If Only the Special General Is Held (04/04/17), Quarterly Filing Committees Involved Must File:			
Pre-General	03/15/17	03/20/17	03/23/17
April Quarterly	03/31/17	04/15/17	[2]04/15/17
Post-General	04/24/17	05/04/17	05/04/17
July Quarterly	06/30/17	07/15/17	[2]07/15/17
If Only the Special General Is Held (04/04/17), Semi-Annual Filing Committees Involved Must File:			
Pre-General	03/15/17	03/20/17	03/23/17
Post-General	04/24/17	05/04/17	05/04/17
Mid-Year	06/30/17	07/31/17	07/31/17
If Two Elections Are Held, Quarterly Filing Committees Involved Only in the Special General (04/04/17) Must File:			
Pre-General	03/15/17	03/20/17	03/23/17
April Quarterly	03/31/17	04/15/17	[2]04/15/17
If Two Elections Are Held, Semi-Annual Filing Committees Involved Only in the Special General (04/04/17) Must File:			
Pre-General	03/15/17	03/20/17	03/23/17
Mid-Year	06/30/17	07/31/17	07/31/17
Quarterly Filing Committees Involved in the Special General (04/04/17) and Special Runoff (06/06/17) Must File:			
Pre-General	03/15/17	03/20/17	03/23/17
April Quarterly	03/31/17	04/15/17	[2]04/15/17
Pre-Runoff	05/17/17	05/22/17	05/25/17
Post-Runoff	06/26/17	07/06/17	07/06/17
July Quarterly	Waived		
October Quarterly	09/30/17	10/15/17	[2]10/15/17
Semi-Annual Filing Committees Involved in the Special General (04/04/17) and Special Runoff (06/06/17) Must File:			
Pre-General	03/15/17	03/20/17	03/23/17
Pre-Runoff	05/17/17	05/22/17	05/25/17
Post-Runoff	06/30/17	07/22/17	07/22/17
Mid-Year	Waived		
Year-End	12/31/17	01/31/18	01/31/18
Quarterly Filing Committees Involved Only in the Special Runoff (06/06/17) Must File:			
Pre-Runoff	05/17/17	05/22/17	05/25/17
Post-Runoff	06/26/17	07/06/17	07/06/17
July Quarterly	Waived		
October Quarterly	09/30/17	10/15/17	[2]10/15/17
Semi-Annual Filing Committees Involved Only in the Special Runoff (06/06/17) Must File:			
Pre-Runoff	05/17/17	05/22/17	05/25/17
Post-Runoff	06/30/17	07/22/17	07/22/17
Mid-Year	Waived		
Year-End	12/31/17	01/31/18	01/31/18

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail must be received by close of business on the last business day before the deadline.

Dated: February 2, 2017.

On behalf of the Commission.

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–03091 Filed 2–15–17; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on the agreements to the Secretary, Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. Copies of the agreements are available through the Commission's Web site (*www.fmc.gov*) or by contacting the Office of Agreements at (202)–523–5793 or *tradeanalysis@fmc.gov.*

Agreement No.: 012129–003.

Title: EUKOR/''K'' Line Space Charter Agreement.

Parties: Eukor Car Carriers, INC.; and Kawasaki Kisen Kaisha, Ltd.

Filing Party: John Meade; ''K'' Line America, Inc.; General Counsel, ''K'' Line America, Inc.; 6009 Bethlehem Road Preston, MD 21655.

Synopsis: The amendment corrects clerical errors, makes changes to the agreement language to clarify that the agreement is a cross charter agreement, and clarifies language in the agreement related to dispute resolution.

Agreement No.: 012460.

Title: COSCO Shipping/PIL/WHL Vessel Sharing and Charter Agreement.

Parties: COSCO Shipping Lines Co., Ltd.; Pacific International Lines (Pte.) Ltd; Wan Hai Lines (Singapore) Pte. Ltd.; and Wan Hai Lines Ltd. (acting as a single party).

Filing Party: Eric. C. Jeffrey, Esq.; Nixon Peabody LLP; 799 9th Street NW., Suite 500; Washington, DC 20001.

Synopsis: The agreement would authorize the Parties to cooperate on joint services and slot charters in the trade between ports in China (including Hong Kong) and ports on the United States West Coast.

By Order of the Federal Maritime Commission.

Dated: February 10, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–03093 Filed 2–15–17; 8:45 am]

BILLING CODE 6731–AA–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10526]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, and to allow a second opportunity for public comment on the notice. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by March 20, 2017.

ADDRESSES: When commenting on the proposed information collections, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be received by the OMB desk officer via one of the following transmissions: OMB, Office of Information and Regulatory Affairs, Attention: CMS Desk Officer, Fax Number: (202) 395–5806 OR, Email: *OIRA_submission@omb.eop.gov.*

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995.*

2. Email your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov.*

3. Call the Reports Clearance Office at (410) 786–1326.

FOR FURTHER INFORMATION CONTACT: Reports Clearance Office at (410) 786–1326.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires federal agencies to publish a 30-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice that summarizes the following proposed collection(s) of information for public comment:

1. *Type of Information Collection Request:* Revision of a currently approved information collection; *Title of Information Collection:* Cost-Sharing Reduction Reconciliation Information Collection; *Use:* Under established Department of Health and Human Services (HHS) regulations, qualified health plan (QHP) issuers will receive estimated advance payments of cost-sharing reductions throughout the year. Each issuer will then be subject to a reconciliation process at the end of the benefit year to ensure that HHS reimburses each issuer only for actual cost sharing. This revised collection adds three optional data elements, a Policy Identification number, Policy Start Date, and Policy End Date, and proposes to make optional most summary plan level reporting. *Form Number:* CMS–10526 (OMB control number: 0938–1266). *Frequency:* Once, Annually; *Affected Public:* Private Sector—Not-for-profit institutions; *Number of Respondents:* 295; *Number of Responses:* 4,000,000; *Total Annual Hours:* 5,373. (For policy questions regarding this collection contact Pat Meisol at 410–786–1917.)

Dated: February 13, 2017,

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–03135 Filed 2–15–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Pediatric Advisory Committee; Amendment of Notice

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing an amendment to the notice of meeting of the Pediatric Advisory Committee. This meeting was announced in the **Federal Register** of January 5, 2017. The amendment is being made to reflect a change in the Center for Drug Evaluation and Research (CDER) products portion of the document. There are no other changes.

FOR FURTHER INFORMATION CONTACT: Marieann Brill, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993, 240–402–3838, email: *marieann.brill@fda.hhs.gov,* or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). Please call the Information Line for up-to-date information on this meeting.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 5, 2017 (82 FR 1345), FDA announced that a meeting of the Pediatric Advisory Committee (PAC) would be held on March 6 and 7, 2017. On page 1346, in the third column, the CDER products portion of the document is changed to read as follows:

On March 6, 2017, the PAC will meet to discuss the following products (listed by FDA Center):

(1) Center for Drug Evaluation and Research (CDER)

a. NITROPRESS (sodium nitroprusside)

b. KUVAN (sapropterin dihydrochloride)

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to the advisory committees.

Dated: February 13, 2017.

Janice M. Soreth,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2017–03144 Filed 2–15–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

[Document Identifier: 0990–New–60D]

Agency Information Collection Activities; Proposed Collection; Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, announces plans to submit a new Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, OS seeks comments from the public regarding the burden estimate below or any other aspect of the ICR.

DATES: Comments on the ICR must be received on or before April 17, 2017.

ADDRESSES: Submit your comments to *Information.Collection Clearance@hhs.gov* or by calling (202) 690–5683.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the document identifier 0990–New–60D for reference.

Information Collection Request Title: National Council for Behavioral Health's Information Technology Survey.

Abstract: The Office of the National Coordinator for Health IT (ONC), in coordination with Substance Abuse and Mental Health Services Administration (SAMHSA) seeks to conduct a survey annually for the next three years to examine trends in the adoption and use of health IT as well as interoperability across community behavioral health care settings. Data from the survey will help ONC and SAMSHA monitor progress and enhance programs and policy to improve the use of health IT and expand interoperability across these settings. In 2015, ONC outlined a strategy by which both private and public stakeholders would work together to improve interoperability. This strategy called for measuring and reporting on the state of interoperability across the care continuum, including for behavioral health care providers; however, there are no recent national data available for this care setting. Addressing this gap is critical in order to also determine these providers' readiness to serve as partners in delivery system reform efforts that are underway and that will be expanded with the implementation of Medicare Access and CHIP Reauthorization Act of 2015 (MACRA). Although behavioral health care providers won't be participating in the MACRA initiative at the outset, the Secretary of Health and Human Services may include behavioral health providers, such as psychologists and social workers to participate in value-based payment initiatives such as the Merit-Based Incentive Payment System (MIPs) in the future.

Likely Respondents: The respondents will include mid-level and executive level staff (IT Directors, CIO, and CEOs) of behavioral healthcare organizations that are involved in the management and maintenance of their organization's health IT infrastructure.

The total annual burden hours estimated for this ICR are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN—HOURS

Form name	Number of respondents	Number of responses annually per respondent	Total responses per year	Average hours per response	Total burden hours
National Council for Behavioral Health's Information Technology Survey	2,700	1	2,700	20/60	900

OS specifically requests comments on (1) the necessity and utility of the proposed information collection for the proper performance of the agency's functions, (2) the accuracy of the estimated burden, (3) ways to enhance the quality, utility, and clarity of the information to be collected, and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Terry S. Clark,

Asst. Information Collection Clearance Officer.

[FR Doc. 2017–03087 Filed 2–15–17; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; e-Cigaretts—from 3rd Award (8923).

Date: March 30, 2017.

Time: 10:00 a.m. to 11:00 a.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 827–5702, *lf33c.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; e-Cigaretts—from 3rd Award (8925).

Date: March 30, 2017.

Time: 11:00 a.m. to 12:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Lyle Furr, Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 4227, MSC 9550, 6001 Executive Boulevard, Bethesda, MD 20892–9550, (301) 827–5702, *lf33c.nih.gov*.

(Catalogue of Federal Domestic Assistance Program No.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 10, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03080 Filed 2–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 13–374: Modeling Social Behavior.

Date: March 1, 2017.

Time: 4:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ping Wu, Ph.D., Scientific Review Officer, HDM IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3166, Bethesda, MD 20892, 301–451–8428, *wup4@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Health Disparities in and Caregiving for Alzheimer's Disease.

Date: March 3, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.

Contact Person: Gabriel B Fosu, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3108, MSC 7808, Bethesda, MD 20892, (301) 435–3562, *fosug@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and AIDS Related Research.

Date: March 9, 2017.

Time: 11:59 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Jingsheng Tuo, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, Bethesda, MD 20892, 301–451–8754, *tuoj@nei.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Preclinical Research on Model Organisms to Predict Treatment Outcomes for Disorders Associated with Intellectual and Developmental Disabilities.

Date: March 13, 2017.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Biao Tian, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3089B, MSC 7848, Bethesda, MD 20892, (301) 402–4411, *tianbi@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 10, 2017.

Anna Snouffer,

Deputy Director, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03079 Filed 2–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request; Generic Clearance for Surveys of Customers and Partners of the Office of Extramural Research of the National Institutes of Health

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide

opportunity for public comment on proposed data collection projects, the Office of Extramural Research (OER), the National Institutes of Health (NIH) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Dr. Sherry Mills, Director, Office of Extramural Programs, OER, NIH, 6705 Rockledge Drive, Suite 350, Bethesda, MD 20892, or call non-toll-free number (301) 435–2729, or Email your request, including your address to: *OEPMailbox@mail.nih.gov.* Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Proposed Collection Title: Generic Clearance for Surveys of Customers and Partners of the Office of Extramural Research of the National Institutes of Health—Extension of 0925–0627—Office of the Director (OD), Office of Extramural Research (OER), Office of Extramural Programs (OEP), National Institutes of Health (NIH).

Need and Use of Information Collection: OER develops, coordinates the implementation of, and evaluates NIH-wide policies and procedures for the award of extramural funds. To move forward with our initiatives to ensure success in accomplishing the NIH mission, input from partners and customers is essential. Quality management principles have been integrated into OER's culture and these surveys will provide customer satisfaction input on various elements of OER's business processes. The approximately 14 (10 quantitative and 4 qualitative) customer satisfaction surveys that will be conducted under this generic clearance will gather and measure customer and partner satisfaction with OER processes and operations. The data collected from these surveys will provide the feedback to track and gauge satisfaction with the NIH's statutorily mandated operations and processes. OER/OD/NIH will present data and outcomes from these surveys to inform the NIH staff, officers, leadership, advisory committees, and other decision-making bodies as appropriate. Based on feedback from these stakeholders, OER/OD/NIH will formulate improvement plans and take action when necessary.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 1911.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total annual burden hour
Quantitative Survey				
Science professionals, applicants, reviewers, Institutional Officials	1,500	1	20/60	500
Adult Science Trainees	1,000	1	20/60	333
General Public	2,500	1	20/60	833
Qualitative Survey				
Science professionals, applicants, reviewers, Institutional Officials	200	1	1	200
Adult Science Trainees	25	1	1	25
General Public	20	1	1	20

Dated: February 10, 2017.

Lawrence A. Tabak,

Deputy Director, National Institutes of Health.

[FR Doc. 2017–03137 Filed 2–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIH Pathway to Independence Award (K99/R00).

Date: February 27, 2017.

Time: 12:30 p.m. to 3:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, (301) 827–5817, *mcguireso@mail.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Multi-Site Studies for System-Level Implementation of Substance Use Prevention and Treatment Services (R01; R34).

Date: March 1, 2017.

Time: 1:00 p.m. to 3:15 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Hiromi Ono, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Boulevard, Room 4238, MSC 9550, Bethesda, MD 20892, (301) 827–5820, *hiromi.ono@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Mechanisms of Immune Activation and Inflammation: HIV Infection, ART, and Drugs of Abuse (R01).

Date: March 16, 2017.

Time: 9:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, (301) 827–5817, *mcguireso@mail.nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Core Center of Excellence Grant Program (P30).

Date: March 22, 2017.

Time: 9:00 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–827–5819, *gm145a@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; NIDA Research ''Center of Excellence'' Grant Program (P50).

Date: March 22–23, 2017.

Time: 11:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard by Marriott, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Gerald L. McLaughlin, Ph.D., Scientific Review Officer, Office of Extramural Policy and Review, National Institute on Drug Abuse, NIH, DHHS, 6001 Executive Blvd., Room 4238, MSC 9550, Bethesda, MD 20892–9550, 301–827–5819, *gm145a@nih.gov*.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel; Multi-site Clinical Trials.

Date: March 23, 2017.

Time: 1:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Susan O. McGuire, Ph.D., Scientific Review Officer, Office of Extramural Affairs, National Institute on Drug Abuse, National Institutes of Health, DHHS, 6001 Executive Blvd., Room 4245, Rockville, MD 20852, (301) 827–5817, *mcguireso@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 10, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03081 Filed 2–15–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0082]

Certificate of Alternative Compliance for the TUG CLAYTON W MORAN

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that a Certificate of Alternative Compliance (COAC) was issued for the TUG CLAYTON W MORAN. We are issuing this notice because its publication is required by statute.

DATES: The Certificate of Alternative Compliance was issued on January 30th, 2017.

FOR FURTHER INFORMATION CONTACT: For information or questions about this notice call or email Mr. Kevin Miller, First District Towing Vessel/Barge Safety Specialist, U.S. Coast Guard; telephone (617) 223–8272, email *Kevin.L.Miller2@uscg.mil*.

SUPPLEMENTARY INFORMATION: The United States is signatory to the International Maritime Organization's International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), as amended. The special construction or purpose of some vessels makes them unable to comply with the light, shape, and sound signal provisions of the 72 COLREGS. Under statutory law [1] and Coast Guard regulation,[2] a vessel may instead meet alternative requirements and the vessel's owner, builder, operator, or agent may apply for a COAC. For vessels of special construction, the cognizant Coast Guard District Office determines whether the vessel for which the COAC is sought complies as closely as possible with the 72 COLREGS, and decides whether to issue the COAC. Once issued, a COAC remains valid until information supplied in the COAC application or the COAC terms become inapplicable to the vessel. Under the governing statute [3] and regulation,[4] the Coast Guard must publish notice of this action.

The Commandant, U.S. Coast Guard, certifies that the TUG CLAYTON W MORAN is a vessel of special construction or purpose, and that, with respect to the position of the navigation and towing lights, it is not possible to comply fully with the requirements of the provisions enumerated in the 72 COLREGS, without interfering with the normal operation of the vessel. The Commandant further finds and certifies that the sidelights (13′ 5.25″ from the vessel's side mounted on the pilot house) and stern/towing lights (3′ 5.75″ aft of frame 20 mounted on top of the pilot house) are in the closet possible compliance with the applicable provisions of the 72 COLREGS and that full compliance with the 72 COLREGS would not significantly enhance the safety of the vessel's operation.

This notice is issued under authority of 33 U.S.C. 1605(c) and 33 CFR. 81.

Dated: February 6, 2017.

Capt B.L. Black,

Chief, Prevention Department, First District, U.S. Coast Guard.

[FR Doc. 2017–03136 Filed 2–15–17; 8:45 am]

BILLING CODE 9110–04–P

[1] 33 U.S.C. 1605(c).

[2] 33 CFR 81.3.

[3] 33 U.S.C. 1605(c).

[4] 33 CFR 81.18.

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

Quarterly IRS Interest Rates Used in Calculating Interest on Overdue Accounts and Refunds on Customs Duties

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

ACTION: General notice.

SUMMARY: This notice advises the public that the quarterly Internal Revenue Service interest rates used to calculate interest on overdue accounts (underpayments) and refunds (overpayments) of customs duties will remain the same from the previous quarter. For the calendar quarter beginning January 1, 2017, the interest rates for overpayments will be 3 percent for corporations and 4 percent for non-corporations, and the interest rate for underpayments will be 4 percent for both corporations and non-corporations. This notice is published for the convenience of the importing public and U.S. Customs and Border Protection personnel.

DATES: *Effective Date:* January 1, 2017.

FOR FURTHER INFORMATION CONTACT: Kara N. Welty, Revenue Division, Collection and Refunds Branch, 6650 Telecom Drive, Suite #100, Indianapolis, Indiana 46278; telephone (317) 614–4614.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 U.S.C. 1505 and Treasury Decision 85–93, published in the **Federal Register** on May 29, 1985 (50 FR 21832), the interest rate paid on applicable overpayments or underpayments of customs duties must be in accordance with the Internal Revenue Code rate established under 26 U.S.C. 6621 and 6622. Section 6621 provides different interest rates applicable to overpayments: One for corporations and one for non-corporations.

The interest rates are based on the Federal short-term rate and determined by the Internal Revenue Service (IRS) on behalf of the Secretary of the Treasury on a quarterly basis. The rates effective for a quarter are determined during the first-month period of the previous quarter.

In Revenue Ruling 2016–28, the IRS determined the rates of interest for the calendar quarter beginning January 1, 2017, and ending on March 31, 2017. The interest rate paid to the Treasury for underpayments will be the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%) for both corporations and non-corporations. For corporate overpayments, the rate is the Federal short-term rate (1%) plus two percentage points (2%) for a total of three percent (3%). For overpayments made by non-corporations, the rate is the Federal short-term rate (1%) plus three percentage points (3%) for a total of four percent (4%). These interest rates are subject to change for the calendar quarter beginning April 1, 2017, and ending June 30, 2017.

For the convenience of the importing public and U.S. Customs and Border Protection personnel the following list of IRS interest rates used, covering the period from before July of 1974 to date, to calculate interest on overdue accounts and refunds of customs duties, is published in summary format.

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
070174	063075	6	6	
070175	013176	9	9	
020176	013178	7	7	
020178	013180	6	6	
020180	013182	12	12	
020182	123182	20	20	
010183	063083	16	16	
070183	123184	11	11	
010185	063085	13	13	
070185	123185	11	11	
010186	063086	10	10	
070186	123186	9	9	
010187	093087	9	8	
100187	123187	10	9	
010188	033188	11	10	
040188	093088	10	9	
100188	033189	11	10	
040189	093089	12	11	
100189	033191	11	10	
040191	123191	10	9	
010192	033192	9	8	
040192	093092	8	7	
100192	063094	7	6	
070194	093094	8	7	
100194	033195	9	8	
040195	063095	10	9	
070195	033196	9	8	
040196	063096	8	7	
070196	033198	9	8	
040198	123198	8	7	
010199	033199	7	7	6
040199	033100	8	8	7
040100	033101	9	9	8
040101	063001	8	8	7
070101	123101	7	7	6
010102	123102	6	6	5

Beginning date	Ending date	Under-payments (percent)	Over-payments (percent)	Corporate overpayments (Eff. 1–1–99) (percent)
010103	093003	5	5	4
100103	033104	4	4	3
040104	063004	5	5	4
070104	093004	4	4	3
100104	033105	5	5	4
040105	093005	6	6	5
100105	063006	7	7	6
070106	123107	8	8	7
010108	033108	7	7	6
040108	063008	6	6	5
070108	093008	5	5	4
100108	123108	6	6	5
010109	033109	5	5	4
040109	123110	4	4	3
010111	033111	3	3	2
040111	093011	4	4	3
100111	033116	3	3	2
040116	033117	4	4	3

Dated: February 13, 2017.

Kevin K. McAleenan,

Acting Commissioner, U.S. Customs and Border Protection.

[FR Doc. 2017–03140 Filed 2–15–17; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[OMB Control Number 1615–0117]

Agency Information Collection Activities: myE-Verify, Form G–1499; Extension, Without Change, of a Currently Approved Collection

AGENCY: U.S. Citizenship and Immigration Services, Department of Homeland Security.

ACTION: 60-Day notice.

SUMMARY: The Department of Homeland Security (DHS), U.S. Citizenship and Immigration (USCIS) invites the general public and other Federal agencies to comment upon this proposed extension of a currently approved collection of information or new collection of information. In accordance with the Paperwork Reduction Act (PRA) of 1995, the information collection notice is published in the **Federal Register** to obtain comments regarding the nature of the information collection, the categories of respondents, the estimated burden (*i.e.* the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

DATES: Comments are encouraged and will be accepted for 60 days until April 17, 2017.

ADDRESSES: All submissions received must include the OMB Control Number 1615–0117 in the subject box, the agency name and Docket ID USCIS–2010–0014. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Online.* Submit comments via the Federal eRulemaking Portal Web site at *http://www.regulations.gov* under e-Docket ID number USCIS–2010–0014; or

(2) *Mail.* Submit written comments to DHS, USCIS, Office of Policy and Strategy, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529–2140.

FOR FURTHER INFORMATION CONTACT: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, Samantha Deshommes, Chief, 20 Massachusetts Avenue NW., Washington, DC 20529–2140, Telephone number (202) 272–8377 (This is not a toll-free number. Comments are not accepted via telephone message). Please note contact information provided here is solely for questions regarding this notice. It is not for individual case status inquiries. Applicants seeking information about the status of their individual cases can check Case Status Online, available at the USCIS Web site at *http://www.uscis.gov,* or call the USCIS National Customer Service Center at (800) 375–5283; TTY (800) 767–1833.

SUPPLEMENTARY INFORMATION:

Comments

You may access the information collection instrument with instructions, or additional information by visiting the Federal eRulemaking Portal site at: *http://www.regulations.gov* and enter USCIS–2010–0014 in the search box. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

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

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other

technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, Without Change, of a Currently Approved Collection.

(2) *Title of the Form/Collection:* myE-Verify.

(3) *Agency form number, if any, and the applicable component of the DHS sponsoring the collection:* G–1499; USCIS.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. This form is used by employees in the United States to enter data into the Verification Information System (VIS) to ensure that the information relating to their eligibility to work is correct and accurate before beginning new employment.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* The estimated total number of respondents for the information collection Form G–1499 is 250,000 and the estimated hour burden per response is .0833 hours (5 minutes). Of this 250,000, an estimated 75,000 respondents will need to correct information that may have been entered incorrectly to continue using myE-Verify; this estimated burden per response is .0833 hours (5 minutes). Of this 250,000, an estimated 10,000 respondents may be required to pursue further action to correct their records at the appropriate agency; this estimated burden per response is 1.183 hours. Of this 250,000, an estimated 25,000 respondents will be required to provide additional information for a second Authentication Check; this estimated burden per response is .25 hours (15 minutes).

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total estimated annual hour burden associated with this collection is 45,153 hours.

(7) *An estimate of the total public burden (in cost) associated with the collection:* The estimated total annual cost burden associated with this collection of information is $0.

Dated: February 13, 2017.

Samantha Deshommes,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2017–03133 Filed 2–15–17; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCON00000–17x–L10200000.DF0000.LXSS080C0000]

Notice of Public Meetings; Northwest Colorado Resource Advisory Council Meetings

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972, the U.S. Department of the Interior, Bureau of Land Management (BLM) Northwest Colorado Resource Advisory Council (RAC) will meet as indicated below.

DATES: The Northwest Colorado RAC has scheduled its 2017 meetings for March 2, June 1, August 24 and December 7 from 8 a.m. to 3 p.m. with public comment periods at 10 a.m. and 2 p.m. A specific agenda for each meeting will be available prior to the meeting at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/colorado/northwest-rac.*

ADDRESSES: The March 2 meeting will be in Glenwood Springs, Colorado, at the Glenwood Springs Community Center, 100 Wulfsohn Road; the June 1 meeting will be in Meeker, Colorado, at the Meeker Public Library, 490 Main St.; the August 24 meeting will be in Walden, Colorado, at the Whattenberg Center on the Jackson County Fairgrounds, 686 County Road 42; the December 7 meeting will be in Craig, Colorado, at the Clarion Inn, 300 South Colorado Highway 13.

FOR FURTHER INFORMATION CONTACT: David Boyd, Public Affairs Specialist, Colorado Northwest District, 2300 River Frontage Road, Silt, CO 81652; (970) 876–9008. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 1–800–877–8339 to contact the above individual during normal business hours. The Service is available 24 hours a day, seven 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 Northwest Colorado RAC advises the Secretary of the Interior, through the BLM, on a variety of public land issues in northwestern Colorado. Topics of discussion during Northwest Colorado RAC meetings may include management of the Greater Sage-Grouse, working group reports, recreation, fire management, land use planning, invasive species management, energy and minerals management, travel management, wilderness, wild horse herd management, land exchange proposals, cultural resource management, and other issues as appropriate. These meetings are open to the public. Subcommittees under this RAC may meet this year regarding travel management in the White River Field Office. Active subcommittees report to the RAC at each council meeting. Subcommittee meetings are open to the public. More information is available at *https://www.blm.gov/get-involved/resource-advisory-council/near-you/colorado/northwest-rac.* The public may present written comments to the RACs. Each formal RAC meeting will also have time allocated, as identified above, for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited.

Ruth Welch,

BLM Colorado State Director.

[FR Doc. 2017–03248 Filed 2–15–17; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification of Consent Decree Under the Clean Air Act

On February 13, 2017, the Department of Justice lodged a proposed modification to a Consent Decree with the United States District Court for the Western District of Louisiana in *United States and the Louisiana Department of Environmental Quality* v. *Cabot Corporation,* Civil Case No. 13–3095 (W.D. La.).

The original Consent Decree was entered on March 13, 2014, and resolved civil claims under the Clean Air Act at the Defendant's three carbon black manufacturing facilities located in Louisiana and Texas. The Consent Decree imposed various pollution control requirements on Defendant's facilities, including requirements related to sulfur dioxide, nitrogen oxides, and particulate matter emissions. At the Canal and Ville Platte facilities in Louisiana, these pollution control requirements included, among other requirements, installation of Wet Gas Scrubber (''WGS'') systems designed to reduce sulfur dioxide emissions, and Selective Catalytic Reduction (''SCR'') systems to reduce nitrogen oxide emissions. The WGS systems are also expected to result in an

ancillary reduction in particulate matter emissions.

The parties to the Consent Decree have agreed to certain modifications to the Decree that reflect a more refined understanding of the ancillary particulate matter reductions expected from the sulfur dioxide controls, and associated scheduling delays. The modifications would extend the deadlines for installing controls by six-and-a-half months at the Canal facility and by nine months at the Ville Platte facility, and would establish a process for Cabot to petition EPA for an alternative particulate matter limit to reflect the ancillary particulate reductions expected from the sulfur dioxide controls.

The publication of this notice opens a period for public comment on the proposed modifications to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States and the Louisiana Department of Environmental Quality* v. *Cabot Corporation,* Civil Case No. 13–3095 (W.D. La.), D.J. Ref. No. 90–5–2–1–10355. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By e-mail	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed modifications to the Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed modifications upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ–ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.00 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas P. Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–03134 Filed 2–15–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by a Plan

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by a Plan,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 20, 2017.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* Web site at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201701-1210-002* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064 (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064 (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the information collection requirements contained in the Prohibited Transaction Class Exemption (PTE) applicable to the sale of individual life insurance or annuity contracts by a plan (PTE 1992–6). More specifically, PTE 1992–6 exempts from the prohibited transaction restrictions of the Employee Retirement Income Security Act (ERISA), 29 U.S.C. 1101 *et seq.,* the sale of individual life insurance or annuity contracts by a plan to participants, relatives of participants, employers any of whose employees are covered by the plan, other employee benefit plans, owner-employees or shareholder-employees; provided, certain conditions are met. In the absence of this exemption, certain aspects of these transactions might be prohibited by ERISA section 406. Among other conditions, PTE 1992–6 requires that a pension plan inform the insured participant of a proposed sale of a life insurance or annuity policy to the employer, a relative, another plan, an owner-employee, or a shareholder-employee. ERISA section 408(a) authorizes this information collection. *See* 29 U.S.C. 1108(a).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0063.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the current approval for this collection is scheduled to expire on February 28, 2017. The DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice

published in the **Federal Register** on October 28, 2016 (81 FR 75157).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0063. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Prohibited Transaction Class Exemption 1992–6: Sale of Individual Life Insurance or Annuity Contracts by a Plan.

OMB Control Number: 1210–0063.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 10,877.

Total Estimated Number of Responses: 10,877.

Total Estimated Annual Time Burden: 2,175 hours.

Total Estimated Annual Other Costs Burden: $5,656.

Dated: February 9, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–03088 Filed 2–15–17; 8:45 am]

BILLING CODE 4510–29–P

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Environmental Research and Education; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting:

Name: Advisory Committee for Environmental Research and Education (#9487).

Date/Time: March 29, 2017; 9:00 a.m.–5:30 p.m., March 30, 2017; 9:00 a.m.–3:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Open.

Contact Person: Dr. Stephen Meacham, Senior Staff Associate, Office of Integrative Activities/Office of Director/National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; (Email: *smeacham@nsf.gov,* Telephone: (703) 292–8040).

Minutes: May be obtained from *http://www.nsf.gov/ere/ereweb/minutes.jsp.*

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for environmental research and education.

Agenda: (Tentative) Approval of minutes from past meetings. Updates on agency support for environmental research and activities. Discussion with NSF Director and Assistant Directors. Discussion of emerging research topics in environmental science, engineering and education. An updated agenda will be available at *http://www.nsf.gov/ere/ereweb/minutes.jsp* approximately one week before the start of the meeting.

Dated: February 13, 2017.

Crystal Robinson,

Committee Management Officer.

[FR Doc. 2017–03149 Filed 2–15–17; 8:45 am]

BILLING CODE 7555–01–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board (NSB), pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended, (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of meetings for the transaction of NSB business as follows:

DATE AND TIME: February 21, 2017 from 8:00 a.m. to 5:20 p.m., and February 22, 2017 from 8:15 a.m. to 2:20 p.m. EST.

PLACE: These meetings will be held at the NSF headquarters, 4201 Wilson Blvd., Room 1235, Arlington, VA 22230. All visitors must contact the Board Office (call 703–292–7000 or send an email to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the meeting and provide your name and organizational affiliation. Visitors must report to the NSF visitor's desk in the lobby of the 9th and N. Stuart Street entrance to receive a visitor's badge. Due to recent security changes, visitors should allot some extra time for the entrance process.

WEBCAST INFORMATION: Public meetings and public portions of meetings will be webcast. To view the meetings, go to *http://www.tvworldwide.com/events/nsf/170221* and follow the instructions.

UPDATES: Please refer to the NSB Web site for additional information. Meeting information and schedule updates (time, place, subject matter, and status of meeting) may be found at *http://www.nsf.gov/nsb/meetings/notices.jsp.*

NOTICE RE MEETING TIME FLEXIBILITY: The NSB is conducting a pilot project to provide some flexibility around meeting times during the February 2017 meetings. After the first meeting of each day, actual meeting start and end times will be allowed to vary by as much as (but no more than) 15 minutes in either direction. As an example, if a 10:00 meeting finishes at 10:45, the meeting scheduled to begin at 11:00 may begin at 10:45 instead. Similarly, the 10:00 meeting may be allowed to run over by as much as 15 minutes if the meeting chair decides the extra time is warranted. The next meeting will start no later than 11:15. No meeting will start more than 15 minutes away from its originally scheduled start.

NSB is implementing this pilot to improve the quality of NSB and committee discussions, and to make more effective and efficient use of NSB members' limited in-person meeting time. In prior meetings, the NSB has experienced unusable time after short meetings, and has rushed the discussion of important matters to meet the clock.

After the meeting day has begun, please arrive at the NSB boardroom or check the webcast 15 minutes before the scheduled start time of the meeting you wish to observe. Members of the public are invited to provide feedback on the scheduling flexibility pilot. Contact: *nationalsciencebrd@nsf.gov.*

AGENCY CONTACT: Brad Guttierez, *bgutierr@nsf.gov,* 703–292–7000.

PUBLIC AFFAIRS CONTACT: Nadine Lymn, *nlymn@nsf.gov,* 703–292–2490.

STATUS: Portions open; portions closed.

Open Sessions

February 21, 2017

8:00–8:30 a.m. Plenary introduction, NSB Chair and NSF Director Remarks
8:30–10:35 a.m. Committee on Awards and Facilities (A&F)
10:50–11:50 a.m. Committee on External Engagement (EE)

1:00–2:20 p.m. Committee on Oversight (CO)
2:30–3:50 p.m. Committee on National Science and Engineering Policy (SEP)
4:00–5:20 p.m. Committee on Strategy (CoS)

February 22, 2017

8:15–8:45 a.m. (A&F)
1:00–2:20 p.m. (Plenary)

Closed Sessions

February 22, 2017

8:45–9:25 a.m. (CoS)
9:40–10:55 a.m. (A&F)
10:55–11:10 a.m. (Plenary)
11:10–11:30 a.m. (Plenary Executive)

Matters To Be Discussed

Tuesday, February 21, 2017

Plenary Board Meeting

Open session: 8:00–8:30 a.m.
- NSB Chair's Opening Remarks

Announcement of New Member and Ceremonial Oath of Office
Overview of Major Issues for Meeting
- NSF Director's Remarks
- Announcement of New NSB Committees

Committee on Awards and Facilities

Open session: 8:30–10:35 a.m.
- Committee Chair's Opening Remarks
- ATLAS and CMS Detectors at the Large Hadron Collider
- CY 2017 Schedule of Planned Action and Information Items
- Discussion of Draft Committee Charge
- Antarctic Discussion and NSB Site Visit Report
- Review of NSB's Delegation of Award Authority
- Approach for Risk Management at NSF

Committee on External Engagement (EE)

Open session: 10:50–11:50 a.m.
- Committee Chair's Opening Remarks
- Discussion of Draft Committee Charge
- Update on Ongoing Activities
- Update on New Legislation in the 114th Congress
- Transition to New Congress and Administration

Committee on Oversight (CO)

Open session: 1:00–2:20 p.m.
- Committee Chair's Opening Remarks
- Discussion of Draft Committee Charge
- Conclusion of the 2016 NSF Financial Statement Audit
- Inspector General's Update
- Chief Financial Officer's Update
- The Role of Committees of Visitors in Merit Review
- NSF's External Audit Resolution Process

Committee on National Science and Engineering Policy (SEP)

Open session: 2:30–3:50 p.m.
- Committee Chair's Opening Remarks
- Discussion of Draft Committee Charge
- Companion Brief on Career Pathways of STEM Ph.D.s
- Science and Engineering Indicators 2018 Production Update
- SEI 2018 Review Process Changes
- SEI 2018 Cover Artwork Selection
- Overview of Blue Collar STEM Concepts and Opportunities

Committee on Strategy (CoS)

Open session: 4:00–5:20 p.m.
- Committee Chair's Opening Remarks
- Discussion of Draft Committee Charge
- Discussion of Big Ideas:

Work at the Human Technology Frontier
Harnessing the Data Revolution

Matters To Be Discussed

Wednesday, February 22, 2017

Committee on Awards and Facilities (Continued)

Open session: 8:15–8:45 a.m.
- Engineering Feats Enable Cutting-Edge Science

Committee on Strategy (CoS)

Closed session: 8:45–9:25 a.m.
- Committee Chair's Opening Remarks
- Update on FY 2017 Budget
- Update on NSF FY 2018 Budget Request Development

Committee on Awards and Facilities

Closed Session: 9:40–10:55 a.m.
- Committee Chair's Opening Remarks
- Cornell High Energy Synchrotron Source (CHESS) Annual Update
- National Ecological Laboratories Operations (NEON) Operations and Maintenance Update
- *Stampede 2:* Operations and Maintenance for the Next Generation of Petascale Computing
- Antarctic Infrastructure Modernization for Science
- Status of Regional Class Research Vessel MREFC Project

Plenary Board

Closed session: 10:55–11:10 a.m.
- NSB Chair's Opening Remarks
- Approval of Prior Minutes
- Closed Committee Reports

Plenary Board (Executive)

Closed session: 11:10 a.m.–11:30 a.m.
- NSB Chair's Opening Remarks
- Approval of Prior Minutes
- Alan T. Waterman Award Recommendation
- Award Involving an NSB Member

Plenary Board

Open session: 1:00–2:20 p.m.
- NSB Chair's Opening Remarks
- Approval of Prior Minutes
- NSF Director's Remarks
- Enhancing Employee Engagement at NSF
- Open Committee Reports
- Vote: Revisions to NSB's Delegation of Authority
- Vote: Resolution Honoring Dr. Michael Van Woert for His Service to NSB
- Vote: Companion Brief on Career Pathways of STEM Ph.D.s
- Vote (expected): New Committee Charges
- NSB Chair's Closing Remarks

Meeting Adjourns: 2:20 p.m.

Chris Blair,

Executive Assistant, National Science Board Office.

[FR Doc. 2017–03279 Filed 2–14–17; 4:15 pm]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

Request To Amend a License To Import Radioactive Waste

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 110.70 (b) ''Public Notice of Receipt of an Application,'' please take notice that the U.S. Nuclear Regulatory Commission (NRC) has received the following request for an import license amendment. A copy of the request is available electronically through the Agencywide Documents Access and Management System (ADAMS), and can be accessed 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 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 is provided in the ''*Description of Material.*''

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register** (FR). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139; August 28, 2007. Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this import license amendment application follows.

NRC IMPORT LICENSE APPLICATION

[Description of material]

Name of applicant, date of application, date received, application No., docket No., ADAMS accession No.	Material type	Total quantity	End use	Country from
UniTech Services Group, Inc., October 20, 2016, October 27, 2016, IW034, 11006248, ML17024A278.	Low-level radioactive waste consisting of tools, metals, and other solid materials.	10,000 metric tons	For land disposal in the originating country; Canada.	Canada.

Dated this 2nd day of February 2017 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

David L. Skeen,

Deputy Director, Office of International Programs.

[FR Doc. 2017–03131 Filed 2–15–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Request for a License To Export Radioactive Waste

Pursuant to Title 10 of the *Code of Federal Regulations* (10 CFR) 110.70 (b) ''Public Notice of Receipt of an Application,'' please take notice that the U.S. Nuclear Regulatory Commission (NRC) has received the following request for an export license. A copy of the request is available electronically through the Agencywide Documents Access and Management System (ADAMS), and can be accessed 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 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 is provided in the ''*Description of Material.*''

A request for a hearing or petition for leave to intervene may be filed within 30 days after publication of this notice in the **Federal Register** (FR). Any request for hearing or petition for leave to intervene shall be served by the requestor or petitioner upon the applicant, the office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555; the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555; and the Executive Secretary, U.S. Department of State, Washington, DC 20520.

A request for a hearing or petition for leave to intervene may be filed with the NRC electronically in accordance with NRC's E-Filing rule promulgated in August 2007, 72 FR 49139; August 28, 2007. Information about filing electronically is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html.* To ensure timely electronic filing, at least 5 days prior to the filing deadline, the petitioner/requestor should contact the Office of the Secretary by email at *HEARINGDOCKET@NRC.GOV,* or by calling (301) 415–1677, to request a digital ID certificate and allow for the creation of an electronic docket.

In addition to a request for hearing or petition for leave to intervene, written comments, in accordance with 10 CFR 110.81, should be submitted within thirty days after publication of this notice in the **Federal Register** to Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Rulemaking and Adjudications.

The information concerning this application for an export license follows.

NRC EXPORT LICENSE APPLICATION

[Description of material]

Name of applicant, date of application, date received, application No., docket No., ADAMS accession No.	Material type	Total quantity	End use	Destination
UniTech Services Group, Inc October 20, 2016 October 27, 2016 XW023 11006249 ML17024A266	Low-level radioactive waste consisting of tools, metals, and other solid materials.	10,000 metric tons	For land disposal in the originating country; Canada.	Canada

Dated this 2nd day of February 2017 at Rockville, Maryland.

For the Nuclear Regulatory Commission.

David L. Skeen,

Deputy Director, Office of International Programs.

[FR Doc. 2017–03129 Filed 2–15–17; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80017; File No. SR–BatsBZX–2017–11]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on Bats BZX Exchange, Inc. Adding NBBO Setter Tiers

February 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 1, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-members of the Exchange pursuant to BZX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its fee schedule applicable to the Exchange's equities platform to add a new footnote 19, entitled ''NBBO Setter Tiers.'' Under the proposed new tiers, orders that establish a new National Best Bid or Offer (''NBBO'') and which are appended with fee code B, V or Y, would receive an additional rebate ranging from $0.0001 to $0.0004 per share. The Exchange proposes to add three NBBO Setter Tiers, as set forth below.

- Tier 1 would provide an additional rebate of $0.0001 in qualifying orders where a Member has a Setter Add TCV[6] of at least 0.05%.
- Tier 2 would provide an additional rebate of $0.0002 in qualifying orders where a Member has a Setter Add TCV of at least 0.10%.
- Tier 3 would provide an additional rebate of $0.0004 in qualifying orders where a Member has a Setter Add TCV of at least 0.15%.

The Exchange also proposes to update the Fee Codes and Associated Fees table accordingly, appending footnote 19 to Fee Codes B, V and Y.

The Exchange notes that the proposed the NBBO Setter Tiers are additive rebates, and thus, can be combined with other incentives and structures offered by the Exchange. For instance, while the standard rebate for an execution yielding fee code V is $0.0020 per share, a Member with an ADAV[7] of 0.10% (but less than 0.20%) as a percentage of TCV,[8] would qualify for Add Volume Tier 1 under footnote 1, and would instead receive an enhanced rebate of $0.0025 per share. If such Member also had a Setter Add TCV of at least 0.05% (but less than 0.10%), such Member would also qualify for NBBO Setter Tier 1 and would receive a total rebate of $0.0026 per share (representing the original, enhanced rebate of $0.0025 per share plus the $0.0001 additional incentive).

The Exchange notes that it previously has offered NBBO Setter Tiers (as well as an NBBO ''Joiner Tier'' for orders that did not set but joined the NBBO), but eliminated these tiers effective May 1,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] As defined in the Exchange's fee schedule. The Exchange notes that this definition has remained in place on the fee schedule since the previous period during which the Exchange offered NBBO Setter incentives. *See* infra, note 7 and accompanying text.

[7] As defined in the Exchange's fee schedule.

[8] As defined in the Exchange's fee schedule.

2015.[9] The Exchange is now proposing to re-introduce these incentives to encourage Members to contribute to market quality on the Exchange.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[10] in general, and furthers the objectives of Section 6(b)(4),[11] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed rates are equitable and non-discriminatory in that they apply uniformly to all Members that qualify. The Exchange believes the proposed rebates are competitive with those provided by other venues and therefore continue to be reasonable and equitably allocated to Members. Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes.

In particular, the Exchange believes the adoption of the NBBO Setter Tiers under footnote 19 is a reasonable means to encourage Members to not only increase their liquidity on the Exchange but also to contribute to the market quality of the Exchange by offering aggressively priced liquidity. The Exchange further believes that the proposed tiers represent an equitable allocation of reasonable dues, fees, and other charges because the thresholds necessary to achieve the tiers encourage Members to add additional liquidity to the Exchange. The Exchange further believes that the NBBO Setter Tiers are not unreasonably discriminatory as they are equally available 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 does not believe the proposed tiers will impose an undue burden on competition because the Exchange will uniformly offer the additional rebates to all qualifying Members. In fact, the Exchange believes the proposed tiers enhance competition, as they are intended to increase the competitiveness of and draw additional volume to the Exchange. Further, the Exchange believes the proposed tiers enhance competition because they are intended to incentivize Members to submit aggressively price liquidity to the Exchange. The Exchange does not believe that the proposed change represents a significant departure from the Exchange's current pricing structure, but instead, is merely another incentive offered by the Exchange to encourage Members to contribute to the growth of the Exchange. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value.

B. 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

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and paragraph (f) 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 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–BatsBZX–2017–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBZX–2017–11. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–2017–11, and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03106 Filed 2–15–17; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Securities Exchange Act Release No. 74938 (May 12, 2015), 80 FR 28322 (May 18, 2015) (SR–BATS–2015–35).

[10] 15 U.S.C. 78f.

[11] 15 U.S.C. 78f(b)(4).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80012; File No. SR–BatsBZX–2017–12]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related To Fees as They Relate to the Equities Options Platform

February 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 1, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend the fee schedule applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rules 15.1(a) and (c) applicable to its equity options platform (''BZX Options'').

The text of the proposed rule change is available at the Exchange's Web site at *www.bats.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the BZX Options fee schedule to: (i) Modify the definitions of fee codes RQ and RR to include routing to MIAX Pearl LLC (''MIAX PEARL'') and to increase the fee for fee code RR; (ii) reduce the required criteria for the Market Maker Non-Penny Pilot Add Volume Tier 3 under footnote 7; and (iii) remove all fees for Mini Options.

Modifications to Fee Codes RQ and RR To Include Routing to MIAX PEARL

The Exchange's current approach to routing fees is to set forth in a simple manner certain sub-categories of fees that approximate the cost of routing to other options exchanges based on the cost of transaction fees assessed by each venue as well as costs to the Exchange for routing (*i.e.,* clearing fees, connectivity and other infrastructure costs, membership fees, etc.) (collectively, ''Routing Costs''). The Exchange then monitors the fees charged as compared to the costs of its routing services and adjusts its routing fees and/or sub-categories to ensure that the Exchange's fees do indeed result in a rough approximation of overall Routing Costs, and are not significantly higher or lower in any area.

First, the Exchange proposes to modify the description of fee codes RQ and RR in connection with the upcoming launch of MIAX PEARL. Currently, fee code RR is appended to Customer[6] orders in non-Penny Pilot securities that are routed to ARCA, C2, ISE, ISE Gemini or NOM and assessed a fee of $1.00 per contract. Additionally, fee code RQ is appended to Customer orders in Penny Pilot securities that are routed to ARCA, C2, ISE, ISE Gemini or NOM and assessed a fee of $0.70 per contract. The Exchange proposes to modify the definitions of fee codes RR and RQ to include MIAX Pearl.

Second, the Exchange proposes to increase the fee for fee code RR from $1.00 per contract to $1.10 per contract to account for the cost of routing to MIAX Pearl. The Exchange does not propose to amend the fee for fee code RQ. The Exchange anticipates that the proposed fee structure will approximate the cost of routing orders to MIAX Pearl. The Exchange is proposing the charges set forth above to maintain a simple and fair fee schedule with respect to routing fees that approximate the total cost of routing, including Routing Costs.

Market Maker Non-Penny Pilot Add Volume Tier 3

The Exchange determines the liquidity adding rebate that it will offer Members using a tiered pricing structure. Currently, the Exchange offers rebates ranging from $0.45 and $0.65 per share for Market Maker[7] orders that add volume in non-Penny Pilot securities under three tiers described in footnote 7 of the fee schedule. To receive Tier 3's rebate of $0.65 per share, a Member must have: (i) An ADAV[8] in Market Maker non-Penny Pilot Securities equal to or greater than 0.20% of average OCV;[9] and (ii) an ADAV in Non-Customer orders equal to or greater than 3.00% of average OCV. The Exchange now proposes to reduce the first prong of Tier 3's required criteria to require that a Member have an ADAV in Market Maker Non-Penny Pilot orders of at least 0.10% of average OCV, rather than 0.20% of average OCV. The Exchange does not proposed to amend the second prong of Tier 3's required criteria or the rebate associated with the tier.

Elimination of References to Mini Options

Mini Options[10] on SPDR S&P 500 (''SPY''), Apple Inc. (''AAPL''), SPDR Gold Trust (''GLD''), Alphabet Inc. (''GOOGL''), and Amazon.com Inc. (''AMZN'') listed and traded on BZX Options expired in January 2017 and no other series of Mini Options currently trade nor will any new series of Mini Options be trading on BZX Options. As a result, the Exchange proposes to delete all fees for Mini Options from its fee schedule by deleting fee codes DM,[11]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] As defined in the Exchange's fee schedule available at *http://www.bats.com/us/options/membership/fee_schedule/bzx/.*

[7] *Id.*

[8] *Id.*

[9] *Id.*

[10] After an option class on a stock, Exchange-Traded Fund Share, Trust Issued Receipt, Exchange Traded Note, and other Index Linked Security with a 100 share deliverable has been approved for listing and trading on the Exchange, series of option contracts with a 10 share deliverable on that stock, Exchange-Traded Fund Share, Trust Issued Receipt, Exchange Traded Note, and other Index Linked Security may be listed for all expirations opened for trading on the Exchange. *See* Exchange Rule.19.6. Interpretations and Policies .07

[11] Fee code DM is appended to an order executed at a Member's directed destinations when bypassing the Bats Options order book, executed in Mini

MA,[12] MR,[13] ZC,[14] and ZF [15] from the Fee Codes and Associate Fees table and updating the Standard Rates table to reflect the removal of these fee codes.

Implementation Date

The Exchange proposes to implement the proposed rule change on February 1, 2017.[16]

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the objectives of Section 6 of the Act,[17] in general, and furthers the objectives of Section 6(b)(4),[18] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange also notes that it operates in a highly-competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive. The proposed rule change reflects a competitive pricing structure designed to incentivize market participants to direct their order flow to the Exchange. The Exchange believes that the proposed tier is equitable and non-discriminatory in that it would apply uniformly to all Members. The Exchange believes the rates remain competitive with those charged by other venues and, therefore, are reasonable and equitably allocated to Members.

Modifications to Fee Codes RQ and RR To Include Routing to MIAX PEARL

As explained above, the Exchange generally attempts to approximate the cost of routing to other options exchanges, including other applicable costs to the Exchange for routing. The Exchange believes its proposed fees are equitable and reasonable by taking into account Routing Costs based on the rates charged by MIAX PEARL. The Exchange believes that a pricing model based on approximate Routing Costs is a reasonable, fair and equitable approach to pricing. Specifically, the Exchange believes that its proposal to adopt routing fees to MIAX PEARL is fair, equitable and reasonable because the fees are generally an approximation of the anticipated cost to the Exchange for routing orders to MIAX PEARL. The Exchange notes that routing through the Exchange is voluntary. The Exchange also believes that the proposed fee structure for orders routed to and executed at MIAX PEARL is fair and equitable and not unreasonably discriminatory in that it applies equally to all Members.

Market Maker Non-Penny Pilot Add Volume Tier 3

The Exchange believes that the proposed rule change to modify the required criteria of the Market Maker Non-Penny Pilot Add Volume Tier 3 is consistent with Section 6(b)(4) of the Act,[19] in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and other persons using any facility or system which the Exchange operates or controls. Volume-based rebates such as those currently maintained on the Exchange have been widely adopted by equities and options exchanges and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to the value to an exchange's market quality associated with higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns, and introduction of higher volumes of orders into the price and volume discovery processes. Decreasing the criteria is intended to incentivize additional Members to send orders to the Exchange in an effort to qualify for the enhanced rebate made available by the tier.

Elimination of References to Mini Options

The Exchange believes it is equitable, reasonable, and not unfairly discriminatory to delete fees for Mini Options from its fee schedule because the Mini Options listed and traded on BZX Options expired in January 2017 and no other series of Mini Options currently trade nor will any new series of Mini Options be trading on BZX Options. The Exchange believes that the proposed changes will make the fee schedule clearer and eliminate potential investor confusion, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system, and in general, protecting investors and the public interest.

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 routing fee will not impose an undue burden on competition because the Exchange will uniformly assess the routing fee on all Members. The Exchange does not believe that the proposed changes represent a significant departure from routing fees offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value or if they view the proposed fee as excessive. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's tiered pricing structure burdens competition, but instead, enhances competition as it is intended to increase the competitiveness of the Exchange. Further, excessive fees for participation would serve to impair an exchange's ability to compete for order flow and members rather than burdening competition. Lastly, the Exchange believes removing fees for Mini Options from its fee schedule will not have impact on competition as it is simply designed to eliminate potential investor confusion by eliminating fees for products no longer available on the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any unsolicited written comments from Members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [20] and paragraph (f) of Rule 19b–4 thereunder.[21] At any time within

Options Securities, and is assessed a fee of $0.15 per contract.

[12] Fee code MA is appended to a Member's order which adds liquidity in Mini Options Securities, and is not assessed a fee.

[13] Fee code MR is appended to a Member's order which removes liquidity in Mini Options Securities, and is not assessed a fee.

[14] Fee code ZC is appended to a Member's routed Customer order in Mini Options Securities, and is assessed a fee of $0.12.

[15] Fee code ZF is appended to a Member's routed Non-Customer order in Mini Options Securities, and is assessed a fee of $0.12.

[16] The Exchange notes that the date of its fee schedule was previously amended to state February 1, 2017 in SR–BatsBZX–2017–02 (filed January 30, 2017).

[17] 15 U.S.C. 78f.

[18] 15 U.S.C. 78f(b)(4).

[19] 15 U.S.C. 78f(b)(4).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4(f).

60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BatsBZX–2017–12 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2017–12. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BatsBZX–2017–12 and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03102 Filed 2–15–17; 8:45 am]

BILLING CODE 8011–01–P

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–10306; 34–80024; File No. 265–28]

Investor Advisory Committee Meeting

AGENCY: Securities and Exchange Commission.

ACTION: Notice of Meeting of Securities and Exchange Commission Dodd-Frank Investor Advisory Committee.

SUMMARY: The Securities and Exchange Commission Investor Advisory Committee, established pursuant to Section 911 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, is providing notice that it will hold a public meeting. The public is invited to submit written statements to the Committee.

DATES: The meeting will be held on Thursday, March 9, 2017 from 9:00 a.m. until 11:55 a.m. (ET). Written statements should be received on or before March 9, 2017.

ADDRESSES: The meeting will be held in Multi-Purpose Room LL–006 at the Commission's headquarters, 100 F Street NE., Washington, DC 20549. The meeting will be webcast on the Commission's Web site at *www.sec.gov*. Written statements may be submitted by any of the following methods:

Electronic Statements

- Use the Commission's Internet submission form (*http://www.sec.gov/rules/other.shtml*); or
- Send an email message to *rules-comments@sec.gov*. Please include File No. 265–28 on the subject line; or

Paper Statements

- Send paper statements to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. 265–28. This file number should be included on the subject line if email is used. To help us process and review your statement more efficiently, please use only one method.

Statements also will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Room 1503, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. All statements received will be posted without change; we do not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly.

FOR FURTHER INFORMATION CONTACT: Marc Oorloff Sharma, Chief Counsel, Office of the Investor Advocate, at (202) 551–3302, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, except during that portion of the meeting reserved for an administrative work session during lunch. Persons needing special accommodations to take part because of a disability should notify the contact person listed in the section above entitled **FOR FURTHER INFORMATION CONTACT**.

The agenda for the meeting includes: Remarks from Commissioners; a discussion regarding SEC investor research initiatives, the FINRA 2016 Financial Capability Study, and academic research on financial literacy; a discussion regarding unequal voting rights of common stock; a report on the nonpublic administrative work session; and a nonpublic administrative work session during lunch.

Dated: February 13, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–03122 Filed 2–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80013; File No. SR–NASDAQ–2016–183]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Order Granting Approval of a Proposed Rule Change To Conform to Proposed Amendment to Rule 15c6–1(a) Under the Securities Exchange Act of 1934 To Shorten the Standard Settlement Cycle From Three Business Days After the Trade Date to Two Business Days After the Trade Date

February 10, 2017.

I. Introduction

On December 22, 2016, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities

and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to conform its rules to an amendment proposed by the Commission to Rule 15c6–1(a) under the Act to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'').[3] The proposed rule change was published for comment in the **Federal Register** on December 30, 2016.[4] The Commission received two comment letters on the proposed rule change.[5] This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to amend Exchange Rules 11140 (Transactions in Securities ''Ex-Dividend,'' ''Ex-Rights'' or ''Ex-Warrants''), 11150 (Transactions ''Ex-Interest'' in Bonds Which Are Dealt in ''Flat''), 11210 (Sent by Each Party), 11320 (Dates of Delivery), 11620 (Computation of Interest), and IM–11810 (Sample Buy-In Forms), to conform to the Commission's proposed amendment to Rule 15c6–1(a) under the Act that would shorten the standard settlement cycle for most broker-dealer transactions from T+3 to T+2.

Exchange Rule 11140(b)(1) concerns the determination of normal ex-dividend and ex-warrants dates for certain types of dividends and distributions. Currently, with respect to cash dividends or distributions, or stock dividends, and the issuance or distribution of warrants, which are less than 25% of the value of the subject security, if the definitive information is received sufficiently in advance of the record date, the date designated as the ''ex-dividend date'' is the second business day preceding the record date if the record date falls on a business day, or the third business day preceding the record date if the record date falls on a day designated by Nasdaq Regulation as a non-delivery day. Under the proposal, the ''ex-dividend date'' would be the first business day preceding the record date if the record date falls on a business day, or the second business day preceding the record date if the record date falls on a day designated by Nasdaq Regulation as a non-delivery date.

Exchange Rule 11150(a) concerns the determination of normal ex-interest dates for certain types of transactions. Currently, all transactions, except ''cash'' transactions, in bonds or similar evidences of indebtedness which are traded ''flat'' are ''ex-interest'' on the second business day preceding the record date if the record date falls on a business day, on the third business day preceding the record date if the record date falls on a day other than a business day, and on the third business day preceding the date on which an interest payment is to be made if no record date has been fixed. Under the proposal, these transactions would be ''ex-interest'' on the first business day preceding the record date if the record date falls on a business day, on the second business day preceding the record date if the record date falls on a day other than a business day, and on the second business day preceding the date on which an interest payment is to be made if no record date has been fixed.

Exchange Rules 11210(c) and (d) set forth ''DK'' procedures using ''Don't Know Notices'' and other forms of notices, respectively.[6] Exchange Rule 11210(c) currently provides that, when a party to a transaction sends a comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK from the contra-member by the close of four business days following the trade date of the transaction, the party may use the procedures set forth in the rule. The Exchange proposes to shorten the ''four business days'' time period to one business day. Exchange Rule 11210(c)(2)(A) currently provides that a contra-member has four business days after the ''Don't Know Notice'' is received to either confirm or DK the transaction in accordance with Exchange Rule 11210(c)(2)(B) or (C). The Exchange proposes to shorten the ''four business days'' time period to two business days.[7] Exchange Rule 11210(c)(3) currently provides that if the confirming member does not receive a response from the contra-member by the close of four business days after receipt by the confirming member the fourth copy of the ''Don't Know Notice'' if delivered by messenger, or the post office receipt if delivered by mail, such shall constitute a DK and the confirming member shall have no further liability for the trade. The Exchange proposes to shorten the ''four business days'' time period to two business days.

The Exchange proposes similar changes to Exchange Rule 11210(d). Exchange Rule 11210(d) currently provides that, when a party to a transaction sends a comparison or confirmation of a trade, but does not receive a comparison or confirmation or a signed DK from the contra-member by the close of four business days following the date of the transaction, the party may use the procedures set forth in the rule. The Exchange proposes to shorten the ''four business days'' time period to one business day. Exchange Rule 11210(d)(5) currently provides that if the confirming member does not receive a response in the form of a notice from the contra-member by the close of four business days after receipt of the confirming member's notice, such shall constitute a DK and the confirming member shall have no further liability. The Exchange proposes to shorten the ''four business days'' time period to two business days.

Exchange Rule 11320 prescribes delivery dates for various types of transactions. Exchange Rule 11320(b) currently provides that in connection with a transaction ''regular way,'' delivery is made at the office of the purchaser on, but not before, the third business day following the date of the transaction. Under the proposal, delivery would be required to be made on, but not before, the second business day following the date of the transaction. Exchange Rule 11320(c) currently provides in part that, in connection with a transaction ''seller's option,'' delivery may be made by the seller on any business day after the third business day following the date of transaction and prior to the expiration of the option, provided the seller delivers at the office of the purchaser, on a business day preceding the day of delivery, written notice of intention to deliver. Under the proposal, delivery may be made by the seller on any business day after the second business day following the date of the transaction and prior to expiration of the option.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78962 (Sep. 28, 2016), 81 FR 69240 (Oct. 5, 2016) (Amendment to Securities Transaction Settlement Cycle) (File No. S7–22–16) (''T+2 Proposing Release'').

[4] *See* Securities Exchange Act Release No. 79687 (Dec. 23, 2016), 81 FR 96545.

[5] *See* Letters to Brent J. Fields, Secretary, Commission from Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated Jan. 19, 2017 and Thomas F. Price, Managing Director, Operations, Technology & BCP, Securities Industry and Financial Markets Association (''SIFMA''), dated Jan. 19, 2017 (''SIFMA Letter'').

[6] Exchange Rule 11210 does not apply to transactions that clear through the National Securities Clearing Corporation or other clearing organizations registered under the Act. *See* Exchange Rule 11210(a)(4).

[7] The Exchange also proposes to make non-substantive, formatting changes to Exchange Rule 11210(c)(2)(A).

[8] The Exchange also proposes to make a non-substantive change to Exchange Rule 11320(c).

Exchange Rule 11620 governs the computation of interest. Exchange Rule 11620(a) currently provides in part that, in the settlement of contracts in interest-paying securities other than for ''cash,'' there shall be added to the dollar price interest at the rate specified in the security, which shall be computed up to but not including the third business day following the date of the transaction. Under the proposal, the interest would be computed up to but not including the second business day following the date of the transaction.[9]

Exchange Rule IM–11810(i)(1)(A) sets forth the circumstances under which a receiving member may deliver a Liability Notice to the delivering member as an alternative to the close-out procedures set forth in Exchange Rule IM–11810(a)–(g). Currently, when the parties to a contract are not both participants in a registered clearing agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver, the notice must be issued using written or comparable electronic media having immediate receipt capabilities ''no later than one business day prior to the latest time and the date of the offer or other event'' in order to obtain the protection provided by the rule. Under the proposal, the notice must be ''sent as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event'' in order to obtain the protection provided by the rule.

The Exchange represents that it will announce the effective date of the proposed rule change in an Equity Regulatory Alert, which date would correspond with the industry-led transition to a T+2 standard settlement, and the effective date of the Commission's proposed amendment to Rule 15c6–1(a) under the Act.[10]

III. Discussion and Commission's Findings

After careful review of the proposed rule change and the comments, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[11] Specifically, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] which requires that the rules of a national securities exchange be designed, among other things, 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 to protect investors and the public interest. As noted above, the Commission received two comment letters on the proposed rule change.[13] Both comment letters express support for Commission approval of the proposed rule change.[14]

The Commission notes that the proposal would amend Exchange rules to conform to the amendment that the Commission has proposed to Rule 15c6–1(a) under the Act [15] and support a move to a T+2 standard settlement cycle. In the T+2 Proposing Release the Commission stated its preliminary belief that shortening the standard settlement cycle from T+3 to T+2 will result in a reduction of credit, market, and liquidity risk,[16] and as a result a reduction in systemic risk for U.S. market participants.[17] The Commission also notes that it has not yet adopted the proposed amendment to Rule 15c6–1(a), and that the Exchange has, accordingly, not proposed to make its amended rules effective at present. Instead, the Exchange has proposed to announce the effective date of the proposed rule change in an Equity Regulatory Alert. The Commission expects that the effective date of the proposed rule change would correspond with the compliance date of any amendment to Rule 15c6–1(a) that is adopted by the Commission. The Commission notes that, in October 2014, Depository Trust and Clearing Corporation (''DTCC''), in collaboration with the Investment Company Institute, SIFMA, and other market participants, formed an Industry Steering Group (''ISC'') and an industry working group to facilitate the transition to a T+2 settlement cycle for U.S. trades in equities, corporate and municipal bonds, and unit investment trusts.[18] The ISC has identified September 5, 2017, as the target date for the transition to a T+2 settlement cycle to occur.[19]

For the reasons noted above, the Commission finds that the proposal is consistent with the requirements of the Act and would foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, 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.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[20] that the proposed rule change (SR–NASDAQ–2016–183), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03103 Filed 2–15–17; 8:45 am]

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[9] The Exchange also proposes to capitalize certain words in the title of Exchange Rule 11620(a).

[10] *See supra* note 3.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] *See supra* note 5.

[14] One of the commenters requests guidance from the Exchange with respect to Exchange Rule 11210(c) to permit the use of electronic means to communicate DK notices. The commenter notes that, currently, Exchange Rule 11210(c)(1) requires that such notices be sent ''by certified mail, return receipt requested, or messenger.'' *See* SIFMA Letter, at 3. The Commission notes that this request is beyond the scope of the current proposed rule change. However, the Commission notes that the Exchange could work with the commenter and other market participants to determine whether changes to the communication methods specified in Exchange Rule 11210(c) would be appropriate.

[15] *See supra* note 3.

[16] Credit risk refers to the risk that the credit quality of one party to a transaction will deteriorate to the extent that it is unable to fulfill its obligations to its counterparty on settlement date. Market risk refers to the risk that the value of securities bought and sold will change between trade execution and settlement such that the completion of the trade would result in a financial loss. Liquidity risk describes the risk that an entity will be unable to meet financial obligations on time due to an inability to deliver funds or securities in the form required though it may possess sufficient financial resources in other forms. *See* T+2 Proposing Release, *supra* note 3, 81 FR at 69241 n. 3.

[17] *See id.,* 81 FR at 69241.

[18] *See* Press Release, DTCC, Industry Steering Committee and Working Group Formed to Drive Implementation of T+2 in the U.S. (Oct. 2014), *http://www.dtcc.com/news/2014/october/16/ust2.aspx.*

[19] *See* Press Release, ISC, US T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017 (Mar. 7, 2016), *http://www.ust2.com/pdfs/T2-ISC-recommends-shorter-settlement-030716.pdf.*

[20] 15 U.S.C. 78s(b)(2).

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80009; File No. SR–ISE–2016–31]

Self-Regulatory Organizations; International Securities Exchange, LLC; Order Approving Proposed Rule Change To Amend the Supplementary Material to ISE Rule 1901

February 10, 2017.

I. Introduction

On December 22, 2016, the International Securities Exchange, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Supplementary Material to ISE Rule 1901. The proposed rule change was published in the **Federal Register** on December 30, 2016.[3] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

The Exchange proposes to amend the Supplementary Material to ISE Rule 1901, titled ''Order Protection'', in connection with a system migration to Nasdaq INET technology.[4]

Pursuant to Supplementary Material .02 to ISE Rule 1901, when the automatic execution of an incoming order would result in an impermissible trade-through, the Exchange exposes such order at the current NBBO to all Exchange members for a time period not to exceed one second.[5] Currently, when a trading halt is triggered during this exposure period, the Exchange terminates the exposure and executes eligible interest.[6] The Exchange now proposes to amend Supplementary Material .02 to ISE Rule 1901 to provide that if a trading halt is initiated during the exposure period, the exposure period will terminate without execution.[7]

The Exchange states that it intends to begin implementation of the proposed rule change in tandem with its technology migration to Nasdaq INET architecture which will occur on a symbol by symbol basis.[8] The proposed rule change, however, does not impact ISE alone. Because ISE Gemini, LLC (''ISE Gemini'') and ISE Mercury, LLC (''ISE Mercury'') incorporate by reference Chapter 19 (Order Protection; Locked and Crossed Markets) of ISE rulebook, the proposed rule change also impacts ISE Gemini and ISE Mercury.[9] Moreover, ISE, ISE Gemini, and ISE Mercury will migrate to INET on different dates during 2017. Accordingly, the Exchange proposes to amend ISE Rule 1901 to state that the amended rule text will be implemented on a symbol by symbol basis for ISE Gemini in the first quarter, for ISE in the second quarter, and for ISE Mercury in the third quarter, of 2017, and that the specific dates will be announced in a separate notice.[10]

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.[11] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[12] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposed rule change is consistent with the Act because, in the event of a trading halt, terminating the exposure period without execution provides certainty to market participants with respect to how their interest will be handled.[13] The Commission also notes that the Exchange's proposal to provide clarity regarding when the rule change will be implemented for ISE, ISE Gemini, and ISE Mercury should help reduce potential confusion regarding the operation of the rule.

For these reasons, the Commission believes that the proposed rule change is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–ISE–2016–31), be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03100 Filed 2–15–17; 8:45 am]

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[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79686 (December 23, 2016), 81 FR 96532 (''Notice'').

[4] The proposed rule change is being made in connection with the Exchange, ISE Gemini, LLC and ISE Mercury, LLC's technology migration to a Nasdaq, Inc. (''Nasdaq'') supported architecture called INET which is utilized on The NASDAQ Options Market LLC, NASDAQ PHLX LLC (''Phlx''), and NASDAQ BX, Inc. (collectively, ''Nasdaq Exchanges''). *See id.*

[5] During the exposure period, Exchange Members may enter responses up to the size of the order being exposed in the regular trading increment applicable to the option. *See* Supplementary Material .02 to ISE Rule 1901.

[6] *See* Notice, *supra* note 3, at 96533.

[7] The Exchange represents that the proposed treatment of trading halts is based on Phlx Rule 1047(c), which provides that in the event the exchange halts trading, all trading in the affected option shall be halted. *See* Notice, *supra* note 3, at 96533. The Exchange states that this is interpreted to restrict executions after a halt unless there is a specific rule specifying that such trades should take place. *See id.*

[8] *See id.*

[9] *See* ISE Gemini, LLC Rules, Chapter 19 (Intermarket Linkage); ISE Mercury, LLC Rules, Chapter 19 (Intermarket Linkage).

[10] *See* Notice, *supra* note 3, at 96533.

[11] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 15 U.S.C. 78f(b)(5).

[13] *See* Notice, *supra* note 3, at 96533.

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80011; File No. SR–ISEGemini–2016–17]

Self-Regulatory Organizations; ISE Gemini, LLC; Order Approving Proposed Rule Change, as Modified by Amendment Nos. 1 and 2, To Amend Various Rules in Connection With a System Migration to Nasdaq INET Technology

February 10, 2017.

I. Introduction

On December 16, 2016, ISE Gemini, LLC (''ISE Gemini'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend various Exchange rules in connection with a system migration to Nasdaq, Inc. (''Nasdaq'') supported technology. The proposed rule change was published for comment in the **Federal Register** on December 29,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

2016.[3] On January 30, 2017, the Exchange filed Amendment No. 1 to the proposed rule change. On February 8, 2017, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment Nos. 1 and 2.

II. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[5] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[6] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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. As noted above, the Commission received no comment letters regarding the proposed rule change.

The Exchange proposes to amend various Exchange rules to reflect the ISE Gemini system migration to a Nasdaq INET technology.[7] In connection this system migration, as discussed below, the Exchange intends to adopt certain trading functionality currently utilized on Nasdaq Exchanges.[8]

A. Trading Halts

1. Cancellation of Quotes

The Exchange proposes to amend ISE Gemini Rule 702 (Trading Halts) to conform the treatment of orders and quotes on the Exchange to Phlx Rule 1047(f). Specifically, the Exchange proposes to amend Rule 702(a)(2) by providing that during a halt the Exchange will maintain existing orders on the book but not existing quotes. Pursuant to the revision, during the halt, the Exchange will accept orders and quotes and, for such orders and quotes, process cancels and modifications. Currently, the Exchange maintains existing orders *and* quotes during a trading halt. With respect to cancels and modifications during a trading halt, the Exchange represents that the current process on ISE Gemini will not change under the proposed rule change.[9]

The Exchange represents that its proposal to maintain existing orders on the book but not existing quotes during a halt on the Exchange would provide market participants with clarity as to the manner in which interest will be handled by the system.[10] The Exchange believes that during a trading halt, the market may move and create risk to market participants with respect to resting interest.[11] The Commission believes that that cancelling existing quotes during a trading halt would provide market participants the opportunity to update potentially stale quotes. Further, the Commission notes that the Exchange will process cancels and modifications to orders as well as quotes received during a halt. Finally, the Commission further notes that the proposed treatment of quotes during a halt is consistent with existing Phlx rule.[12]

2. Limit Up-Limit Down

The Exchange proposes to replace existing ISE Gemini Rule 703A (Trading During Limit Up-Limit Down States in Underlying Securities) with proposed ISE Gemini Rule 702(d).[13] Specifically, proposed ISE Gemini Rule 702(d) will provide that during a Limit State and Straddle State in the underlying NMS stock [14] the Exchange will not open an affected option.[15] However, provided the Exchange has opened an affected option for trading, the Exchange will: (i) Reject Market Orders [16] and notify members of the reason for such rejection; [17] (ii) continue to process Market Orders exposed at the NBBO pursuant to Supplementary Material. 02 to ISE Rule 1901 and pending in the system, and cancel such Market Orders if at the end of the exposure period the affected underlying is in a Limit or Straddle State; [18] and (iii) elect Stop Orders if the condition is met, and, because such orders become Market Orders, cancel them back and notify members of the reason for such rejection.[19] Moreover, when the security underlying an option class is in a Limit State or Straddle State, the Exchange will suspend the maximum quotation spread requirements for market maker quotes in ISE Gemini Rule 803(b)(4) and the continuous quotation requirements in ISE Gemini Rule 804(e).[20] Additionally, the Exchange will not consider the time periods associated with Limit States and Straddle States

[3] *See* Securities Exchange Act Release No. 79677 (December 22, 2016), 81 FR 96114 (''Notice'').

[4] In Amendment No. 1, the Exchange made a minor correction to correct a cross-reference in proposed ISE Gemini Rule 702(d)(4). In Amendment No. 2, the Exchange revised proposed ISE Gemini Rule 702(d)(2) to clarify how the system would handle Market Orders if an affected underlying is in a Limit or Straddle State. The Exchange also revised proposed Rule 714 to add a new subsection (b)(1)(iii) specifying that there will be three categories of options for Acceptable Trade Range. Because Amendment Nos. 1 and 2 do not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, they are not subject to notice and comment. Both amendments are available at: *https://www.sec.gov/comments/sr-isegemini-2016-17/isegemini201617.htm.*

[5] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[6] 15 U.S.C. 78f(b)(5).

[7] INET is utilized across Nasdaq's markets, including The NASDAQ Options Market LLC (''NOM''), NASDAQ PHLX LLC (''Phlx''), and NASDAQ BX, Inc. (collectively, the ''Nasdaq Exchanges''). *See* Notice, *supra* note 3, at 96115.

[8] *See* Notice, *supra* note 3, at 96115. The Exchange anticipates that it will begin implementation of the proposed rule changes in the first quarter of 2017. *See* Notice, *supra* note 3, at 96115. According to the Exchange, the system migration will be on a symbol by symbol basis. The Exchange will issue an alert to members in the form of an Options Trader Alert to provide notification of the symbols that will migrate and the relevant dates. *See id.* The Exchange has also separately filed a companion proposed rule change to amend the Exchange's opening process in connection with the system migration to INET technology. *See* Securities Exchange Act Release No. 79679 (December 22, 2016), 81 FR 96062 (December 29, 2016).

[9] *See* Notice, *supra* note 3, at 96115.

[10] *See* Notice, *supra* note 3, at 96121.

[11] *See id.*

[12] *See* Phlx Rule 1047(f).

[13] The Exchange represents that proposed ISE Gemini Rule 702(d) is similar to Phlx Rule 1047(d). *See* Notice, *supra* note 3, at 96115.

[14] Proposed ISE Gemini Rule 702(d) states that capitalized terms used in Rule 702(d) shall have the same meaning as provided for in the Plan to Address Extraordinary Market Volatility Pursuant to Rule 608 of Regulation NMS, as it may be amended from time to time (the ''LULD Plan'').

[15] *See* proposed ISE Gemini Rule 702(d)(1). The Exchange states that its rules do not currently address the opening rotation in the event that the underlying NMS stock is open but has entered into a Limit or Straddle State. *See* Notice, *supra* note 3, at 96116.

[16] *See* ISE Gemini Rule 715(a).

[17] *See* proposed ISE Gemini Rule 702(d)(2).

[18] *See* proposed ISE Gemini Rule 702(d)(2). If the affected underlying is no longer in a Limit or Straddle State after the exposure period, the Market Order will be processed with normal handling. *See id.* The Exchange currently cancels Market Orders pending in the system upon initiation of a Limit or Straddle State. *See* Notice, *supra* note 3, at 96116.

[19] *See* proposed ISE Gemini Rule 702(d)(3). ISE Gemini currently does not elect Stop Orders that are pending in the system during a Limit or Straddle State. Under the proposal, the Exchange will elect Stop Orders that are pending in the system during a Limit or Straddle State, if conditions for such election are met; however, because such orders become Market Orders, they will be cancelled back to the member with a reason for such rejection. *See* Notice, *supra* note 3, at 96116.

[20] *See* proposed ISE Gemini Rule 702(d)(4).

when evaluating whether a market maker has complied with its continuous quotation requirements in ISE Gemini Rule 804(e).[21]

The Commission believes that the proposed Rule 702(d) would provide certainty to market participants regarding the manner in which Limit up-Limit Down states would impact the opening process as well as Market Orders and Stop Orders. The Commission believes that the rejection of Market Orders (including elected Stop Orders) is reasonably designed to potentially prevent executions of un-priced orders during times of significant volatility.[22] The Commission also notes that processing rather than cancelling existing Market Orders is reasonable because these Market Orders are only pending in the system if they are exposed at the NBBO pursuant to Supplementary Material .02 to ISE Gemini Rule 1901.[23] Further, the Exchange believes that electing Stop Orders that are pending in the system during a Limit or Straddle State, if conditions for such election are met, would provide market participants with the intended result.[24] Lastly, the Commission notes that proposed ISE Gemini Rule 702(d)(4) is substantively identical to existing ISE Gemini Rule 703A(c), which is being deleted.

3. Auction Handling During a Trading Halt

The Exchange proposes to amend certain rules to account for the impact of a trading halt on the Exchange's auction mechanisms. First, the Exchange proposes to amend ISE Gemini Rule 723 (Price Improvement Mechanism for Crossing Transactions) regarding the manner in which a trading halt will impact an order entered into the Price Improvement Mechanism (''PIM''). Today, if a trading halt is initiated after an order is entered into the PIM, the Exchange terminates such auction and eligible interest is executed.[25] The Exchange proposes to amend the current process by terminating the auction and not executing eligible interest when a trading halt occurs.[26] Similarly, the Exchange also proposes to amend to ISE Gemini Rule 716 (Block Trades) to state that if a trading halt is initiated after an order is entered into the Block Order Mechanism, Facilitation Mechanism, or Solicited Order Mechanism, the Exchange will automatically terminate such auction without execution.[27]

The Exchange believes that its proposal to terminate the PIM auction, Block Order Mechanism, Facilitation Mechanism, and Solicited Order Mechanism and not execute eligible interest when a trading halt occurs will provide certainty to participants regarding how their interest will be handled.[28] The Exchange believes that during a trading halt, the market may move and create risk to market participants with respect to resting interest.[29] The Commission believes that the proposed rule provides transparency and clarity regarding the handling of these orders during a trading halt.

B. Market Order Spread Protection

The Exchange proposes to amend ISE Gemini Rule 711 (Acceptance of Quotes and Orders) by adopting a new mandatory risk protection entitled Market Order Spread Protection.[30] Pursuant to proposed ISE Gemini Rule 711(c), if the NBBO is wider than a preset threshold at the time a Market Order is received by the Exchange, the Exchange will reject the order. The Exchange will notify members of the threshold with a notice, and, thereafter, will notify members of any subsequent changes to the threshold.[31] The Exchange represents that the Market Order Spread Protection will be the same for all options traded on the Exchange and is applicable to all members that submit Market Orders.[32]

The Exchange believes, and the Commission concurs, that the proposed Market Order Spread Protection would help mitigate risks associated with trading errors and help reduce the number of executions at dislocated prices.[33] The Commission also notes that the protection is similar to a mandatory feature currently offered on NOM.[34]

C. Acceptable Trade Range

Today, ISE Gemini offers a Price Level Protection that places a limit on the number of price levels at which an incoming order or quote to sell (buy) would be executed automatically when there are no bids (offers) from other exchanges at any price for the options series.[35] The Exchange proposes to replace the current Price Level Protection with Phlx's Acceptable Trade Range.[36] The Exchange states that the proposed Acceptable Trade Range is a mechanism designed to prevent the system from experiencing dramatic price swings by preventing the market from moving beyond set thresholds.[37] The system will calculate an Acceptable Trade Range to limit the range of prices at which an order or quote will be allowed to execute.[38] The Acceptable Trade Range is calculated (upon receipt of a new order or quote) by taking the reference price, plus or minus a value to be determined by the Exchange (*i.e.,* the reference price − (x) for sell orders/quotes and the reference price + (x) for buy orders).[39] Upon receipt of a new order, the reference price is the National Best Bid (''NBB'') for sell orders/quotes and the National Best Offer (''NBO'') for buy orders/quotes. If an order or quote reaches the outer limit of the Acceptable Trade Range (the ''Threshold Price'') without being fully executed, then any unexecuted balance will be cancelled.[40] The Acceptable Trade Range will not available for all-or-none orders.[41]

[21] *See id.* Proposed ISE Gemini Rule 703(d)(iv) is substantively identical to ISE Gemini Rule 703A(c). *See* Notice, *supra* note 3, at 96116.

[22] *See* Notice, *supra* note 3, at 96121.

[23] *See* Notice, *supra* note 3, at 96121–22.

[24] *See* Notice, *supra* note 3, at 96122.

[25] *See* Notice, *supra* note 3, at 96116.

[26] *See* proposed ISE Gemini Rule 723(d)(5).

[27] *See* proposed subsections (c)(3), (d)(3)(iv), and (e)(2)(iv) of ISE Gemini Rule 716. The Exchange represents that this proposed amendment represents the current process on ISE Gemini and is generally consistent with Phlx Rule 1047(c). *See* Notice, *supra* note 3, at 96116.

[28] *See* Notice, *supra* note 3, at 96122.

[29] *See id.*

[30] The Exchange states that this mandatory feature is currently offered on NOM to protect Market Orders from being executed in very wide markets. *See* Notice, *supra* note 3, at 96116. *See also* NOM Rules at Chapter VI, Section 6(c).

[31] *See* Notice, *supra* note 3, at 96117. The Exchange proposes to initially set the threshold to $5, similar to the threshold set on NOM. *See id.* The Exchange states that NOM set the differential at $5 to match the maximum bid/ask differential permitted for quotes on that exchange. *See id.* ISE Gemini also uses a similar $5 differential. *See id.*

[32] *See* Notice, *supra* note 3, at 96117.

[33] *See* Notice, *supra* note 3, at 96116, 96122.

[34] *See* NOM Rules at Chapter VI, Section 6(c).

[35] *See* ISE Gemini Rule 714(b)(1).

[36] *See* Phlx Rule 1080(p). The Exchange states that the proposed Acceptable Trade Range will not include the posting period functionality available today on Phlx. *See* Notice, *supra* note 3, at 96117. The Exchange will not post interest that exceeds the outer limit of the Acceptable Trade Range; rather the interest will be cancelled. *See* Notice, *supra* note 3, at 96119. Orders that do not exceed the outer limit of the Acceptable Trade Range will post to the order book and will reside on the order book at such price until they are either executed in full or cancelled by the member. *See id.* Unlike Phlx, ISE Gemini does not offer a general continuous re-pricing mechanism. *See id.*

[37] *See* Notice, *supra* note 3, at 96117.

[38] *See* proposed ISE Gemini Rule 714(b)(1)(i).

[39] The Exchange states that the Acceptable Trade Range settings are tied to the option premium. *See* Notice, *supra* note 3, at 96117, n.16. A table consisting of several steps based on the premium of an option will be displayed on the *NASDAQTrader.com* Web site and used to determine how far the market for a given option will be allowed to move. *See* Notice, *supra* note 3, at 96118. Updates to the table would be announced via an Exchange alert, generally the prior day. *See id.*

[40] *See* proposed ISE Gemini Rule 714(b)(1)(ii).

[41] *See* proposed ISE Gemini Rule 714(b)(1)(ii). Today, ISE Gemini's Price Level Protection rule is

Continued

The Exchange represents that it will set the Acceptable Trade Range at levels to ensure that it is triggered infrequently.[42] While the Acceptable Trade Range settings will be tied to the option premium, other factors will be considered when determining the exact settings.[43] For example, the Exchange states that acceptable ranges may change if market-wide volatility is as high or if overall market liquidity is low based on historical trends.[44] To ensure a well-functioning market, the Exchange believes that different market conditions may require adjustments to the threshold amounts from time to time.[45] Further, while the Acceptable Trade Range settings will generally be the same across all options traded on the Exchange, ISE Gemini proposes to set them separately based on characteristics of the underlying security.[46] For example, the Exchange has generally observed that options subject to the Penny Pilot program quote with tighter spreads than options not subject to the Penny Pilot. Accordingly, the Exchange will set Acceptable Trade Ranges for three categories of options: (1) Penny Pilot Options trading in one cent increments for options trading at less than $3.00 and increments of five cents for options trading at $3.00 or more; (2) Penny Pilot Options trading in one-cent increments for all prices; and (3) Non-Penny Pilot Options.[47]

The Exchange represents that the Acceptable Trade Range should prevent the system from experiencing dramatic price swings by preventing the market from moving beyond set thresholds.[48] The Commission believes that the Acceptable Trade Range is reasonably designed to prevent executions of orders and quotes at prices that are significantly worse than the NBBO at time of an order's submission and may reduce the potential negative impacts of unanticipated volatility in individual options. Lastly, the Commission notes that the proposed Acceptable Trade Range is similar to an existing mechanism on Phlx.[49]

D. PMM Order Handling and Opening Obligations

The Exchange proposes to eliminate the Primary Market Maker (''PMM'') order handling and opening obligations in ISE Gemini Rule 803(c).[50] As described above, with the migration of ISE Gemini to the Nasdaq INET architecture, the Exchange is adopting the Acceptable Trade Range and opening rotation functionality currently offered on NOM and Phlx, which do not contain similar requirements for the PMMs as in ISE Gemini Rule 803(c).

The Exchange represents that PMMs' current obligations are no longer necessary due to the introduction of the Acceptable Trade Range and proposed changes to the Exchange's opening process.[51] The Exchange states that its proposal to conform the Exchange's opening process to Phlx Rule 1017 will result in an opening initiated by the receipt of an appropriate number of valid width quotes by the PMM or Competitive Market Maker, instead of an opening process initiated by a PMM.[52] Similarly, the Exchange believes the proposed Acceptable Trade Range functionality will continue to provide order protection to members without imposing any PMM obligations.[53] The Exchange further represents that NOM and Phlx do not impose similar PMM order handling and opening obligations.[54] Accordingly, the Commission believes that these changes are consistent with the Act.

E. Back-Up PMM

The Exchange proposes to amend Supplementary Material .03 to ISE Gemini Rule 803 to eliminate Back-Up PMMs. Today, any ISE Gemini member that is approved to act in the capacity of a PMM may voluntarily act as a Back-Up PMM in an options series in which it is quoting as a Competitive Market Maker (''CMM'').[55] With the technology migration, the Exchange believes that a Back-Up PMM is no longer necessary because under INET the Exchange will not utilize the order handling obligations present on the Exchange today.[56] The Exchange further represents that the proposed new opening process obviates the importance of such a role because it would no longer rely on a market maker to initiate the opening process.[57] Accordingly, the Commission believes that these changes are consistent with the Act.

F. Market Maker Speed Bump

The Exchange proposes to amend ISE Gemini Rule 804 (Market Maker Quotations) to establish default parameters for certain risk functionality. The Exchange currently offers a risk protection mechanism for market maker quotes that removes a member's quotes in an options class if a specified number of curtailment events occur during a set time period (''Market Maker Speed Bump'').[58] In addition, the Exchange offers a market-wide risk protection that removes a market maker's quotes across all classes if a number of curtailment events occur (''Market-Wide Speed Bump'').[59] ISE Gemini Rule 804(g) currently requires that market makers set curtailment parameters for both the Market Maker Speed Bump and the Market-Wide Speed Bump. Today, if a market maker does not set these parameters, for each Market Maker Speed Bump and the Market-Wide Speed Bump, the trading system rejects their quotes.[60] With the technology migration, the Exchange proposes to provide default curtailment parameters, which will be determined by the Exchange and announced to members.[61] The Commission believes that this change is consistent with the Act and notes that, although the Exchange will establish default curtailment settings, market makers will have discretion to set different curtailment settings appropriate for their trading and risk tolerance.

G. Anti-Internalization

The Exchange proposes to amend the Supplementary Material at .03 to ISE Gemini Rule 804 (Market Maker Quotations) to adopt an anti-internalization rule. Today, ISE

also not available for all-or-none orders. *See* Notice, *supra* note 3, at 96117, n.17.

[42] *See* Notice, *supra* note 3, at 96118.

[43] *See id.*

[44] *See id.*

[45] *See id.*

[46] *See* Notice, *supra* note 3, at 96118.

[47] *See* proposed ISE Gemini Rule 714(b)(1)(iii).

[48] *See* Notice, *supra* note 3, at 96122.

[49] *See* Notice, *supra* note 3, at 96122; Phlx Rule 1080(p).

[50] ISE Gemini Rule 803(c) provides that, in addition to the obligations contained in Rule 803 for market makers generally, for options classes to which a market maker is the appointed PMM, PMM shall have the responsibility to: (1) As soon as practical, address Priority Customer Orders that are not automatically executed pursuant to Rule 714(b)(1) in a manner consistent with its obligations under Rule 803(b) by either (i) executing all or a portion of the order at a price that at least matches the NBBO and that improves upon the Exchange's best bid (in the case of a sell order) or the Exchange's best offer (in the case of a buy order); or (ii) releasing all or a portion of the order for execution against bids and offers on the Exchange; and (2) initiate trading in each series pursuant to Rule 701 (Trading Rotations).

[51] *See* Notice, *supra* note 3, at 96122. *See also supra* note 8.

[52] *See* Notice, *supra* note 3, at 96119. *See also supra* note 8.

[53] *See* Notice, *supra* note 3, at 96119. The Exchange states that Phlx does not currently have similar roles for a Specialist on its market. *See id.*

[54] *See* Notice, *supra* note 3, at 96119.

[55] *See* ISE Gemini Rule 803, Supplementary Material .03.

[56] *See* Notice, *supra* note 3, at 96119.

[57] *See* Notice, *supra* note 3, at 96122. *See also supra* note 8.

[58] *See* ISE Gemini Rule 804(g)(1).

[59] *See* ISE Gemini Rule 804(g)(2). Market makers may request the Exchange to set the market wide parameter to apply to just ISE Gemini or across ISE Gemini and ISE. *See id.*

[60] *See* Notice, *supra* note 3, at 96120.

[61] *See id.*

Gemini's functionality prevents Immediate-or-Cancel (''IOC'') orders entered by a market maker from trading with the market maker's own quote.[62] The Exchange proposes to replace this self-trade protection with anti-internalization functionality currently offered on Phlx.[63] The Exchange proposes to provide that quotes and orders entered by market makers using the same member identifier will not be executed against quotes and orders entered on the opposite side of the market by the same market maker using the same member identifier. In such a case, the system will cancel the resting quote or order back to the entering party prior to execution. The proposed anti-internalization functionality will not apply in any auction. The Exchange states that this proposed functionality does not modify the duty of best execution owed to public customer orders.[64]

The Exchange represents that the proposal is designed to assist market makers in reducing trading costs from unwanted executions potentially resulting from the interaction of executable interest from the same firm performing the same market making function.[65] The Commission believes that the proposed rule is reasonably designed to prevent the unwanted execution of quotes and orders entered by market makers using the same member identifier.

H. Minimum Execution Quantity Orders

The Exchange proposes to amend ISE Gemini Rule 715 (Types of Orders) to remove minimum quantity orders in subpart (q).[66] The Exchange states that the utilization of minimum quantity orders by its members has been very limited, and therefore proposes to remove this order type.[67] Furthermore, the Exchange proposes to remove two references to minimum quantity orders in Supplementary Material .02 to ISE Gemini Rule 713 and in Supplementary Material .04 to ISE Gemini Rule 717.

The Exchange states that the removing the minimum quantity order type would simplify functionality available on the Exchange and reduce the complexity of its order types.[68] The Exchange further represents that the utilization of minimum quantity orders by its members has been very limited and is currently being utilized to transact less than 1% of the Exchange's volume.[69] Accordingly, the Commission believes it is appropriate for the Exchange to remove references to the minimum quantity order type.

I. Delay of Implementation of Directed Orders and Qualified Contingent Cross Orders

Currently, ISE Gemini rules provide for the use of Directed Orders [70] and Qualified Contingent Cross Orders.[71] The Exchange proposes to amend ISE Gemini Rules 721 (Crossing Orders) and 811 (Directed Orders) to note that these functionalities will not be available as of a certain date in the first quarter of 2017 to be announced in a notice. The Exchange represents that it will recommence the Directed Orders and Qualified Contingent Cross functionalities on ISE Gemini within one year from the date of the filing of the proposed rule change. Otherwise, the Exchange will file a rule proposal with the Commission to remove these rules.

The Exchange represents that it proposes to delay the implementation of the Directed Order and Qualified Contingent Cross Order functionalities on ISE Gemini to provide the Exchange additional time to rebuild the required technology on the new platform.[72] The Exchange further represents that members have been given adequate notice of the implementation dates and that the Exchange will provide further notifications to members to ensure clarity about the delay of implementation of these functionalities.[73] The Commission believes that the proposed rule change helps ensure clarity about the delay of implementation of this functionality.

For these reasons, the Commission believes that the proposed rule change, as modified by Amendment Nos. 1 and 2, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[74] that the proposed rule change (SR–ISEGemini-2016–17), as modified by Amendment Nos. 1 and 2, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[75]

Eduardo A. Aleman,

Assistant Secretary.

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[62] *See id.*

[63] *See* Phlx Rule 1080(p)(2).

[64] *See* Notice, *supra* note 3, at 96120.

[65] *See* Notice, *supra* note 3, at 96123.

[66] A Minimum Quantity Order is an order type that is available for partial execution only for a specified number of contracts or greater. A member may specify whether any subsequent executions of the order must also be for the specified number of contracts or greater, or if the balance may be executed as a regular order. If all executions are to be for a specified number of contracts or greater and the balance of the order after one or more partial execution(s) is less than the minimum, such balance is treated as all-or-none. *See* ISE Gemini Rule 715(q).

[67] *See* Notice, *supra* note 3, at 96120.

[68] *See* Notice, *supra* note 3, at 96123.

[69] *See* Notice, *supra* note 3, at 96120 n.35.

[70] *See* ISE Gemini Rule 811.

[71] *See* ISE Gemini Rule 715(j).

[72] *See* Notice, *supra* note 3, at 96123.

[73] *See id.*

[74] 15 U.S.C. 78s(b)(2).

[75] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80021; File No. SR–NYSE–2016–87]

Self-Regulatory Organizations; New York Stock Exchange LLC; Order Granting Approval of a Proposed Rule Change To Conform to Proposed Amendment to Rule 15c6–1(a) Under the Securities Exchange Act of 1934 To Shorten the Standard Settlement Cycle for Most Broker-Dealer Transactions From Three Business Days After the Trade Date (''T+3'') to Two Business Days After the Trade Date (''T+2'')

February 10, 2017.

I. Introduction

On December 15, 2016, New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to conform its rules to an amendment proposed by the Commission to Rule 15c6–1(a) under the Act to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'').[3] The proposed rule change was published for comment in the **Federal Register** on December 29, 2016.[4] The Commission received two comments on the proposal, each of which supports the proposed rule change.[5] This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78962 (Sept. 28, 2016), 81 FR 69240 (Oct. 5, 2016) (File No. S7–22–16) (''T+2 Proposing Release'').

[4] *See* Securities Exchange Act Release No. 79659 (Dec. 22, 2016), 81 FR 84635 (Dec. 29, 2016).

[5] *See* Letters from Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated January 19, 2017; and Thomas F. Price, Managing Director, Operations, Technology & BCP, Securities Industry and Financial Markets Association (''SIFMA''), dated January 19, 2017.

II. Description of the Proposal

The Exchange proposes to adopt Rules 14T (Non-Regular Way Settlement Instructions for Orders); Dealings and SettlementsT (Rules 45–299C); 64T (Bonds, Rights and 100-Share-Unit Stocks); 235T (Ex-Dividend, Ex-Rights); 236T (Ex-Warrants); 257T (Deliveries After ''Ex'' Date); 282.65T (Failure to Deliver and Liability Notice Procedures); and Section 703.02T (part 2) of the Listed Company Manual (Stock Split/Stock Rights/Stock Dividend Listing Process) in order to conform the Exchange's rulebook to the Commission's proposed amendment to Rule 15c6–1(a) under the Act, which would shorten the standard settlement cycle from T+3 to T+2 for most broker-dealer transactions.

Exchange Rule 14 defines ''non-regular way'' settlement instructions as instructions that allow for settlement other than ''regular way'' (*i.e.,* other than settlement on the third business day following trade date for securities other than U.S. Government Securities). Proposed Exchange Rule 14T would amend this definition to replace ''third business day'' with ''second business day.''

The Exchange proposes similar changes to Exchange rules related to Dealing and Settlements. Exchange rules related to Dealing and Settlements define ''regular way'' as ''due on the third business day following the day of the contract.'' Proposed Exchange Rule Dealing and SettlementsT would replace ''third business day'' with ''second business day.''

Similarly, Exchange Rule 64(a) defines ''regular way'' as ''for delivery on the third business day following the day of the contract.'' Proposed Exchange Rule 64T(a) would replace ''third business day'' with ''second business day.'' Exchange Rule 64(a)(ii) currently provides that on the second and third business days preceding the final day for subscription, bids and offers in rights to subscribe shall be made only ''next day.'' To conform with the move to a T+2 settlement cycle, proposed Exchange Rule 64T(a)(ii) would delete the reference to the third business day preceding the final day for subscription, because in a T+2 settlement cycle, bids and offers in rights to subscribe on that day would simply be subject to ''regular way'' settlement. Under Current Rule 64(c), all ''seller's option'' trades, for delivery between 2 and 60 business days, should be reported to the tape only in calendar days. The Exchange proposes to amend Exchange Rule 64T(c) to replace the reference to ''two'' with a reference to ''three.''

Exchange Rule 235 provides that transactions in stocks, except those made for ''cash'' as prescribed in Exchange Rule 14, shall be ex-dividend or ex-rights on the second business day preceding the record date fixed by the corporation or the date of the closing of transfer books. The Exchange proposes in Exchange Rule 235T to change ''second business day preceding'' to ''business day preceding.'' The current Exchange Rule 235 further provides that, if the record date or closing of transfer books occurs upon a day other than a business day, Exchange Rule 235 shall apply for the third preceding business day. The Exchange proposes to change ''third preceding business day'' to ''second preceding business day'' in proposed Exchange Rule 235T.

Exchange Rule 236 pertaining to ex-warrants similarly provides that transactions in securities that have subscription warrants attached, except those made for cash, shall be ex-warrants on the second business day preceding the date of expiration of the warrants, except that when the date of expiration occurs on a day other than a business day, the transactions shall be ex-warrants on the third business day preceding the date of expiration. The Exchange proposes to adopt proposed Exchange Rule 236T and change the warrant period to the business day preceding expiration of the warrants instead of the second business day. Under proposed Exchange Rule 236T, when warrant expiration does not occur on a business day, the ex-warrant period will begin on the second business day preceding the expiration date instead of on the third business day.

Exchange Rule 257 prescribes that the time frame for delivery of dividends or rights for securities sold before the ''ex'' date but delivered after the record date must occur within three days after the record date. Proposed Exchange Rule 257T would shorten the time frame to two days.

Subdivision (1)(A) of Supplementary Material .65 to current Exchange Rule 282 provides that, when a liability notice is sent by parties to a contract who are not both participants in a Qualified Clearing Agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver, that notice must be issued no later than one business day prior to the latest time and the date of the offer or other event in order to obtain the protection provided under Exchange Rule 282. The Exchange proposes to amend the Supplementary Material so that Exchange Rule 282.65T(1)(A) would provide that, to obtain the protection provided by Exchange Rule 282, the receiving member organization must send the liability notice to the delivering member organization as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event.

Finally, Section 703.02 (part 2) of the Listed Company Manual prescribes that a distribution of less than 25% of a company's common stock is traded ''ex'' on or after the second business day after the record date. This procedure is based on the Exchange's current three-day delivery rule in which contracts made on the Exchange for the purchase and sale of securities are settled by delivery on the third business day after the contract is made, unless other terms of settlement are specified at the time the contract is made. The Exchange proposes to adopt Section 703.02T (part 2) to provide that a distribution of less than 25% of a company's common stock is traded ''ex'' on and after the business day prior to the record date.

The Exchange proposes to adopt the rules but delay making the rules operative until the compliance date of any amendment to Rule 15c6–1(a) under the Act that the Commission adopts. The Exchange proposes to add preambles to each amended rule, and to the rule it would replace, to provide that (1) the existing rule will remain operative until the Exchange files separate proposed rule changes as necessary to establish the operative date of the revised rule, to delete the current rule and proposed preamble, and to remove the preamble text from the revised rule; and (2) in addition to filing the necessary proposed rule changes, the Exchange will announce via Information Memo the operative date of the deletion of the current rule and implementation of the proposed rule designated with a T.

III. Discussion and Commission's Findings

After careful review of the proposed rule change and the comments, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[6] Specifically, the Commission finds that the rule change is consistent with Section 6(b)(5) of the Act,[7] which requires that the rules of a national securities exchange be designed, among

[6] In approving this proposed rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

other things, 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 to protect investors and the public interest.

As noted above, the Commission received two comment letters on the proposed rule change.[8] Both comment letters express support for Commission approval of the proposed rule change.

The Commission notes that the proposal would amend the Exchange's rules to conform to the amendment that the Commission has proposed to Rule 15c6–1(a) under the Act[9] and support a move to a T+2 standard settlement cycle. In the T+2 Proposing Release the Commission stated its preliminary belief that shortening the standard settlement cycle from T+3 to T+2 will result in a reduction of credit, market, and liquidity risk,[10] and as a result a reduction in systemic risk for U.S. market participants.[11] The Commission also notes that it has not yet adopted the proposed amendment to Rule 15c6–1(a) under the Act and that the Exchange has, accordingly, not proposed to make its amended rules operative at present. Instead, the Exchange has proposed to announce the operative date of the Exchange's proposal via Information Memo and by filing a separate proposed rule change. The Commission expects that the operative date of the proposed rule change would correspond with the compliance date of any amendment to Rule 15c6–1(a) that is adopted by the Commission. The Commission notes that, in October 2014, Depository Trust and Clearing Corporation, in collaboration with the Investment Company Institute, SIFMA, and other market participants, formed an Industry Steering Group (''ISC'') and an industry working group to facilitate the transition to a T+2 settlement cycle for U.S. trades in equities, corporate and municipal bonds, and unit investment trusts.[12] The ISC has identified September 5, 2017, as the target date for the transition to a T+2 settlement cycle to occur.[13]

For the reasons noted above, the Commission finds that the proposal is consistent with the requirements of the Act and would 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 to protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–NYSE–2016–87), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

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[8] *See supra* note 5.

[9] *See supra* note 3.

[10] Credit risk refers to the risk that the credit quality of one party to a transaction will deteriorate to the extent that it is unable to fulfill its obligations to its counterparty on settlement date. Market risk refers to the risk that the value of securities bought and sold will change between trade execution and settlement such that the completion of the trade would result in a financial loss. Liquidity risk describes the risk that an entity will be unable to meet financial obligations on time due to an inability to deliver funds or securities in the form required though it may possess sufficient financial resources in other forms. *See* T+2 Proposing Release, *supra* note 3, 81 FR at 69241 n. 3.

[11] *See* T+2 Proposing Release, *supra* note 3, 81 FR at 69241.

[12] *See* Press Release, DTCC, Industry Steering Committee and Working Group Formed to Drive Implementation of T+2 in the U.S. (Oct. 2014), *http://www.dtcc.com/news/2014/october/16/ust2.aspx.*

[13] *See* Press Release, ISC, US T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017 (Mar. 7, 2016), *http://www.ust2.com/pdfs/T2-ISC-recommends-shorter-settlement-030716.pdf.*

[14] 15 U.S.C. 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80008; File No. SR–Phlx–2017–09]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Sections I and II of the Pricing Schedule

February 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on February 1, 2017, NASDAQ PHLX LLC (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Pricing Schedule at Section I, entitled ''Rebates and Fees for Adding and Removing Liquidity in SPY,'' and Section II, entitled ''Multiply Listed Options Fees''[3] to amend various transaction fees and rebates.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's Pricing Schedule at Section I, entitled ''Rebates and Fees for Adding and Removing Liquidity in SPY,'' to (i) amend the Simple Order Rebate for Adding Liquidity which is paid to Specialists[4] and Market Makers;[5]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Multiply Listed Options includes options overlying equities, ETFs, ETNs and indexes which are Multiply Listed.

[4] The term ''Specialist'' applies to transactions for the account of a Specialist (as defined in Exchange Rule 1020(a)).

[5] The term ''Market Maker'' describes fees and rebates applicable to Registered Options Traders (''ROT''), Streaming Quote Traders (''SQT'') and Remote Streaming Quote Traders (''RSQT''). A ROT is defined in Exchange Rule 1014(b) as a regular member of the Exchange located on the trading floor who has received permission from the Exchange to trade in options for his own account. A ROT includes SQTs and RSQTs as well as on and off-floor ROTS. An SQT is defined in Exchange Rule 1014(b)(ii)(A) as an ROT who has received permission from the Exchange to generate and

Continued

(ii) increase the Specialist, Market Maker, Firm,[6] Broker-Dealer[7] and Professional[8] Simple Order Fees for Removing Liquidity; and (iii) increase the Specialist and Market Maker Complex Order[9] Fees for Removing Liquidity. The amendments will be described in greater detail below.

The Exchange also proposes to amend the Exchange's Pricing Schedule at Section II, entitled ''Multiply Listed Options Fees,'' to: (i) Remove the applicability of note 2 in the Pricing Schedule and thereby increase the Professional, Broker-Dealer and Firm electronic Complex Orders in non-Penny Pilot Options; (ii) amend the lower transaction fee for Professional, Broker-Dealer and Firm electronic Complex Orders in Penny Pilot Options; and (iii) amend the transaction fee assessed to Professional, Broker-Dealer and Firm electronic Complex Orders in non-Penny Pilot Options if they are under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule.[10] The amendments will be described in greater detail below.

Proposed Amendments to Section I: Rebates and Fees for Adding and Removing Liquidity in SPY

Section I of the Pricing Schedule contains fees and rebates applicable to options overlying Standard and Poor's Depositary Receipts/SPDRs (''SPY'').[11] The Exchange specifies which fees and rebates apply to Simple Orders and Complex Orders within this section.

Simple Order

Today, Simple Order Rebates for Adding Liquidity are paid as noted below to Specialists and Market Makers adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY:

Tiers	Monthly volume	Rebate for adding liquidity
1	1 to 2,499	$0.15
2	2,500 to 4,999	0.20
3	5,000 to 19,999	0.25
4	20,000 to 34,999	0.30
5	35,000 to 49,999	0.32
6	greater than 49,999.	0.35

All other market participants do not receive a SPY Simple Order Rebate for Adding Liquidity. The Exchange proposes to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers. The Exchange proposes to amend Tier 2 to reduce the Rebate for Adding Liquidity from $0.20 to $0.18 per contract. The Exchange proposes to amend Tier 3 to reduce the Rebate for Adding Liquidity from $0.25 to $0.21 per contract. The monthly volume per day for Tiers 2 and 3 are not being amended. With respect to Tier 4, the Exchange proposes to amend the monthly volume per day from 20,000 to 34,999 contracts to 20,000 to 49,999 contracts. The Exchange proposes to increase the Tier 4 rebate from $0.30 to $0.31 per contract. The Exchange proposes to eliminate current Tier 5. The Exchange proposes to rename Tier 6 to be new Tier 5. No other amendments are proposed to new renamed Tier 5.[12]

The Exchange also proposes to rename the column entitled ''Monthly Volume'' as ''Average Daily Volume (''ADV'').'' The Exchange believes that this title more accurately describes the manner in which the rebate is calculated, which is adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, as noted in Part A of Section I of the Pricing Schedule. This proposed change does not impact the manner in which the Exchange calculates these rebates today.

The Exchange's proposal for the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers would be as follows:

Tiers	Average daily volume (''ADV'')	Rebate for adding liquidity
1	1 to 2,499	$0.15
2	2,500 to 4,999	0.18
3	5,000 to 19,999	0.21
4	20,000 to 49,999	0.31
5	greater than 49,999.	0.35

The Exchange believes that the proposed five tier rebate structure will incentivize market participants to add a greater amount of Specialist and Market Maker liquidity in SPY on the Exchange to obtain higher rebates.

The Exchange also proposes to amend the Simple Order Fees for Removing Liquidity in SPY for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract. The Customer[13] Simple Order Fee for Removing Liquidity is not being amended and will remain at $0.45 per contract. Despite the increased fee, the Exchange believes that its fees for Simple Orders in SPY remain competitive.

Complex Order

The Exchange proposes to amend its Complex Order Fees for Removing Liquidity in SPY for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract. The Exchange would not increase the fees for Firms, Broker-Dealers or Professionals; those fees will remain at $0.50 per contract. Today, Customers are not assessed a Complex Order Fee for Removing Liquidity. Despite the increased fee, the Exchange believes that its fees for Complex Orders in SPY remain competitive.

submit option quotations electronically in options to which such SQT is assigned. An RSQT is defined in Exchange Rule in 1014(b)(ii)(B) as an ROT that is a member affiliated with an RSQTO with no physical trading floor presence who has received permission from the Exchange to generate and submit option quotations electronically in options to which such RSQT has been assigned. A Remote Streaming Quote Trader Organization or ''RSQTO,'' which may also be referred to as a Remote Market Making Organization (''RMO''), is a member organization in good standing that satisfies the RSQTO readiness requirements in Rule 507(a).

[6] The term ''Firm'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at The Options Clearing Corporation.

[7] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[8] The term ''Professional'' applies to transactions for the accounts of Professionals, as defined in Exchange Rule 1000(b)(14).

[9] A Complex Order is an order involving the simultaneous purchase and/or sale of two or more different options series in the same underlying security, priced as 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.

[10] Section B of the Pricing Schedule contains Customer Rebate Tiers which are calculated by totaling Customer volume in Multiply Listed Options (including SPY) that are electronically-delivered and executed, except volume associated with electronic QCC Orders, as defined in Exchange Rule 1080(o). Rebates are paid on Customer Rebate Tiers according to certain categories. Members and member organizations under Common Ownership may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. Affiliated Entities may aggregate their Customer volume for purposes of calculating the Customer Rebate Tiers and receiving rebates. *See* Section B of the Pricing Schedule.

[11] Options overlying Standard and Poor's Depositary Receipts/SPDRs (''SPY'') are based on the SPDR exchange-traded fund (''ETF''), which is designed to track the performance of the S&P 500 Index.

[12] Tier 1 is not being amended.

[13] The term ''Customer'' applies to any transaction that is identified by a member or member organization for clearing in the Customer range at The Options Clearing Corporation which is not for the account of a broker or dealer or for the account of a ''Professional'' (as that term is defined in Rule 1000(b)(14)).

Proposed Amendments to Section II: Multiple Listed Options Fees

Penny Pilot Options

The Exchange proposes to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders. Today, the Exchange assesses Professionals, Broker-Dealers and Firms an electronic Penny Pilot Options Transaction Charges for Complex Orders of $0.35 per contract. The Exchange proposes to increase the Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders to $0.40 per contract. Despite the increase to this fee, the Exchange believes the Penny Pilot Options Transaction Charges for electronic Complex Order transactions remain competitive. Professionals, Broker-Dealers and Firms will continue to be offered a discounted rate as compared to Simple Orders.[14]

Non-Penny Pilot Options

The Exchange proposes to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders. Today, the Exchange assesses Professionals, Broker-Dealers and Firms an electronic non-Penny Pilot Options Transaction Charges for Complex Orders of $0.35 per contract. The Exchange is proposing to remove the applicability of note 2 in the Pricing Schedule from the non-Penny Pilot Options Transaction Charges for Professionals, Broker-Dealers and Firms. With this proposal, Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders would be increased to $0.75 per contract because the reduced rate would no longer apply. Members may still lower this rate if they qualified for the reduced rebate offered in note 3 in the Pricing Schedule, which note is also being amended with this proposal as noted below. As proposed, the Options Transaction Charge for Simple and Complex Order electronic non-Penny Pilot Options Transaction Charges would be the same fee of $0.75 per contract fee.

The Exchange also proposes to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges by amending note 3 in the Pricing Schedule. Today, note 3 provides that any member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule[15] will be assessed a Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of $0.60 per contract. The Exchange proposes to amend the fee to assess $0.65 per contract. The qualifications for the reduced rate remain the same. Professionals, Broker-Dealers and Firms that do not qualify for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule would continue to pay an electronic non-Penny Pilot Options Transaction Charge of $0.75 per contract. While the Exchange is amending the fee so that the reduction is not as great as today, the Exchange will continue to offer a reduced rate to Professionals, Broker-Dealers and Firms that qualify by sending the requisite order flow to the Exchange.

Finally, the Exchange is adding a period at end of the sentence in footnote 3 to correct a typographical error.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[16] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[17] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [18]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [19] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[20] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [21]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers' . . . .'' [22] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

Proposed Amendments to Section I: Rebates and Fees for Adding and Removing Liquidity in SPY

Simple Order

The Exchange's proposal to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers and reducing the Tier 2 rebate to $0.18 per contract, reducing the Tier 3 rebate to $0.21 per contract, amending the Tier 4 monthly volume to 20,000 to 49,999 contracts per day and the rebate to $0.31 per contract, eliminating Tier 5 and renaming Tier 6 to new Tier 5 is reasonable because the Exchange believes that the proposed five tier rebate structure will incentivize market participants to add a greater amount of Specialist and Market Maker liquidity in SPY on the Exchange to obtain higher rebates. A Specialist or Market Maker would continue to receive a rebate with this proposal provided they execute one electronic Simple Order SPY contract.

In some cases, the rebate will be lower. When 2,500 to 4,999 electronic Simple Order SPY contracts per day are added, the SPY Simple Order Rebate for Adding Liquidity for Specialists and Market Makers will be $0.18 per contract as compared to $0.20 per

[14] The Exchange would continue to assess an electronic Penny Pilot Options Transaction Charges to Professionals, Broker-Dealers and Firms of $0.48 per contract for Simple Orders.

[15] *See* note 10 above.

[16] 15 U.S.C. 78f(b).

[17] 15 U.S.C. 78f(b)(4) and (5).

[18] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[19] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[20] *See NetCoalition,* at 534—535.

[21] *Id.* at 537.

[22] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

contract (today's rebate). With this proposal, the rebate would be lower for members currently submitting 5,000 to 19,999 SPY contracts per day, the rebate would be $0.21 per contract as compared to $.25 per contract. Members currently submitting between 20,000 and 34,999 SPY contracts would receive a $0.31 per contract as compared to $0.30 per contract rebate with this proposal, an increased rebate of $0.01 per contract. Finally, with this proposal, market participants currently submitting between 35,000 and 49,999 SPY contracts per day would receive a lower rebate of $0.31 per contract as compared to $0.32 per contract. Despite this decrease, the Exchange believes that participants will continue to be incentivized to add SPY order flow to the Exchange to receive the rebate.

The Exchange's proposal to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers and reducing the Tier 2 rebate to $0.18 per contract, reducing the Tier 3 rebate to $0.21 per contract, amending the Tier 4 monthly volume to 20,000 to 49,999 contracts per day and the rebate to $0.31 per contract, eliminating Tier 5 and renaming Tier 6 to new Tier 5 is equitable and not unfairly discriminatory because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[23] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to rename the column entitled ''Monthly Volume'' as ''Average Daily Volume (''ADV'')'' is reasonable, equitable and not unfairly discriminatory because the title more accurately describes the manner in which the rebate is calculated, which is adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, as noted in Part A of Section I of the Pricing Schedule. This proposed change does not impact the manner in which the Exchange calculates these rebates today.

The Exchange's proposal to amend the Simple Order Fees for Removing Liquidity for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract is reasonable because despite the increased fee, the Exchange believes that its fees for Simple Orders in SPY remain competitive. The Customer Simple Order Fee for Removing Liquidity is not being amended and will remain at $0.45 per contract. Also, the increase in the Simple Order Fees for Removing Liquidity will continue to support the rebate structure proposed herein, which as stated above, attracts Specialists and Market Makers. An increase in the activity of Specialists and Market Makers in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to amend the Simple Order Fees for Removing Liquidity for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract is equitable and not unfairly discriminatory because all participants would continue to be assessed a similar fee, except for Customers. The Exchange believes that assessing Customers a lower fee is equitable and not unfairly discriminatory because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Complex Order

The Exchange's proposal to amend its Complex Order Fees for Removing Liquidity for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract is reasonable because despite the increased fee, the Exchange believes that its fees for Complex Orders in SPY remain competitive. Also, Specialists and Market Makers continue to be assessed a lower fee as compared to Firms, Broker-Dealers or Professionals; who are assessed $0.50 per contract.

The Exchange's proposal to amend its Complex Order Fees for Removing Liquidity for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract is equitable and not unfairly discriminatory. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[24] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Complex Order Fee for Removing Liquidity because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposed Amendments to Section II: Multiple Listed Options Fees

Penny Pilot Options

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders from $0.35 per contract to $0.40 per contract is reasonable because despite the increase to this fee, the Exchange believes the Penny Pilot Options Transaction Charges for electronic Complex Order transactions remain competitive. Professionals, Broker-Dealers and Firms and will continue to be offered a discounted rate as compared to Simple Orders which will continue to be assessed $0.48 per contract.

[23] *See* Rule 1014 titled ''Obligations and Restrictions Applicable to Specialists and Registered Options Traders.''

[24] *Id.*

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders from $0.35 per contract to $0.40 per contract is equitable and not unfairly discriminatory because Professionals, Broker-Dealers and Firms would be uniformly assessed $0.40 per contract. Specialists and Market Makers would continue to be assessed a lower electronic Penny Pilot Options Transaction Charge of $0.22 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[25] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to continue to offer Professionals, Broker-Dealers and Firms the opportunity to reduce electronic Complex Orders in Penny Pilot Options as compared to non-Penny Pilot Options because the Exchange seeks to incentivize Professionals, Broker-Dealers and Firms to execute Complex Penny Pilot Options orders. Also, lowering the electronic Options Transaction Charges for Complex Orders, as compared to Simple Orders is reasonable, equitable and not unfairly discriminatory because the Exchange desires to continue to incentivize these market participants to transact Complex Orders on the Exchange. The fees will be applied uniformly to all market participants.

Non-Penny Pilot

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders by removing the applicability of note 2 in the Pricing Schedule and increasing the fee to $0.75 per contract is reasonable because Professionals, Broker-Dealers and Firms transacting electronic non-Penny Pilot Options Transaction Charges would be uniformly assessed a fee of $0.75 per contract for Simple and Complex Orders. Members may still lower this rate if they qualified for the reduced rebate offered in note 3 in the Pricing Schedule, which note is also being amended with this proposal. Despite the inapplicability of note 2, the Exchange believes the non-Penny Pilot Options Transaction Charges for electronic Complex Order transactions remain competitive.

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders by removing the applicability of note 2 in the Pricing Schedule and increasing the fee to $0.75 per contract is equitable and not unfairly discriminatory because Professionals, Broker-Dealers and Firms transacting electronic non-Penny Pilot Options Transaction Charges would be uniformly assessed a fee of $0.75 per contract for Simple and Complex Orders. Specialists and Market Makers would continue to be assessed a lower electronic non-Penny Pilot Options Transaction Charge of $0.25 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[26] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no non-Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to amend note 3 in the Pricing Schedule to increase the amount a member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed and increase the Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of from $0.60 to $0.65 per contract is reasonable because Professionals, Broker-Dealers and Firms may continue to qualify for a lower rate. Professionals, Broker-Dealers and Firms that do not qualify for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule would continue to pay an electronic non-Penny Pilot Options Transaction Charge of $0.75 per contract. While amendment reduces the savings, the Exchange will continue to offer Professionals, Broker-Dealers and Firms that qualify by sending the requisite order flow to the Exchange a lower transaction fee. In addition, attracting Customer order flow benefits all market participants with increased order flow with which to interact.

The Exchange's proposal to amend note 3 in the Pricing Schedule to increase the amount a member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed and increase the Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of [sic] from $0.60 to $0.65 per contract is equitable and not unfairly discriminatory because these market participants are subject to the highest transaction fees of $0.75 per contract.

The Exchange's proposal to correct the typographical error in footnote 3 is

[25] *Id.*

[26] *Id.*

reasonable, equitable and not unfairly discriminatory because it correct [sic] a grammatical error.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

In terms of intra-market competition, the Exchange believes that its proposed rebates and fees continue to remain competitive in SPY and Multiply Listed Options. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

Proposed Amendments to Section I: Rebates and Fees for Adding and Removing Liquidity in SPY

Simple Order

The Exchange's proposal to amend the Simple Order Rebates for Adding Liquidity which are paid to Specialists and Market Makers by reducing the number of tiers from 6 tiers to 5 tiers and reducing the Tier 2 rebate to $0.18 per contract, reducing the Tier 3 rebate to $0.21 per contract, amending the Tier 4 monthly volume to 20,000 to 49,999 contracts per day and the rebate to $0.31 per contract, eliminating Tier 5 and renaming Tier 6 to new Tier 5 does not impose an undue burden on intra-market competition because Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[27] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange's proposal to rename the column entitled ''Monthly Volume'' as ''Average Daily Volume (''ADV'')'' does not impose an undue burden on intra-market competition because the title more accurately describes the manner in which the rebate is calculated, which is adding the requisite amount of electronically executed Specialist and Market Maker Simple Order contracts per day in a month in SPY, as noted in Part A of Section I of the Pricing Schedule. This proposed change does not impact the manner in which the Exchange calculates these rebates today.

The Exchange's proposal to amend the Simple Order Fees for Removing Liquidity for Specialists, Market Makers, Firms, Broker Dealers and Professionals by increasing the fees from $0.47 to $0.48 per contract does not impose an undue burden on intra-market competition because all participants would continue to be assessed a similar fee, except for Customers. The Exchange believes that assessing Customers a lower fee does not impose a burden on intra-market competition because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Complex Order

The Exchange's proposal to amend its Complex Order Fees for Removing Liquidity for Specialists and Market Makers by increasing the fees from $0.40 to $0.43 per contract does not impose an undue burden on intra-market competition. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[28] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Complex Order Fee for Removing Liquidity because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Proposed Amendments to Section II: Multiple Listed Options Fees

Penny Pilot Options

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic Penny Pilot Options Transaction Charges for Complex Orders from $0.35 per contract to $0.40 per contract does not impose an undue burden on intra-market competition because Professionals, Broker-Dealers and Firms would be uniformly assessed

[27] *Id.*

[28] *Id.*

$0.40 per contract. Specialists and Market Makers would continue to be assessed a lower electronic Penny Pilot Options Transaction Charge of $0.22 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[29] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

Non-Penny Pilot Options

The Exchange's proposal to amend its Professional, Broker-Dealer and Firm electronic non-Penny Pilot Options Transaction Charges for Complex Orders by removing the applicability of note 2 in the Pricing Schedule and increasing the fee to $0.75 per contract does not impose an undue burden on intra-market competition because Professionals, Broker-Dealers and Firms transacting electronic non-Penny Pilot Options Transaction Charges would be uniformly assessed a fee of $0.75 per contract. Specialists and Market Makers would continue to be assessed a lower electronic non-Penny Pilot Options Transaction Charge of $0.25 per contract. Unlike other market participants, Specialists and Market Makers have obligations to the market and regulatory requirements, which normally do not apply to other market participants.[30] They have obligations to make continuous markets, engage in a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market, and not make bids or offers or enter into transactions that are inconsistent with a course of dealings. The differentiation as between Specialists and Market Makers and all other market participants recognizes the differing contributions made to the liquidity and trading environment on the Exchange by these market participants. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants. Customers continue to be assessed no non-Penny Pilot Options Transaction Charge because Customer orders bring valuable liquidity to the market, which liquidity benefits other market participants. Customer liquidity benefits all market participants by providing more trading opportunities, which attracts Specialists and Market Makers. An increase in the activity of these market participants in turn facilitates tighter spreads, which may cause an additional corresponding increase in order flow from other market participants.

The Exchange believes that it does not impose an undue burden on intra-market competition to continue to offer Professionals, Broker-Dealers and Firms the opportunity to reduce electronic Complex Orders in non-Penny Pilot Options as compared to Penny Pilot Options because the Options Transaction Charges for non-Penny Pilot Options are higher. Also, only lowering the electronic Options Transaction Charges for Complex Orders, as compared to Simple Orders does not impose an undue burden on intra-market competition because the Exchange desires to continue to incentivize these market participants to transact Complex Orders on the Exchange.

The Exchange's proposal to amend note 3 in the Pricing Schedule to increase the amount a member or member organization under Common Ownership with another member or member organization or an Appointed OFP of an Affiliated Entity that qualifies for Customer Rebate Tiers 4 or 5 in Section B of the Pricing Schedule will be assessed and increase the Professional, Broker-Dealer or Firm electronic non-Penny Pilot Options Transaction Charge of from $0.60 to $0.65 per contract does not impose an undue burden on intra-market competition because these market participants are subject to the highest transaction fees of $0.75 per contract.

The Exchange's proposal to correct the typographical error in footnote 3 does not impose an undue burden on intra-market competition because it correct [sic] a grammatical error.

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.[31]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–09 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–2017–09. 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/*

[29] *Id.*

[30] *Id.*

[31] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2017–09, and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[32]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03099 Filed 2–15–17; 8:45 am]

BILLING CODE 8011–01–P

[32] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80020; File No. SR–NYSEMKT–2016–119]

Self-Regulatory Organizations; NYSE MKT LLC; Order Granting Approval of a Proposed Rule Change To Conform to Proposed Amendment to Rule 15c6–1(a) Under the Securities Exchange Act of 1934 To Shorten the Standard Settlement Cycle for Most Broker-Dealer Transactions From Three Business Days After the Trade Date (''T+3'') to Two Business Days After the Trade Date (''T+2'')

February 10, 2017.

I. Introduction

On December 15, 2016, NYSE MKT LLC (''NYSE MKT'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to conform its rules to an amendment proposed by the Commission to Rule 15c6–1(a) under the Act to shorten the standard settlement cycle for most broker-dealer transactions from three business days after the trade date (''T+3'') to two business days after the trade date (''T+2'').[3] The proposed rule change was published for comment in the **Federal Register** on December 29, 2016.[4] The Commission received two comments on the proposal, each of which supports the proposed rule change.[5] This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to adopt Equities Rules 14T—Equities (Non-Regular Way Settlement Instructions for Orders); 64T—Equities (Bonds, Rights and 100-Share-Unit Stocks); 235T—Equities (Ex-Dividend, Ex-Rights); 236T—Equities (Ex-Warrants); 257T—Equities (Deliveries After ''Ex'' Date); 282.65T—Equities (Failure to Deliver and Liability Notice Procedures); and Sections 510T (Three Day Delivery Plan) and 512T (Ex-Dividend Procedure) of the NYSE MKT Company Guide, in order to conform the Exchange's rulebook to the Commission's proposed amendment to Rule 15c6–1(a) under the Act, which would shorten the standard settlement cycle from T+3 to T+2 for most broker-dealer transactions.

Exchange Rule 14—Equities defines ''non-regular way'' settlement instructions as instructions that allow for settlement other than ''regular way'' (*i.e.,* other than settlement on the third business day following trade date for securities other than U.S. Government Securities). Proposed Exchange Rule 14T—Equities would amend this definition to replace ''third business day'' with ''second business day.''

Similarly, Exchange Rule 64(a)—Equities defines ''regular way'' as ''for delivery on the third business day following the day of the contract.'' Proposed Exchange Rule 64T(a)—Equities would replace ''third business day'' with ''second business day.'' [6] Exchange Rule 64(a)(ii)—Equities currently provides that on the second and third business days preceding the final day for subscription, bids and offers in rights to subscribe shall be made only ''next day.'' To conform with the move to a T+2 settlement cycle, proposed Exchange Rule 64T(a)(ii)—Equities would delete the reference to the third business day preceding the final day for subscription because in a T+2 settlement cycle, bids and offers in rights to subscribe on that day would simply be subject to ''regular way'' settlement. Under Current Exchange Rule 64(c)—Equities, all ''seller's option'' trades, for delivery between 2 and 60 business days, should be reported to the tape only in calendar days. The Exchange proposes to amend Exchange Rule 64T(c)—Equities to replace the reference to ''two'' with a reference to ''three.''

Exchange Rule 235—Equities provides that transactions in stocks, except those made for ''cash'' as prescribed in Exchange Rule 14—Equities, shall be ex-dividend or ex-rights on the second business day preceding the record date fixed by the corporation or the date of the closing of transfer books. The Exchange proposes in Exchange Rule 235T—Equities to change ''second business day preceding'' to ''business day preceding.'' The current Exchange Rule 235—Equities further provides that, if the record date or closing of transfer books occurs upon a day other than a business day, Exchange Rule 235 shall apply for the third preceding business day. The Exchange proposes to change ''third preceding business day'' to ''second preceding business day'' in proposed Exchange Rule 235T—Equities.[7]

Exchange Rule 236—Equities pertaining to ex-warrants similarly provides that transactions in securities that have subscription warrants attached, except those made for cash, shall be ex-warrants on the second business day preceding the date of expiration of the warrants, except that when the date of expiration occurs on a day other than a business day, the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 78962 (Sept. 28, 2016), 81 FR 69240 (Oct. 5, 2016) (File No. S7–22–16) (''T+2 Proposing Release'').

[4] *See* Securities Exchange Act Release No. 79659 (Dec. 22, 2016), 81 FR 84635 (Dec. 29, 2016).

[5] *See* Letters from Manisha Kimmel, Chief Regulatory Officer, Wealth Management, Thomson Reuters, dated January 19, 2017; and Thomas F. Price, Managing Director, Operations, Technology & BCP, Securities Industry and Financial Markets Association (''SIFMA''), dated January 19, 2017.

[6] The Exchange also proposes to make several non-substantive changes. As reflected in proposed Exchange Rule 64T(a)(i)—Equities, italics would be removed from the single quote before the words ''issued'' and ''regular'' and a missing parenthesis added before the word ''See'' in the second sentence of the second paragraph. Italics would also be removed from the single quote before the word ''seller's'' in five places in proposed Exchange Rule 64T(c)—Equities as well as before the word ''regular'' in the last sentence. Finally, as reflected in proposed Exchange Rule 64T(a)(1), (a)(ii) and (b)—Equities, bold would be removed from ''(a)(i),'' ''(ii)'' and ''(b).''

[7] The Exchange also proposes to make non-substantive changes to correct punctuation in proposed Exchange Rule 235T—Equities by removing italics from the single quote before the word ''cash'' in two places.

transactions shall be ex-warrants on the third business day preceding the date of expiration. The Exchange proposes to adopt proposed Exchange Rule 236T—Equities and change the warrant period to the business day preceding expiration of the warrants instead of the second business day. Under proposed Exchange Rule 236T—Equities, when warrant expiration does not occur on a business day, the ex-warrant period will begin on the second business day preceding the expiration date instead of on the third business day.[8]

Exchange Rule 257—Equities prescribes that the time frame for delivery of dividends or rights for securities sold before the ''ex'' date but delivered after the record date must occur within three days after the record date. Proposed Exchange Rule 257T—Equities would shorten the time frame to two days.[9]

Subdivision (1)(A) of Supplementary Material .65 to current Exchange Rule 282—Equities provides that when a liability notice is sent by parties to a contract who are not both participants in a Qualified Clearing Agency that has an automated service for notifying a failing party of the liability that will be attendant to a failure to deliver, that notice must be issued no later than one business day prior to the latest time and the date of the offer or other event in order to obtain the protection provided under Exchange Rule 282—Equities. The Exchange proposes to amend the Supplementary Material so that Exchange Rule 282.65T(1)(A)—Equities would provide that, to obtain the protection provided by Exchange Rule 282– Equities, the receiving member organization must send the liability notice to the delivering member organization as soon as practicable but not later than two hours prior to the cutoff time set forth in the instructions on a specific offer or other event.

Section 510 of the Exchange's Company Guide provides that all transactions effected on the Exchange (unless otherwise specified) will be settled in three business days. Additionally, Section 510 states that a ''regular way'' transaction is due for settlement by delivery of the securities against payment on the third business day after the transaction date. Section 510 also provides an example stating that a ''regular way'' transaction made on a Friday is due for settlement on Wednesday of the following week and that a transaction on Monday is due for settlement on Thursday of the same week. The Exchange proposes in Section 510T to replace both references to ''three business days'' with a reference to ''two business days.'' Proposed Section 510T would also amend the example provided in Section 510 by changing ''Wednesday'' to ''Tuesday'' and ''Thursday'' to ''Wednesday.''

Section 512 of the Exchange's Company Guide provides that transactions in stocks (except those made for ''cash'') are ex-dividend on the second business day preceding the record date, unless the record date selected is not a business day, in which case the stock will be quoted ex-dividend on the third preceding business day. Proposed Section 512T would shorten these time frames to the business day preceding the record date and the second business day preceding the record date, respectively.

The Exchange proposes to adopt the rules but delay making the rules operative until the compliance date of any amendment to Rule 15c6–1(a) under the Act that the Commission adopts. The Exchange proposes to add preambles to each amended rule, and to the rule it would replace, to provide that (1) the existing rule will remain operative until the Exchange files separate proposed rule changes as necessary to establish the operative date of the revised rule, to delete the current rule and proposed preamble, and to remove the preamble text from the revised rule; and (2) in addition to filing the necessary proposed rule changes, the Exchange will announce via Information Memo the operative date of the deletion of the current rule and implementation of the proposed rule designated with a T.

III. Discussion and Commission's Findings

After careful review of the proposed rule change and the comments, the Commission finds that the proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange.[10] Specifically, the Commission finds that the rule change is consistent with Section 6(b)(5) of the Act,[11] which requires that the rules of a national securities exchange be designed, among other things, 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 to protect investors and the public interest.

As noted above, the Commission received two comment letters on the proposed rule change.[12] Both comment letters express support for Commission approval of the proposed rule change.

The Commission notes that the proposal would amend the Exchange's rules to conform to the amendment that the Commission has proposed to Rule 15c6–1(a) under the Act[13] and support a move to a T+2 standard settlement cycle. In the T+2 Proposing Release the Commission stated its preliminary belief that shortening the standard settlement cycle from T+3 to T+2 will result in a reduction of credit, market, and liquidity risk,[14] and as a result a reduction in systemic risk for U.S. market participants.[15] The Commission also notes that it has not yet adopted the proposed amendment to Rule 15c6–1(a) under the Act and that the Exchange has, accordingly, not proposed to make its amended rules operative at present. Instead, the Exchange has proposed to announce the operative date of the Exchange's proposal via Information Memo and by filing a separate proposed rule change. The Commission expects that the operative date of the proposed rule change would correspond with the compliance date of any amendment to Rule 15c6–1(a) that is adopted by the Commission. The Commission notes that, in October 2014, Depository Trust and Clearing Corporation, in collaboration with the Investment Company Institute, SIFMA, and other market participants, formed an Industry

[8] The Exchange also proposes to make non-substantive changes to correct punctuation in proposed Rule 236T—Equities by removing italics from the single quote before the word ''cash'' in two places.

[9] The Exchange also proposes to make non-substantive changes to correct punctuation in proposed Rule 257T—Equities by removing italics from the single quote before the word ''Ex'' in the heading and the word ''cash'' in the rule text.

[10] In approving this proposed rule change, the Commission has considered the rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] *See supra* note 5.

[13] *See supra* note 3.

[14] Credit risk refers to the risk that the credit quality of one party to a transaction will deteriorate to the extent that it is unable to fulfill its obligations to its counterparty on settlement date. Market risk refers to the risk that the value of securities bought and sold will change between trade execution and settlement such that the completion of the trade would result in a financial loss. Liquidity risk describes the risk that an entity will be unable to meet financial obligations on time due to an inability to deliver funds or securities in the form required though it may possess sufficient financial resources in other forms. *See* T+2 Proposing Release, *supra* note 3, 81 FR at 69241 n. 3.

[15] *See* T+2 Proposing Release, *supra* note 3, 81 FR at 69241.

Steering Group (''ISC'') and an industry working group to facilitate the transition to a T+2 settlement cycle for U.S. trades in equities, corporate and municipal bonds, and unit investment trusts.[16] The ISC has identified September 5, 2017, as the target date for the transition to a T+2 settlement cycle to occur.[17]

For the reasons noted above, the Commission finds that the proposal is consistent with the requirements of the Act and would 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 to protect investors and the public interest.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[18] that the proposed rule change (SR–NYSEMKT–2016–119), be and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03109 Filed 2–15–17; 8:45 am]

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[16] *See* Press Release, DTCC, Industry Steering Committee and Working Group Formed to Drive Implementation of T+2 in the U.S. (Oct. 2014), *http://www.dtcc.com/news/2014/october/16/ust2.aspx.*

[17] *See* Press Release, ISC, U.S. T+2 ISC Recommends Move to Shorter Settlement Cycle On September 5, 2017 (Mar. 7, 2016), *http://www.ust2.com/pdfs/T2-ISC-recommends-shorter-settlement-030716.pdf.*

[18] 15 U.S.C. 78s(b)(2).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80019; File No. SR–NYSE–2017–03]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change Amending Rule 98

February 10, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that, on January 26, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, 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 98 to provide that, while on the Trading Floor, Designated Market Makers (''DMM'') must trade DMM securities at their assigned stock trading post location and may not trade any security that is a related product of their DMM securities. 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 Rule 98 to provide that, while on the Trading Floor, DMMs must trade DMM securities at their assigned stock trading post location and may not trade any security that is a related product of their DMM securities.[4]

Background

Rule 98 governs the operation of a DMM unit and paragraph (c)(3) of that rule specifies restrictions on trading for member organizations operating a DMM unit. More specifically, Rule 98(c)(3)(B) provides that, while on the Trading Floor[5] of the Exchange, employees of the DMM unit:

(i) Except as provided for in Rule 36.30,[6] may trade only DMM securities only on or through the systems and facilities of the Exchange as permitted by Exchange rules.

(ii) except as provided for in Rules 36.30, may not communicate with individuals or systems responsible for making trading decisions for related products or for away-market trading in their assigned DMM securities.

(iii) shall not have access to customer information or the DMM unit's position in related products.

Accordingly, under current Rule 98, while on the Trading Floor, DMMs may only trade DMM securities and, thus, may not trade any other securities, including securities that are related products to their DMM securities.

Proposed Rule Change

The Exchange proposes to amend Rule 98 to remove restrictions to DMM operations on the Trading Floor that are unrelated to the unique role of DMMs at the Exchange. Specifically, as described in Rule 104, DMMs have specified obligations with respect to their DMM securities and have access to specified non-public order information regarding their DMM securities.[7] However, DMMs do not have a unique role or access to any non-public order information with respect to securities that are not assigned to them under Rule 103B. The

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] As defined in Rule 2(i), the term ''DMM'' means an individual member, officer, partner, employee or associated person of a Designated Market Maker Unit who is approved by the Exchange to act in the capacity of a DMM. The term ''DMM securities'' is defined in Rule 98(a)(2) to mean any securities allocated to the DMM unit pursuant to Rule 103B or other applicable rules. The term ''related products'' is defined in Rule 98(a)(7) to mean any derivative instrument that is related to a DMM security, including options, warrants, hybrid securities, single-stock futures, security-based swap agreement, a forward contract, or any other instrument that is exercisable into or whose price is based upon or derived from a security traded at the Exchange.

[5] As defined in Rule 6A, the term ''Trading Floor'' means the restricted-access physical areas designated by the Exchange for the trading of securities, commonly known as the ''Main Room'' and the ''Buttonwood Room'' and does not include (i) the areas in the ''Buttonwood Room'' designated by the Exchange where NYSE Amex-listed options are traded, which, for the purposes of the Exchange's Rules, shall be referred to as the ''NYSE Amex Options Trading Floor'' or (ii) the physical area within fully enclosed telephone booths located in 18 Broad Street at the Southeast wall of the Trading Floor.

[6] Rule 36.30 permits a DMM unit that is registered in an Investment Company Unit (as defined in Section 703.16 of the Listed Company Manual) or a Trust Issued Receipt (as that term is defined in Rule 1200) to use a telephone connection or order entry terminal at the DMM unit's post to enter proprietary orders in the Unit or receipt in another market center, in a Component Security of such a Unit or receipt, or an options or futures contract related to such Unit or receipt, and may use the post telephone to obtain market information with respect to such Units, receipts, options, futures or Component Securities.

[7] *See, e.g.,* Rule 104(a) and (j).

Exchange therefore believes that the current Rule 98 restrictions are unnecessarily broad.

Accordingly, the Exchange proposes to amend Rule 98(c)(3)(B)(i) to provide that, while on the Trading Floor, employees of the DMM unit may trade DMM securities only on or through the systems and facilities of the Exchange at the DMM unit's assigned stock trading post location and as permitted by Exchange rules. Because the proposed rule would no longer specify the only securities that a DMM is permitted to trade, the Exchange proposes to delete the clause ''except as provided for in Rule 36.30.'' The Exchange also proposes to add new Rule 98(c)(3)(B)(ii) to provide that while on the Trading Floor of the Exchange, employees of the DMM unit may not trade any security that is a related product of its DMM securities. The Exchange would renumber current Rules 98(c)(3)(B)(ii) and (iii) as new Rules 98(c)(3)(B)(iii) and (iv).

As a result of these proposed changes, DMMs would no longer be restricted from trading securities that are unrelated to DMM securities while on the Trading Floor. However, the proposed amendments would continue to require that, while on the Trading Floor, DMMs would not be able to trade any securities that are related products to DMM securities. The proposed amendment would also add a new requirement that DMMs may only trade their DMM securities at their assigned stock trading post.

The proposed rule change would allow Exchange DMMs that are also NYSE MKT LLC (''NYSE MKT'') DMMs to continue to operate. Currently, NYSE MKT's cash equities trading operations share a Floor with the Exchange.[8] DMMs who are also approved as NYSE MKT DMMs currently trade in both NYSE-listed DMM securities and NYSE MKT-listed DMM securities from the same physical location on the exchanges' respective Trading Floors.[9] NYSE MKT has proposed to transition from a Floor-based trading model to a fully automated trading model.[10] After such transition, NYSE MKT would continue to have electronic-access DMMs that would be the same member organizations that are currently operating as Floor-based NYSE MKT DMMs. The proposed amendment to Rule 98 would permit NYSE DMMs to continue to support their electronic NYSE MKT DMM functions in the same physical location where they are currently operating.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [11] that an Exchange have rules that are designed to promote the just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would remove a restriction on DMMs from trading securities while on the Trading Floor that is unrelated to their role as a DMM. The Exchange also believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would maintain restrictions on DMM trading while on the Trading Floor that are narrowly drawn to reflect the unique role of the DMM. The Exchange further believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and a national market system because it would enable NYSE DMMs that also operate NYSE MKT DMMs to continue to support their NYSE MKT DMM operations after NYSE MKT transitions to be a fully automated trading market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is designed to be pro-competitive because it would remove a restriction unique to DMMs, as specified in Rule 98, that limits which securities a DMM may trade while on the Trading Floor. No other member that trades on the Floor is subject to similar restrictions and the restrictions that the Exchange proposes to remove are unrelated to the DMM's unique role at the Exchange vis-à-vis their DMM securities. The proposed amendment would also promote competition because it would facilitate NYSE DMMs to be able to continue supporting their NYSE MKT DMM operations once NYSE MKT transitions to be a fully automated trading market.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2017–03 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–03. 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

[8] *Compare* NYSE MKT Rule 6—Equities *with* NYSE Rule 6.

[9] NYSE MKT DMMs operate under the NYSE MKT Rule 98—Equities.

[10] *See* SR–NYSEMKT–2017–1 (''NYSE MKT Trading Rules Filing''). Subject to rule approval, NYSE MKT anticipates transitioning off of its Floor in the second quarter of 2017.

[11] 15 U.S.C. 78f(b)(5).

Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2017–03 and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03108 Filed 2–15–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80015; File No. SR–NASDAQ–2017–007]

Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Exchange's Data Fees at Rule 7026

February 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on January 30, 2017, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's data fees at Rule 7026 to raise the monthly Enterprise License fee for distribution of an Enhanced Display Solution from $30,000 to $33,500, as described further below.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on February 1, 2017.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to raise the monthly Enterprise License fee for distribution of an Enhanced Display Solution from $30,000 to $33,500, and to correct a cross reference to Rule 7023.

EDS Enterprise License

An Enhanced Display Solution (''EDS'') provides a display of Nasdaq depth-of-book data—data feeds with price quotations at more than one price level, such as TotalView, OpenView and Level 2—with the capability of connecting to an Application Programming Interface (''API''). The API allows Subscribers to export the depth-of-book data to a display application of their choosing, provided that the Distributor controls access to the application, monitors its use, and prevents redistribution of the data, either externally or internally.

The Enterprise License fee allows Distributors to purchase an EDS for professional subscribers at a fixed monthly per-subscriber rate. The current fee of $30,000 per month permits the distribution of Nasdaq depth-of-book data to an unlimited number of professional subscribers at a monthly per-subscriber rate of $70 for TotalView and Level 2, and a monthly per-subscriber rate of $6 for OpenView. The monthly per-subscriber fees for Distributors that elect not to purchase an EDS Enterprise License fee are $74 for TotalView and Level 2 and $6 for OpenView, as provided in Rule 7026(a)(1)(B). All Distributors who purchase an EDS, whether or not an Enterprise License is purchased, must pay the distributor fees set forth in Rule 7026(a)(1)(A). The Enterprise License is designed to provide a lower fee to the largest Distributors of depth-of-book data to encourage distribution of such data.

Proposed Changes

The Exchange proposes to raise the monthly EDS Enterprise License fee from $30,000 to $33,500, and to correct a cross reference to Rule 7023.

EDS Enterprise License

The proposed increase in the monthly EDS Enterprise License fee is reasonable in light of the value of EDS to Distributors and Subscribers, which has increased significantly due to technological advances that have occurred since EDS was introduced in January of 2012, particularly for those Distributors with sufficient volume to purchase an Enterprise License.

The key feature of EDS—the capability of connecting to an API—allows the Subscriber to transfer Nasdaq data to any number of applications. When EDS was first introduced, data was transferred to relatively simple applications, such as spreadsheets. Since 2012, EDS has become more valuable as the use of the API has moved from spreadsheets to complex analytic tools, enhancing the value of EDS to both Subscribers and Distributors.

Distributors that purchase EDS through the Enterprise License are among the greatest beneficiaries of EDS because they have the largest number of Subscribers. They are also in the best position to bear the cost of an increase in the price of EDS because of that larger subscriber base.

In summary, the price increase is justified by the increasing value of EDS to Distributors that purchase an Enterprise License.

Technical Correction

Nasdaq also proposes to correct a cross reference to Rule 7023 (Nasdaq Depth-of-Book Data).

On January 5, 2012, the Exchange filed with the Commission a proposal to amend Rule 7026 to offer an optional

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

tiered fee for enhanced displays.[3] At the time of its inception, the EDS fee exemption made reference to the previous iteration of Rule 7023 (then, Nasdaq Total View), which established, under section (a)(1)(C), the Enterprise License fees available to a Distributor. Following the January 2012 rule change, on March 28 of that year, Nasdaq filed with the Commission a proposal to fully amend Rule 7023,[4] renaming the rule, and providing an expanded description of the Enterprise License fees under section (c) of that rule.

Although the Exchange has changed Rule 7026 since then, it has not yet updated the reference to the Enterprise License fees. The cross reference provided under Rule 7026(a)(1)(A), establishing that Distributors subscribing to certain enterprise depth capped fees will be exempt from paying the EDS Distributor Fee, currently points to a section under Rule 7023 which provides a definition for the TotalView data feed, and not to the Enterprise License fees that would allow a Distributor to be exempt from paying the EDS distributor fee. The Exchange therefore proposes to correct that cross reference to Rule 7023(c) (Enterprise License Fees), and to modify the language to make the reference clearer, without changing its application.

The EDS Enterprise License—and the entire EDS program—is entirely optional in that Nasdaq is not required to offer it and Distributors are not required to pay for it. Distributors and Subscribers can discontinue its use at any time and for any reason, including an assessment of the fees charged.

The proposed change does not raise the cost of any other Nasdaq product, except to the extent that it increases the total cost of purchasing depth-of-book data for those who obtain such data through an EDS Enterprise License.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[6] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [7]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [8] (''NetCoalition''), the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[9] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [10]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers. . . .'' [11]

The Exchange believes that the proposal to raise the monthly EDS Enterprise License fee from $30,000 to $33,500 is fair and equitable in accordance with Section 6(b)(4) of the Act, and not unreasonably discriminatory in accordance with Section 6(b)(5) of the Act. As described above, the proposed fee increase reflects the increasing value of EDS to Distributors and Subscribers, particularly those Distributors with sufficient volume to purchase an Enterprise License. Moreover, Enterprise License fees are constrained by the Exchange's need to compete for order flow, and are subject to competition from other exchanges and among broker-dealers for customers. If Nasdaq is incorrect in its assessment, there is no barrier to block a competitor from entering the market with a substantially similar product.

The Exchange believes that the proposed fee changes are an equitable allocation and not unfairly discriminatory because the Exchange will apply the same fee to all similarly-situated Subscribers.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed fee will raise the monthly EDS Enterprise License fee from $30,000 to $33,500. The EDS Enterprise License is used to distribute TotalView, Level 2, and OpenView, Nasdaq's depth-of-book products. The question of whether the prices of depth-of-view products are constrained by competitive forces was examined in 2016 by an Administrative Law Judge in a petition filed by the Securities Industry and Financial Markets Association for a review of certain actions by Self-Regulatory

[3] *See* Securities Exchange Act Release No. 66165 (January 17, 2012), 77 FR 3313 (January 23, 2012) (SR–NASDAQ–2012–005); *see also* Securities Exchange Act Release No. 73807 (December 10, 2014), 79 FR 78784 [sic] (December 16, 2014) (SR–NASDAQ–2014–117) (clarifying, among other changes, that the EDS Fee exemption applies to Distributors and not Customers).

[4] *See* Securities Exchange Act Release No. 66740 (April 5, 2012), 77 FR 21609 (April 10, 2012) (SR–NASDAQ–2012–042).

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(4) and (5).

[7] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[8] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[9] *See NetCoalition,* at 534–535.

[10] *Id.* at 537.

[11] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

Organizations.[12] After a four-day hearing, the Administrative Law Judge found that ''competition plays a significant role in restraining exchange pricing of depth-of-book products'' [13] because ''depth-of-book products from different exchanges function as substitutes for each other,'' [14] and therefore ''the threat of substitution from depth-of-book customers constrains their depth-of-book prices.'' [15] As such, Nasdaq's depth-of-book fees—including those fees for the distribution of TotalView, Level 2 and OpenView—are ''constrained by significant competitive forces.'' [16] If the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

Market forces specifically constrain the EDS Enterprise License fee in three respects. First, the EDS Enterprise License is one element of the total cost of purchasing depth-of-book data. Firms make purchasing decisions based on the total cost of interacting with the Exchange and, if the price of the EDS Enterprise License were set above competitive levels, competition for order flow would be harmed. Second, Distributors may elect to purchase EDS through per-subscriber fees in lieu of an Enterprise License, or may reduce their purchases of Nasdaq proprietary data. Third, the competition among Distributors for Subscribers provides another constraint on the cost of the EDS Enterprise License.

Competition for Order Flow

Depth-of-book data fees are constrained by competition among exchanges and other entities seeking to attract order flow. Order flow is the ''life blood'' of the exchanges. Broker-dealers currently have numerous alternative venues for their order flow, including self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities (''TRFs'') compete to attract internalized transaction reports. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs, which may readily reduce costs by directing orders toward the lowest-cost trading venues.

The level of competition and contestability in the market for order flow is demonstrated by the numerous examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and BATS/Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume. For a variety of reasons, competition from new entrants, especially for order execution, has increased dramatically over the last decade.

Each SRO, TRF, ATS, and BD that competes for order flow is permitted to produce proprietary data products. Many currently do or have announced plans to do so, including NYSE, NYSE Amex, NYSE Arca, BATS, and IEX. This is because Regulation NMS deregulated the market for proprietary data. While BDs had previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Order routers and market data vendors can facilitate production of proprietary data products for single or multiple BDs. The potential sources of proprietary products are virtually limitless.

The markets for order flow and proprietary data are inextricably linked: A trading platform cannot generate market information unless it receives trade orders. As a result, the competition for order flow constrains the prices that platforms can charge for proprietary data products. Firms make decisions on how much and what types of data to consume based on the total cost of interacting with Nasdaq and other exchanges. The cost of EDS is one factor in this total platform analysis. A supracompetitive price for the EDS Enterprise License has the potential to impair competition for order flow, and the need to compete effectively for order flow will constrain its price.

Competition for Distributors

An Enterprise License is one among several methods of purchase available to EDS Distributors. If the price of the EDS Enterprise License were to become too high, Distributors would use another purchase option, such as per-subscriber fees.

The total cost of Nasdaq depth-of-book data relative to other options also functions as an effective constraint. If the total price of depth-of-book data, including the EDS Enterprise License, were to become too high, Distributors would be able to purchase similar data from a competitor such as NYSE or BATS, or curtail their purchases of other Nasdaq products.

The availability of alternative payment methods to purchase EDS, as well as the availability of depth-of-book data from other sources, will act as effective constraints on the price of the EDS Enterprise License.

Competition for Subscribers

Distributors who purchase the EDS Enterprise License are in competition for Subscribers. If the price of the Enterprise License were set above competitive levels, the Distributors that purchase that license would be at a disadvantage relative to their competitors. As such, they may lower costs by paying per-subscriber fees, curtailing their purchases of Nasdaq products, or purchasing depth-of-book data from one of Nasdaq's competitors. The competition among Distributors for Subscribers therefore provides another constraint on the cost of the EDS Enterprise License.

In summary, market forces constrain the price of the EDS Enterprise License through competition for order flow, the availability of other methods of delivery for depth-of-book data, and in the competition among Distributors for Subscribers. For these reasons, the Exchange has provided a substantial basis demonstrating that the fee is equitable, fair, reasonable, and not unreasonably discriminatory, and therefore consistent with and in furtherance of the purposes of the Exchange Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[17]

At any time within 60 days of the filing of the proposed rule change, the

[12] *Sec. Indus. Fin. Mkts. Ass'n (SIFMA),* Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 (ALJ June 1, 2016).

[13] *Id.* at 33.

[14] *Id.*

[15] *Id.*

[16] *Id.* at 43.

[17] 15 U.S.C. 78s(b)(3)(A)(ii).

Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–007 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–NASDAQ–2017–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2017–007, and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03105 Filed 2–15–17; 8:45 am]

BILLING CODE 8011–01–P

[18] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80022; File No. SR–NYSE–2016–72]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change Amending Its Listing Standards for Special Purpose Acquisition Companies

February 10, 2017.

On December 8, 2016, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend its listing standards for Special Purpose Acquisition Companies (''SPAC'') to: (1) No longer require a shareholder vote and to refine existing procedures to affect business combination; and (2) adjust the quantitative requirements for initial and continued listing. The proposed rule change was published for comment in the **Federal Register** on December 29, 2016.[3] The Commission received no comments on the proposal.

Section 19(b)(2) of the Act [4] provides that within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding, or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is February 12, 2017. The Commission is extending this 45-day time period.

The Commission finds it appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposal. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[5] designates March 29, 2017, as the date by which the Commission shall either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–NYSE–2016–72).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03111 Filed 2–15–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79676 (December 22, 2016), 81 FR 96150 (December 29, 2016) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

[5] *Id.*

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80018; File No. SR–NSX–2017–04]

Self-Regulatory Organizations; NYSE National, Inc., Formerly National Stock Exchange, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Rule 11.1, Hours of Trading, Interpretations and Policies .01, To Cease Trading on the Exchange's System as of February 1, 2017

February 10, 2017.

Pursuant to Section 19(b)(1) [1] of the Securities Exchange Act of 1934 (the ''Act'') [2] and Rule 19b–4 thereunder,[3] notice is hereby given that on February 1, 2017, NYSE National, Inc., formerly National Stock Exchange, Inc. (''NYSE National'' 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 self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 11.1, Hours of Trading, Interpretations and Policies .01, to cease trading on the Exchange's System as of February 1, 2017. 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, a corporation organized under the laws of the State of Delaware, is a registered national securities exchange under Section 6 of the Exchange Act [4] and operates as a self-regulatory organization. Pursuant to a transaction that closed on January 31, 2017 and the related rules approved by the Commission on January 30, 2017 (the ''Transaction''), the Exchange is a wholly-owned subsidiary of NYSE Group, Inc.[5] For the reasons set forth below, the Exchange now seeks to amend Rule 11.1, Hours of Trading, Interpretations and Policies .01, to state that it will cease trading on the System as of February 1, 2017 before market open.

The Exchange's trading volumes are extremely low. Currently, the Exchange currently [sic] has approximately 0.02% of market share among national securities exchanges. In addition, the Exchange's affiliates New York Stock Exchange LLC (''NYSE''), NYSE MKT LLC (''NYSE MKT''), and NYSE Arca, Inc. (''NYSE Arca'') have migrated, or are migrating, to Pillar, an integrated trading technology platform designed to use a single specification for connecting to the equities and options markets operated by the Exchange and its affiliates.[6] Given the Exchange's low trading volumes and the complexities and expense of operating the System while simultaneously migrating to Pillar, the Exchange proposes to cease trading as of February 1, 2017. The proposal would enable the Exchange to focus its resources on the migration to the next generation trading system, which is currently scheduled to occur in the first quarter of 2018.

Accordingly, the Exchange proposes to amend .01, Interpretations and Policies, under Rule 11.1 to delete ''Reserved'' and add the following text: ''Cessation of Trading on the Exchange: The Exchange shall cease trading on the System as of February 1, 2017. All Exchange Rules will remain in full force and effect through and after February 1, 2017.''

After trading ceases as described herein, the Exchange will remain registered as a national securities exchange and continue discharging its obligations as a self-regulatory organization including, among other things, completing all open regulatory matters relating to trading on the System up to and including the close of business on February 1, 2017. The Exchange notes that it is not the Designated Examining Authority (''DEA'') for any of its ETP Holders and that there are no NYSE National-only ETP Holders, *i.e.,* all NYSE National ETP Holders are members of other self-regulatory organizations. Further, the Exchange will retain disciplinary jurisdiction over all ETP Holders and persons associated with ETP Holders pursuant to Chapter VIII of the Exchange's Rules and Rule 8.1(b) in particular.[7] The Exchange will accordingly be able to enforce any rule violation occurring prior to the close of business on February 1, 2017.

Upon filing this proposed rule change, the Exchange will no longer accept new ETP applications or further consider any pending applications, and will promptly notify its ETP Holders through an [sic] Regulatory Circular that the Exchange will terminate the ETP status of all ETP Holders as of the close of business on February 1, 2017.

This proposed rule change is not intended to affect the ownership structure of the Exchange or alter any of the Exchange's self-regulatory responsibilities.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [8] in general, and with Section 6(b)(5) [9] in particular, that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the Exchange believes that the proposed rule change would remove impediments to and perfect the mechanism of a free and open market and national market system because allowing the Exchange to cease trading on its legacy system would facilitate the Exchange's transition to Pillar, an integrated trading technology platform designed to reduce complexity and enhance consistency, performance, and resiliency. The Exchange believes that trading on Pillar will result in more efficient processing of transactions and promote harmonized order types and messaging on the Exchange and across its affiliates, thereby removing impediments to and perfecting the mechanism of a free and open market and national market system and ultimately benefitting all market participants.

Further, the Exchange notes that its parent company, NYSE Group, Inc., announced on January 17, 2017, its intention to cease Exchange trading operations immediately following the close of the Transaction. Accordingly, the Exchange believes that ETP Holders have had sufficient time prior to the [sic] February 1, 2017 to determine the exchanges and trading venues to which they will direct orders after that date and to make necessary adjustments to their respective trading systems. In addition, all ETP Holders will be

[4] 15 U.S.C. 78f.

[5] *See* Securities Exchange Act Release No. 34–79902 (January 30, 2017).

[6] *See* Trader Update dated January 29, 2015, available here: *http://www1.nyse.com/pdfs/Pillar_Trader_Update_Jan_2015.pdf.*

[7] Rule 1.5P.(2) provides that the terms ''Person Associated with an ETP Holder'' or ''Associated Person of an ETP Holder'' mean ''any partner, officer, director, or branch manager of an ETP Holder (or any Person occupying a similar status or performing similar functions), any Person directly or indirectly controlling, controlled by, or under common control with an ETP Holder, or any employee of such ETP Holder, except that any Person Associated with an ETP Holder whose functions are solely clerical or ministerial shall not be included in the meaning of such terms.''

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

advised that the Exchange will terminate their ETP status as of February 1, 2017.

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 decision to cease trading activity as of February 1, 2017 will result in one less operational trading venue for equity securities. The Exchange notes that there are numerous stock exchanges and other trading venues available to market participants to trade equity securities, including the Exchange's affiliates. The Exchange currently has approximately 0.02% of market share among national stock exchanges. In light of the low trading volume on the Exchange and the ability of ETP Holders to trade equity securities on other venues, the Exchange does not believe that its proposal will have any substantial competitive impact.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and subparagraph (f)(6) of Rule 19b–4 thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative before 30 days from the date of the filing. However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

The Exchange has asked the Commission to waive the 30-day operative delay. Such waiver will allow the Exchange to cease trading on the System as of February 1, 2017, before market open.[13]

The Exchange has represented that (i) ETP Holders have had sufficient time to determine to which exchanges and trading venues they may direct orders after trading ceases on the Exchange and to make necessary adjustments to their respective trading systems; (ii) the Exchange will advise all ETP Holders that the Exchange will terminate their ETP status as of February 1, 2017; and (iii) the Exchange, as of the date of filing the instant proposed rule change, had approximately 0.02% of market share among national securities exchanges. For these reasons, the Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the 30-day operative delay and designates the proposed rule change to be operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NSX–2017–04 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–NSX–2017–04. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NSX–2017–04, and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03107 Filed 2–15–17; 8:45 am]

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[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] The Exchange also asked the Commission to waive the 5-day pre-filing requirement in Rule 19b–4(f)(6). The Commission waived the requirement.

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80007; File No. SR–Phlx–2017–13]

Self-Regulatory Organizations; NASDAQ PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Access and Routing Subsidy

February 10, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that, on February 8, 2017, NASDAQ PHLX LLC (''Phlx'' or

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend the Exchange's Pricing Schedule at Section IV, entitled ''Other Transaction Fees.'' Specifically, the Exchange proposes to amend its subsidy program, the Market Access and Routing Subsidy or ''MARS,'' for Phlx members that provide certain order routing functionalities [3] to other Phlx members and/or use such functionalities themselves.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaqphlx.cchwallstreet .com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Phlx proposes to amend its subsidy program, MARS, which pays a subsidy to Phlx members that provide certain order routing functionalities to other Phlx members and/or use such functionalities themselves. Generally, under MARS, Phlx pays participating Phlx members to subsidize their costs of providing routing services to route orders to Phlx. The Exchange believes that MARS will continue to attract higher volumes of electronic equity and ETF options volume to the Exchange from non-Phlx market participants as well as Phlx members with the proposed amendments.

Today, to qualify for MARS, a Phlx member's order routing functionality would be required to meet certain criteria.[4] With respect to Complex Orders, the Exchange would not require Complex Orders to enable the electronic routing of orders to all of the U.S. options exchanges or provide current consolidated market data from the U.S. options exchanges. Any Phlx member may apply for MARS, provided the requirements are met, including a robust and reliable System. The member is solely responsible for implementing and operating its System. The Exchange is not proposing to amend this [sic] eligibility standards.

Today, a MARS Payment would be made to Phlx members that have System Eligibility and have routed the requisite number of Eligible Contracts daily in a month, which were executed on Phlx. For the purpose of qualifying for the MARS Payment, Eligible Contracts include Firm,[5] Broker-Dealer,[6] Joint Back Office or ''JBO'' [7] or Professional [8] equity option orders that are electronically delivered and executed. Eligible Contracts do not include floor-based orders, qualified contingent cross or ''QCC'' orders,[9] price improvement or ''PIXL'' orders,[10] Mini-Option orders [11] or Singly-Listed Options [12] orders. The Eligible Contracts requirements are not being amended.

Phlx members that have System Eligibility and have executed the requisite number of Eligible Contracts in a month are paid rebates today as follows:

Tiers	Average daily volume (''ADV'')	MARS payment
1	1,000	$0.01
2	30,000	0.10

The Exchange proposes to modify Tier 2 to require an ADV of 27,500 contracts. As proposed, Tier 2 would pay a reduced rebate of $0.08 on all executed Eligible Contracts which are routed to Phlx through a participating Phlx member's System and meet the

[3] The order routing functionalities permit a Phlx member to provide access and connectivity to other members as well utilize such access for themselves. The Exchange notes that under this arrangement one Phlx member may be eligible for payments under MARS, while another Phlx member might potentially be liable for transaction charges associated with the execution of the order, because those orders were delivered to the Exchange through a Phlx member's connection to the Exchange and that member qualified for the MARS Payment. Consider the following example: Both members A and B are Phlx members but A does not utilize its own connections to route orders to the Exchange, and instead utilizes B's connections. Under this program, B will be eligible for the MARS Payment while A is liable for any transaction charges resulting from the execution of orders that originate from A, arrive at the Exchange via B's connectivity, and subsequently execute and clear at The Options Clearing Corporation or ''OCC,'' where A is the valid executing clearing member or give-up on the transaction. Similarly, where B utilizes its own connections to execute transactions, B will be eligible for the MARS Payment, but would also be liable for any transaction resulting from the execution of orders that originate from B, arrive at the Exchange via B's connectivity, and subsequently execute and clear at OCC, where B is the valid executing clearing member or give-up on the transaction.

[4] Specifically the member's routing system (hereinafter ''System'') would be required to: (1) Enable the electronic routing of orders to all of the U.S. options exchanges, including Phlx; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with Phlx's API to access current Phlx match engine functionality. The member's System would also need to cause Phlx to be one of the top three default destination exchanges for individually executed marketable orders if Phlx is at the national best bid or offer (''NBBO''), regardless of size or time, but allow any user to manually override Phlx as the default destination on an order-by-order basis. The Exchange does not require Complex Orders to enable the electronic routing of orders to all of the U.S. options exchanges or provide current consolidated market data from the U.S. options exchanges.

[5] The term ''Firm'' or (''F'') applies to any transaction that is identified by a Participant for clearing in the Firm range at OCC.

[6] The term ''Broker-Dealer'' applies to any transaction which is not subject to any of the other transaction fees applicable within a particular category.

[7] The term ''Joint Back Office'' or ''JBO'' applies to any transaction that is identified by a member or member organization for clearing in the Firm range at OCC and is identified with an origin code as a JBO. A JBO will be priced the same as a Broker-Dealer. A JBO participant is a member, member organization or non-member organization that maintains a JBO arrangement with a clearing broker-dealer (''JBO Broker'') subject to the requirements of Regulation T Section 220.7 of the Federal Reserve System as further discussed at Exchange Rule 703.

[8] The term ''professional'' means any person or entity that (i) is not a broker or dealer in securities, and (ii) places more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s). *See* Rule 1000(b)(14).

[9] A QCC Order is comprised of an order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Rule 1080(o)(3), coupled with a contra-side order to buy or sell an equal number of contracts. The QCC Order must be executed at a price at or between the NBBO and be rejected if a Customer order is resting on the Exchange book at the same price. A QCC Order shall only be submitted electronically from off the floor to the Exchange's match engine. *See* Rule 1080(o).

[10] PIXL is the Exchange's price improvement mechanism known as Price Improvement XL or (PIXL[SM]). *See* Rule 1080(n).

[11] Mini Options are further specified in Phlx Rule 1012, Commentary .13.

[12] Singly Listed Options are options overlying currencies, equities, ETFs, ETNs treasury securities and indexes not listed on another exchange.

requisite Eligible Contracts ADV. The Exchange also proposes to adopt 2 new tiers. Proposed new Tier 3 would require an ADV of 32,500 contracts and pay a rebate of $0.10 on all executed Eligible Contracts which are routed to Phlx through a participating Phlx member's System and meet the requisite Eligible Contracts ADV. Proposed tier 4 would require an ADV of 40,000 contracts and pay a rebate of $0.12 on all executed Eligible Contracts which are routed to Phlx through a participating Phlx member's System and meet the requisite Eligible Contracts ADV. The proposed tier schedule would therefore be as follows:

Tiers	Average daily volume ("ADV")	MARS payment
1	1,000	$0.01
2	27,500	0.08
3	32,500	0.10
4	40,000	0.12

As is the case today, no payment will be made with respect to orders that are routed to Phlx, but not executed.[13]

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[14] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[15] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system "has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies." [16]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [17] ("NetCoalition") the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[18] As the court emphasized, the Commission "intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost." [19]

Further, "[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . ." [20] Although the court and the SEC were discussing the cash equities markets, the Exchange believes that these views apply with equal force to the options markets.

The Exchange believes that lowering the Tier 2 ADV to 27,500 contracts and paying a lower MARS Payment of $0.08 while offering two new tiers for ADV of 32,500 and 40,000 contracts, which pay rebates of $0.10 and $0.12, respectively, is reasonable because all qualifying Phlx members may qualify, provided they meet the qualifications for MARS. The proposed tiers should attract higher volumes of electronic equity and ETF options volume to the Exchange, which will benefit all Phlx members by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange. The expanded MARS Payments should enhance the competitiveness of the Exchange, particularly with respect to those exchanges that offer their own front-end order entry system or one they subsidize in some manner. The amendment to add new Tiers 3 and 4 will incentivize Phlx members to achieve an even higher rebate, provided the Phlx member is eligible for MARS. Further, the tier structure will allow Phlx members to price their services at a level that will enable them to attract order flow from market participants who would otherwise utilize an existing front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and money to develop their own internal systems to be able to deliver orders directly to the Exchange's System.

The Exchange believes that lowering the Tier 2 ADV to 27,500 contracts and paying a lower MARS Payment of $0.08 while offering two new tiers for ADV of 32,500 and 40,000 contracts, which pay rebates of $0.10 and $0.12, respectively, is equitable and not unfairly discriminatory because the Exchange will uniformly pay all Phlx members the rebates specified in the proposed MARS Payment tiers provided the Phlx member has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange are equitable and not unfairly discriminatory because any qualifying Phlx member that offers market access and connectivity to the Exchange and/or utilize such functionality themselves may earn the MARS Payment for all Eligible Contracts.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the

[13] A Phlx member will not be entitled to receive any other revenue for the use of its System specifically with respect to orders routed to Phlx with the exception of the Marketing Fee.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(4) and (5).

[16] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) ("Regulation NMS Adopting Release").

[17] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[18] *See NetCoalition,* at 534–535.

[19] *Id.* at 537.

[20] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

The Exchange believes that lowering the Tier 2 ADV to 27,500 contracts and paying a lower MARS Payment of $0.08 while offering two new tiers for ADV of 32,500 and 40,000 contracts, which pay rebates of $0.10 and $0.12, respectively, does not impose an undue burden on intra-market competition because the Exchange will uniformly pay all Phlx members the rebates specified in the proposed MARS Payment tiers provided the Phlx member has executed the requisite number of Eligible Contracts. Moreover, the Exchange believes that the proposed MARS Payments offered by the Exchange are equitable and not unfairly discriminatory because any qualifying Phlx member that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the MARS Payment for all Eligible Contracts.

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: (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–2017–13 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–2017–13. 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–2017–13, and should be submitted on or before March 9, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03098 Filed 2–15–17; 8:45 am]

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[21] 15 U.S.C. 78s(b)(3)(A)(ii).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80014; File No. SR–ISEGemini–2016–18]

Self-Regulatory Organizations; ISE Gemini, LLC; Order Approving Proposed Rule Change, as Modified by Amendment No. 1, To Amend the Exchange Opening Process

February 10, 2017.

I. Introduction

On December 16, 2016, ISE Gemini, LLC (''ISE Gemini'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend the Exchange's opening process. The proposed rule change was published for comment in the **Federal Register** on December 29, 2016.[3] On February 1, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission received no comment letters on the proposed rule change. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposal, as Modified by Amendment No. 1

The Exchange proposes to delete the entirety of current ISE Gemini Rule 701 and replace the current Exchange opening process with an opening process reflected in proposed ISE Gemini Rules 701 and 715(t).[5] The Exchange notes that the new opening process is similar to the process used by

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79679 (December 22, 2016), 81 FR 96062 (''Notice'').

[4] In Amendment No. 1, the Exchange provided clarifying details to its proposal, including: (i) Expanding its proposed definition of ''Quality Opening Market''; (ii) clarifying that only Public Customer interest is routable during the Opening Process; and (iii) clarifying that when routing orders during the Opening Process the Exchange will do so based on price/time priority of routable interest. The Exchange also made technical corrections and revisions to the proposed rule text for readability and consistency. Amendment No. 1 amends and replaces the original filing in its entirety. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, it is not subject to notice and comment. The amendment is available at: *https://www.sec.gov/comments/sr-isegemini-2016-18/isegemini201618.htm.*

[5] The Exchange represents that this proposed rule change is being made in connection with a technology migration to a Nasdaq, Inc. (''Nasdaq'') supported architecture called INET which is utilized on The NASDAQ Options Market LLC, NASDAQ PHLX LLC (''Phlx'') and NASDAQ BX, Inc. *See id.*

Phlx.[6] The Exchange's current and proposed opening processes are described below.[7]

A. Current Exchange Opening Process

Currently, a Primary Market Maker (''PMM'') initiates the ''trading rotation'' in a specified options class.[8] The Exchange may direct that one or more trading rotations be employed on any business day to aid in producing a fair and orderly market.[9] For each rotation, except as the Exchange may direct, rotations are conducted in the order and manner the PMM determines to be appropriate under the circumstances.[10] The PMM, with the approval of the Exchange, has the authority to determine the rotation order and manner or deviate from the rotation procedures.[11] Such authority may be exercised before and during a trading rotation.[12] Additionally, two or more trading rotations may be employed simultaneously, if the PMM, with the approval of the Exchange, so determines.[13]

Pursuant to ISE Gemini Rule 701(b), the opening rotation for each class of options is held promptly following the opening of the market for the underlying security.[14] In the event the underlying security has not opened within a reasonable time after 9:30 a.m. Eastern Time, the PMM reports the delay to the Exchange and an inquiry is made to determine the cause of the delay.[15] The opening rotation for the affected options series is then delayed until the market for the underlying security has opened, unless the Exchange determines that the interests of a fair and orderly market are best served by opening trading in the options contracts.[16]

Currently, in connection with a trading rotation, ISE Gemini Rule 701(c) specifies how transactions may be effected in a class of options after the end of normal trading hours. A trading rotation may be employed whenever the Exchange concludes that such action is appropriate in the interests of a fair and orderly market.[17] The decisions to employ a trading rotation in non-expiring options are disseminated prior to the commencement of such rotation and, in general, the Exchange will commence no more than one trading rotation after the normal close of trading.[18] If a trading rotation is in progress and the Exchange determines that a final trading rotation is needed to assure a fair and orderly market close, the rotation in progress will be halted and a final rotation will begin as promptly as possible.[19] Finally, any trading rotation in non-expiring options conducted after the normal close of trading may not begin until five minutes after news of such rotation is disseminated by the Exchange.[20]

B. Proposed New Opening Process

1. Opening Sweep

At the outset, the Exchange proposes to adopt a new order type, ''Opening Sweep'', for the new opening process.[21] Proposed Rule 701(b)(1)(i) states that a Market Maker assigned to a particular option may only submit an Opening Sweep if, at the time of entry, that Market Maker has already submitted and maintains a Valid Width Quote.[22] Opening Sweeps may be entered at any price with a minimum price variation applicable to the affected series, on either side of the market, at single or multiple price level(s), and may be cancelled and re-entered.[23] A single Market Maker may enter multiple Opening Sweeps, with each Opening Sweep at a different price level.[24] If a Market Maker submits multiple Opening Sweeps, the system will consider only the most recent Opening Sweep at each price level submitted by such Market Maker in determining the Opening Price (described below).[25] Unexecuted Opening Sweeps will be cancelled once the affected series is open.[26]

2. Interest Included in the Opening Process

The first part of the Opening Process determines what constitutes ''eligible interest''. The Exchange proposes that eligible interest during the Opening Process[27] will include Valid Width Quotes,[28] Opening Sweeps, and orders.[29] Quotes, other than Valid Width Quotes, will not be included in the Opening Process.[30] All-or-None Orders that can be satisfied, and the displayed and non-displayed portions of Reserve Orders, are considered for execution and in determining the Opening Price throughout the Opening Process.[31] The system will aggregate the size of all eligible interest for a particular participant category at a particular price level for trade allocation purposes pursuant to Rule 713.[32] Only Public Customer interest is routable during the Opening Process.[33]

Market Maker Valid Width Quotes and Opening Sweeps received starting at 9:25 a.m. Eastern Time, or 7:25 a.m. Eastern Time for U.S. dollar-settled foreign currency options, are included in the Opening Process.[34] Orders entered at any time before an option series opens are included in the Opening Process.[35]

[6] *See* Phlx Rule 1017. *See also* Securities Exchange Act Release No. 79274 (November 9, 2016), 81 FR 80694 (November 16, 2016) (SR–Phlx–2016–79).

[7] In connection with the new opening process, the Exchange proposes to adopt a new ''Definitions'' section in proposed Rule 701(a), similar to Phlx Rule 1017(a), to define several terms that are used throughout the opening rule. Proposed Rule 701(a) will define: ABBO, ''market for the underlying security,'' Opening Price, Opening Process, Potential Opening Price, Pre-Market BBO, Quality Opening Market, Valid Width Quote, and Zero Bid Market. For definitions of these terms, *see* Notice *supra* note 3 at 96064.

[8] *See* ISE Gemini Rule 701(a).

[9] *See* ISE Gemini Rule 701(a)(1).

[10] *See* ISE Gemini Rule 701(a)(2).

[11] *See* ISE Gemini Rule 701(a)(3).

[12] *See* ISE Gemini Rule 701(a)(3).

[13] *See* ISE Gemini Rule 701(a)(4).

[14] *See* ISE Gemini Rule 701(b)(2). For purposes of ISE Gemini Rule 701(b)(2), the ''market for the underlying security'' is either the primary listing market, the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), or the first market to open the underlying security, as determined by the Exchange on an issue-by-issue basis and announced to the membership on the Exchange's Web site. *See id.*

[15] *See* ISE Gemini Rule 701(b)(3).

[16] *See id.* Additionally, the Exchange may delay the commencement of the opening rotation in any class of options in the interests of a fair and orderly market. *See* ISE Gemini Rule 701(b)(4).

[17] *See* ISE Gemini Rule 701(c)(1). The factors that may be considered include, but are not limited to, whether there has been a recent opening or reopening of trading in the underlying security, a declaration of a ''fast market'' pursuant to ISE Gemini Rule 704, or a need for a rotation in connection with expiring individual stock options or index options, an end of the year rotation, or the restart of a rotation which is already in progress. *See id.*

[18] *See* ISE Gemini Rule 701(c)(2).

[19] *See* ISE Gemini Rule 701(c)(3).

[20] *See* ISE Gemini Rule 701(c)(4).

[21] The Exchange proposes to define an ''Opening Sweep'' as a Market Maker order submitted for execution against eligible interest in the system during the Opening Process pursuant to proposed Rule 701(b)(1). *See* proposed Rule 715(t).

[22] All Opening Sweeps in the affected series entered by a Market Maker will be cancelled immediately if that Market Maker fails to maintain a continuous quote with a Valid Width Quote in the affected series. *See* proposed Rule 701(b)(1)(i).

[23] *See* proposed Rule 701(b)(1)(ii).

[24] *See id.*

[25] *See id.* The Exchange proposes to define ''Opening Price'' by cross-referencing proposed Rule 701(h) and (j). *See* proposed Rule 701(a)(3).

[26] *See id.*

[27] The Exchange proposes to define ''Opening Process'' by cross-referencing proposed Rule 701(c). *See* proposed Rule 701(a)(4).

[28] The Exchange proposes to define ''Valid Width Quote'' as a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with ISE Gemini Rule 803(b)(4). *See* proposed Rule 701(a)(8).

[29] *See* proposed Rule 701(b).

[30] *See id.*

[31] *See id.*

[32] *See* proposed Rule 701(b)(2).

[33] *See* proposed Rule 701(b).

[34] *See* proposed Rule 701(c).

[35] *See id.*

3. Opening Process and Reopening After a Trading Halt

The Exchange proposes that the Opening Process for an option series will be conducted pursuant to proposed Rules 701(f)–(j) on or after 9:30 a.m. Eastern Time, or on or after 7:30 a.m. Eastern Time for U.S. dollar-settled foreign currency options, if: (1) The ABBO,[36] if any, is not crossed; and (2) the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's Web site) of the opening trade or quote on the market for the underlying security [37] in the case of equity options, or the receipt of the opening price in the underlying index in the case of index options, or market opening for the underlying security in the case of U.S. dollar-settled foreign currency options, any of the following: (i) A PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two Competitive Market Makers (''CMM''); or (iii) if no PMM's Valid Width Quote nor two CMMs' Valid Width Quotes within such timeframe, one CMM's Valid Width Quote.[38]

For all options, the underlying security, including indexes, must be open on the primary market for a certain time period as determined by the Exchange for the Opening Process to commence.[39] The Opening Process will stop and an option series will not open if the ABBO becomes crossed or a Valid Width Quote(s) pursuant to proposed Rule 701(c)(1) is no longer present.[40] Once each of these conditions no longer exists, the Opening Process in the affected option series will recommence.[41] The Exchange would wait for the ABBO to become uncrossed before initiating the Opening Process to ensure that there is stability in the marketplace as the Exchange determines the Opening Price.[42]

Proposed Rule 701(c)(3) states that the PMM assigned to a particular equity option must enter a Valid Width Quote not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned to a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote not later than one minute after the announced market opening.[43] Furthermore, a CMM that submits a quote pursuant to proposed Rule 701 in any option series when the PMM's quote has not been submitted will be required to submit continuous, two-sided quotes in such option series until such time the PMM submits a quote, after which the Market Maker that submitted such quote will be obligated to submit quotations pursuant to ISE Gemini Rule 804(e).[44]

Proposed Rule 701(d) states that the procedure described in proposed Rule 701 will be used to reopen an options series after a trading halt.[45] If there is a trading halt or pause in the underlying security, the Opening Process will recommence irrespective of the specific times listed in proposed Rule 701(c)(1).[46]

4. Opening With a BBO (No Trade)

Under proposed Rule 701(e), the Exchange will first see if the option series will open for trading with a BBO. If there are no opening quotes or orders that lock or cross each other and no routable orders locking or crossing the ABBO, the system will open with an opening quote by disseminating the Exchange's best bid and offer among quotes and orders (''BBO''), unless all three of the following conditions exist: (i) A Zero Bid Market; [47] (ii) no ABBO; and (iii) no Quality Opening Market.[48]

A ''Quality Opening Market'' is a bid/ask differential applicable to the best bid and offer from all Valid Width Quotes defined in a table to be determined by the Exchange and published on the Exchange's Web site.[49] The calculation of Quality Opening Market is based on the best bid and offer of Valid Width Quotes. The differential between the best bid and offer are compared to reach this determination. The allowable differential, as determined by the Exchange, takes into account the type of security (for example, Penny Pilot versus non-Penny Pilot issue), volatility, option premium, and liquidity. The Quality Opening Market differential is intended to ensure the price at which the Exchange opens reflects current market conditions.

If all three of the conditions described above exist, the Exchange will calculate an Opening Quote Range (''OQR'') pursuant to proposed Rule 701(i) (described below) and conduct the Price Discovery Mechanism (''PDM'') pursuant to proposed Rule 701(j) (described below).[50] The Exchange believes that when these conditions exist, further price discovery is warranted.[51]

5. Opening With a Trade

If there are Valid Width Quotes or orders that lock or cross each other, the system will try to open with a trade. Proposed Rule 701(h), however, provides that the Exchange will open the option series with a trade of Exchange interest only at the Opening Price, if any of the following conditions occur: (1) The Potential Opening Price (described below) is at or within the best of the highest bid and the lowest offer among Valid Width Quotes (''Pre-Market BBO'') [52] and the ABBO; (2) the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed; or (3) where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO which is also a Quality Opening Market.

To undertake the above described process, the Exchange will calculate the Potential Opening Price by taking into consideration all Valid Width Quotes and orders (including Opening Sweeps and displayed and non-displayed portions of Reserve Orders), except All-or-None Orders that cannot be satisfied, and identify the price at which the

[36] The Exchange proposes to define ''ABBO'' as the Away Best Bid or Offer. *See* proposed Rule 701(a)(1). The ABBO does not include ISE Gemini's market. *See* Notice, *supra* note 3, at 96065.

[37] The Exchange proposes to define ''market for the underlying security'' as either the primary listing market or the primary volume market (defined as the market with the most liquidity in that underlying security for the previous two calendar months), as determined by the Exchange by underlying and announced to the membership on the Exchange's Web site. *See* proposed Rule 701(a)(2).

[38] *See* proposed Rule 701(c)(1). The Exchange represents that it anticipates initially setting the timeframe during which a PMM's Valid Width quote or the presence of at least two CMMs' Valid Width Quotes will initiate the Opening Process at 30 seconds. *See* Notice, *supra* note 3, at 96065. The Exchange represents that it will provide notice of the initial setting to Members and provide notice if the Exchange determines to reduce the timeframe. *See id.*

[39] *See* proposed Rule 701(c)(2). Proposed Rule 701(c)(2) stipulates that this time period will be no less than 100 milliseconds and no more than 5 seconds. The Exchange represents that it will set the timer initially at 100 milliseconds and will issue a notice to provide the initial setting and will thereafter issue a notice if it were to change the timing. *See* Notice, *supra* note 3, at 96065. If the Exchange were to select a time not between 100 milliseconds and 5 seconds, it will be required to file a rule proposal with the Commission. *See id.*

[40] *See* proposed Rule 701(c)(5).

[41] *See id.*

[42] *See* Notice, *supra* note 3, at 96065.

[43] *See* proposed Rule 701(c)(3).

[44] *See* proposed Rule 701(c)(4).

[45] *See* proposed Rule 701(d).

[46] *See id.*

[47] The Exchange proposes to define the term ''Zero Bid Market'' as where the best bid for an options series is zero. *See* proposed Rule 701(a)(9).

[48] *See* proposed Rule 701(e).

[49] *See* proposed Rule 701(a)(7).

[50] *See id.*

[51] *See* Notice, *supra* note 3, at 96066.

[52] *See* proposed Rule 701(a)(6). The Exchange states that the Pre-Market BBO would not include orders. *See* Amendment No. 1, *supra* note 4.

maximum number of contracts can trade (''maximum quantity criterion'').[53]

Under proposed Rule 701(g)(1), when two or more Potential Opening Prices would satisfy the maximum quantity criterion and leave no contracts unexecuted, the system would take the highest and lowest of those prices and takes the mid-point. If such mid-point cannot be expressed as a permitted minimum price variation, the mid-point will be rounded to the minimum price variation that is closest to the closing price for the affected series from the immediately prior trading session. If there is no closing price from the immediately prior trading session, the system will round up to the minimum price variation to determine the Opening Price.[54] Further, if any value used for the mid-point calculation would cross either the Pre-Market BBO, or the ABBO, then, for the purposes of calculating the mid-point, the Exchange will use the better of the Pre-Market BBO or ABBO as a boundary price and will open the option series for trading with an execution at the resulting Potential Opening Price.[55] The Exchange states that the purpose of these boundaries is to help ensure that the Potential Opening Price is reasonable and does not trade through other markets.[56]

If two or more Potential Opening Prices for the affected series would satisfy the maximum quantity criterion and leave contracts unexecuted, the Opening Price will be either the lowest executable bid or highest executable offer of the largest sized side.[57] This is designed to base the Potential Opening Price on the maximum quantity of contracts that are executable.[58] Furthermore, the Potential Opening Price calculation will be bounded by the better away market price that cannot be satisfied with the Exchange routable interest.[59] According to the Exchange, this would ensure that the Exchange would not open with a trade that would trade through another market.[60]

6. Price Discovery Mechanism

If the Exchange has not opened with a BBO or trade pursuant to proposed Rule 701(e) or (h), the Exchange will conduct a PDM pursuant to proposed Rule 701(j) to determine the Opening Price. According to the Exchange, the purpose of the PDM is to satisfy the maximum number of contracts possible by applying wider price boundaries and seeking additional liquidity.[61]

Before conducting a PDM, however, the Exchange will calculate the OQR under proposed Rule 701(i). The OQR, which is used during PDM, is an additional boundary designed to limit the Opening Price to a reasonable price and reduce the potential for erroneous trades during the Opening Process.[62]

To determine the minimum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be subtracted from the highest quote bid among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i)(3) and (4).[63] To determine the maximum value for the OQR, an amount, as defined in a table to be determined by the Exchange, will be added to the lowest quote offer among Valid Width Quotes on the Exchange and on the away market(s), if any, except as provided in proposed Rule 701(i)(3) and (4).[64] If one or more away markets are collectively disseminating a BBO that is not crossed, however, and there are Valid Width Quotes on the Exchange that are executable against each other or that are executable against the ABBO, then the minimum value of the OQR will be the highest away bid and the maximum value will be the lowest away offer.[65] Additionally, if there are Valid Width Quotes on the Exchange that are executable against each other, and there is no away market disseminating a BBO in the affected option series, the minimum value of the OQR will be the lowest quote bid among Valid Width Quotes on the Exchange and the maximum value will be the highest quote offer among Valid Width Quotes on the Exchange.[66]

The Exchange will use the OQR to help calculate the Opening Price. For example, if there is more than one Potential Opening Price possible where no contracts would be left unexecuted, any price used for the mid-point calculation, pursuant to proposed Rule 701(g)(1), that is outside of the OQR will be restricted to the OQR on that side of the market.[67] Other instances that implicate the OQR are described below.

Furthermore, during PDM, the Exchange will take into consideration the away market prices in calculating the Potential Opening Price. For example, if there is more than one Potential Opening Price possible where no contracts would be left unexecuted and the price used for the mid-point calculation is an away market price, pursuant to proposed Rule 701(g)(3), the system will use the away market price as the Potential Opening Price.[68] Moreover, proposed Rule 701(i)(7) provides that if the Exchange determines that non-routable interest can execute the maximum number of contracts against Exchange interest, after routable interest has been determined by the system to satisfy the away market, then the Potential Opening Price will be the price at which such maximum number of contracts can execute—excluding the interests to be routed to an away market.[69]

After the OQR is calculated, the system will broadcast an Imbalance Message for the affected series[70] to attract additional liquidity and begin an ''Imbalance Timer,'' not to exceed three seconds.[71] The Imbalance Timer will be for the same number of seconds for all options traded on the Exchange, and each Imbalance Message will be subject to an Imbalance Timer.[72] The Exchange may have up to four Imbalance Messages which each run its own Imbalance Timer pursuant to the PDM process.[73]

Proposed Rule 701(j)(2), states that any new interest received by the system will update the Potential Opening Price. If during or at the end of the Imbalance Timer, the Opening Price is at or within the OQR, the Imbalance Timer will end and the system will open with a trade at the Opening Price if the executions consist of Exchange interest only without trading through the ABBO and without trading through the limit

[53] *See* proposed Rule 701(g).

[54] *See* proposed Rule 701(g)(1).

[55] If the Exchange has not yet opened and the above conditions are not met, an Opening Quote Range (as described below) will be calculated pursuant to proposed Rule 701(i), and thereafter, the Price Discovery Mechanism described in proposed Rule 701(j) below will commence. *See* proposed Rule 701(h)(3)(i)(B)(II).

[56] *See* Notice, *supra* note 3, at 96066.

[57] *See* proposed Rule 701(g)(2).

[58] *See* Notice, *supra* note 3, at 96066.

[59] *See* proposed Rule 701(g)(3).

[60] *See* Notice, *supra* note 3, at 96066.

[61] *See* Notice, *supra* note 3, at 96067.

[62] *See id.*

[63] *See* proposed Rule 701(i)(1).

[64] *See* proposed Rule 701(i)(2).

[65] *See* proposed Rule 701(i)(3). Proposed Rule 701(i)(3) further notes that the Opening Process will stop and an options series will not open if the ABBO becomes crossed pursuant to proposed Rule 701(c)(5).

[66] *See* proposed Rule 701(i)(4).

[67] *See* proposed Rule 701(i)(5).

[68] *See* proposed Rule 701(i)(6).

[69] The system will route Public Customer interest in price/time priority to satisfy the away market. *See* proposed Rule 701(i)(7).

[70] Imbalance Message includes the symbol, side of the imbalance (unmatched contracts), size of matched contracts, size of the imbalance, and Potential Opening Price bounded by the Pre-Market BBO.

[71] *See* proposed Rule 701(j)(1). The Exchange represents that it will issue a notice to provide the initial setting of the Imbalance Timer and would thereafter issue a notice if it were to change the timing. *See* Notice, *supra* note 3, at 96068.

[72] *See* proposed Rule 701(j)(1).

[73] *See* Notice, *supra* note 3, at 96068.

price(s) of interest within the OQR, which is unable to be fully executed at the Opening Price. If no new interest comes in during the Imbalance Timer and the Potential Opening Price is at or within the OQR and does not trade through the ABBO, the Exchange will open with a trade at the end of the Imbalance Timer at the Potential Opening Price.

If the option series has not opened pursuant to proposed Rule 701(j)(2) described above, the system will concurrently: (i) Send a second Imbalance Message with a Potential Opening Price that is bounded by the OQR (and would not trade through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price) and includes away market volume in the size of the imbalance to participants; and (ii) initiate a Route Timer, not to exceed one second.[74] As proposed, the Route Timer will operate as a pause before an order is routed to an away market. The Exchange states that the Route Timer is intended to give participants an opportunity to respond to an Imbalance Message before any opening interest is routed to away markets and thereby maximize trading on the Exchange.[75] If during the Route Timer, interest is received by the system which would allow the Opening Price to be within the OQR without trading through away markets and without trading through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price, the system will open with trades at the Opening Price, and the Route Timer will simultaneously end. The system will monitor quotes received during the Route Timer and make ongoing changes to the OQR and Potential Opening Price to reflect them.

Proposed Rule 701(j)(3)(iii) provides that, if no trade occurs pursuant to proposed ISE Gemini Rule 701(j)(3)(ii), when the Route Timer expires, if the Potential Opening Price is within the OQR (and would not trade through the limit price(s) of interest within the OQR that is unable to be fully executed at the Opening Price), the system will determine if the total number of contracts displayed at better prices than the Exchange's Potential Opening Price on away markets (''better priced away contracts'') would satisfy the number of marketable contracts available on the Exchange. The Exchange will then open the option series by routing and/or trading on the Exchange, pursuant to proposed Rule 701(j)(3)(iii) paragraphs (A) through (C).

Proposed Rule 701(j)(3)(iii)(A) provides if the total number of better priced away contracts would satisfy the number of marketable contracts available on the Exchange on either the buy or sell side, the system will route all marketable contracts on the Exchange to such better priced away markets as an Intermarket Sweep Order (''ISO'') designated as Immediate-or-Cancel (''IOC'') order(s) and determine an opening BBO that reflects the interest remaining on the Exchange. The system will price any contracts routed to away markets at the Exchange's Opening Price. The Exchange states that routing away at the Exchange's Opening Price is intended to achieve the best possible price available at the time the order is received by the away market.[76]

Proposed Rule 701(j)(3)(iii)(B) provides if the total number of better priced away contracts would not satisfy the number of marketable contracts on the Exchange, the system will determine how many contracts it has available at the Opening Price. If the total number of better priced away contracts plus the number of contracts available at the Exchange's Opening Price would satisfy the number of marketable contracts on the Exchange on either the buy or sell side, the system will contemporaneously route, based on price/time priority of routable interest, a number of contracts that will satisfy such away market interest, and trade available contracts on the Exchange at the Opening Price. The system will price any contracts routed to away markets at the better of the Opening Price or the order's limit price pursuant to proposed Rule 701(j)(vi)(C)(3)(ii). The Exchange states that this proposed rule is designed to maximize execution of interest on the Exchange or away markets.[77]

Proposed Rule 701(j)(3)(iii)(C) provides if the total number of better priced away contracts plus the number of contracts available at the Opening Price plus the contracts available at away markets at the Exchange's Opening Price would satisfy the number of marketable contracts on the Exchange, either the buy or sell side, the system will contemporaneously route, based on price/time priority, a number of contracts that will satisfy such away market interest (pricing any contracts routed to away markets at the better of the Opening Price or the order's limit price), trade available contracts on the Exchange at the Opening Price, and route a number of contracts that will satisfy interest at other markets at prices equal to the Opening Price. The Exchange states that routing at the better of the Opening Price or the order's limit price is intended to achieve the best possible price available at the time the order is received by the away market and that routing at the order's limit price ensures that the order's limit price is not violated.[78]

Proposed Rule 701(j)(4) provides that the system may send up to two additional Imbalance Messages[79] (which may occur while the Route Timer is operating) bounded by the OQR and reflecting away market interest in the volume. After the Route Timer has expired, the processes in proposed Rule 701(j)(3) will repeat (except no new Route Timer will be initiated).

7. Forced Opening

Proposed Rule 701(j)(5) describes the process that occurs if the steps described above have not resulted in an opening of the options series. After all additional Imbalance Messages have been broadcasted pursuant to proposed Rule 701(j)(4), the system will open the series by executing as many contracts as possible by: (i) Routing to away markets at prices better than the Opening Price for their disseminated size; (ii) trading available contracts on the Exchange at the Opening Price bounded by the OQR (without trading through the limit price(s) of interest within the OQR which is unable to be fully executed at the Opening Price); and (iii) routing contracts to away markets at prices equal to the Opening Price at their disseminated size. In forced opening, the system will price any contracts routed to away markets at the better of the Opening Price or the order's limit price. Any unexecuted contracts from the imbalance not traded or routed will be cancelled back to the entering participant if they remain unexecuted and priced through the Opening Price.

Proposed Rule 701(j)(6) provides the system will execute orders at the Opening Price that have contingencies (such as without limitation, All-or-None, and Reserve Orders) and non-routable orders such as ''Do-Not-Route'' or ''DNR'' Orders,[80] to the extent possible. The system will only route non-contingency Public Customer orders, except that the full volume of Public Customer Reserve Orders may route.

Proposed Rule 701(j)(6)(i) provides the system will cancel: (i) Any portion

[74] *See* proposed Rule 701(j)(3).

[75] *See* Notice, *supra* note 3, at 96068.

[76] *See* Notice, *supra* note 3, at 96068.

[77] *See id.*

[78] *See* Notice, *supra* note 3, at 96069.

[79] The Exchange notes that the first two Imbalance Messages always occur if there is interest which will route to an away market. *See* Notice, *supra* note 3, at 96069.

[80] *See* ISE Gemini Rule 715(m).

of a Do-Not-Route Order that would otherwise have to be routed to the exchange(s) disseminating the ABBO for an opening to occur, (ii) an All-or-None Order that is not executed during the opening and is priced through the Opening Price; and (iii) any order that is priced through the Opening Price. All other interest will remain in the system and be eligible for trading after opening. The Exchange states that it cancels these orders since it lacks enough liquidity to satisfy these orders on the opening.[81] In addition, the Exchange believes that participants would prefer to have these orders returned to them for further assessment rather than have them entered into the order book at a price which is more aggressive than the price at which the Exchange opened.[82]

8. Other Provisions

Proposed Rule 701(k) provides that during the opening of the option series, where there is an execution possible, the system will give priority first to Market Orders,[83] then to resting Limit Orders [84] and quotes. Additionally, the allocation provisions of ISE Gemini Rule 713 and the Supplementary Material to that rule apply with respect to other orders and quotes with the same price. Finally, proposed Rule 701(l) provides that upon the opening of the option series, regardless of an execution, the system will disseminate the price and size of the Exchange's best bid and offer.

9. Implementation

The Exchange states that it intends to begin implementation of the proposed rule change in first quarter of 2017.[85] The Exchange represents that migration of the Exchange system to Nasdaq INET technology will be on a symbol by symbol basis and that the Exchange will issue an alert to Members to provide notification of the symbols that will migrate and the relevant dates.[86]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[87] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[88] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Exchange proposes to delete in its entirety the current opening process and replace it with an opening rotation similar to the process in place on its affiliated exchange, Phlx. In making this change, the Exchange delineates, unlike in the current, more opaque rule, detailed steps of the opening process. By providing more clearly each sequence of the opening process, the Commission notes that the proposed rule helps market participants understand how the new opening rotation will operate. To that extent, the new opening process may promote transparency, reduce the potential for investor confusion, and assist market participants in deciding whether to participate in ISE Gemini's opening rotation. Further, if they do participate in the new opening process, the proposed rule may help provide market participants with the confidence and certainty as to how their orders or quotes will be processed.

Further, the Commission believes that the proposed rule change is designed to promote just and equitable principles of trade by seeking to ensure that option series open in a fair and orderly manner. For example, the Commission notes that the proposed rule change is designed to mitigate the effects of the underlying security's volatility as the overlying option series undergoes the opening rotation. Specifically, the proposed rule provides for a range of no less than 100 milliseconds and no more than 5 seconds in order to ensure that the Exchange has the ability to adjust the period for which the underlying must be open on the primary market before the opening process commences. Moreover, the Commission notes that the proposed rule provides an orderly process for handling eligible interests during the opening rotation, while seeking to avoid opening executions at suboptimal prices. For instance, the new process ensures that the Exchange will not open with the Exchange's BBO if there is a Zero Bid Market, no ABBO, and no Quality Opening Market. Likewise, the Exchange will not open an option series with a trade unless one following conditions is met: (1) The Potential Opening Price is at or within the Pre-Market BBO and the ABBO; (2) the Potential Opening Price is at or within the non-zero bid ABBO if the Pre-Market BBO is crossed; or (3) where there is no ABBO, the Potential Opening Price is at or within the Pre-Market BBO which is also a Quality Opening Market. Finally, while the new opening process attempts to maximize the number of contracts executed on the Exchange during such rotation, including by seeking additional liquidity, if necessary, the Commission notes that the new opening process, unlike the current process, takes into consideration away market interests and ensures that better away prices are not traded through. For these reasons, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[89] that the proposed rule change (SR–ISEGemini–2016–18), as modified by Amendment No. 1, be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[90]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03104 Filed 2–15–17; 8:45 am]

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[81] *See* Notice, *supra* note 3, at 96069.

[82] *See id.*

[83] *See* ISE Gemini Rule 715(a).

[84] *See* ISE Gemini Rule 715(b).

[85] *See* Notice, *supra* note 3, at 96063.

[86] *See id.* For a more detailed description of the proposed rule change, *see* Notice, *supra* note 3.

[87] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[88] 15 U.S.C. 78f(b)(5).

[89] 15 U.S.C. 78s(b)(2).

[90] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

[GarMark SBIC Fund, L.P. License No. 01/01–0427]

Notice Seeking Exemption Under Section 312 of the Small Business Investment Act, Conflicts of Interest

Notice is hereby given that GarMark SBIC Fund, L.P., One Landmark Square, Floor 6 Stamford, CT 06901, a Federal Licensee under the Small Business Investment Act of 1958, as amended (''the Act''), in connection with the financing of a small concerns, has sought an exemption under Section 312 of the Act and Section 107.730, Financings which Constitute Conflicts of Interest of the Small Business

Administration (''SBA'') Rules and Regulations (13 CFR 107.730). GarMark SBIC Fund, L.P., is proposing to provide financing to CAbi, LLC, 18915 South Laurel Park Road, Rancho Dominguez, California 90220. The financing will be used, in part, for working capital, to pay the seller, to pay off existing debt, and to pay fees and expenses.

The proposed transaction is brought within the purview of § 107.730 of the Regulations because CAbi, LLC. will be using financing proceeds from GarMark SBIC Fund, L.P., in part to discharge obligations to GarMark Partners II, L.P. which is an Associate of GarMark SBIC Fund, L.P., as defined at § 107.50 due to common management.

Therefore, the proposed transaction is considered self-deal pursuant to 13 CFR 107.730 and requires a regulatory exemption. Notice is hereby given that any interested person may submit written comments on the transaction within fifteen days of the date ofthis publication to Associate Administrator for Investment, U.S. Small Business Administration, 409 Third Street SW., Washington, DC 20416.

Dated: February 9, 2017.

Michele Schimpp,

Acting Associate Administrator for Investment and Innovation.

[FR Doc. 2017–03147 Filed 2–15–17; 8:45 am]

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DEPARTMENT OF STATE

[Public Notice 9891]

Notice of Determinations: Culturally Significant Objects Imported for Exhibition Determinations: ''Adios Utopia: Dreams and Deceptions in Cuban Art, 1959–2015'' Exhibition

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015), I hereby determine that the objects to be included in the exhibition ''Adios Utopia: Dreams and Deceptions in Cuban Art, 1959–2015,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Museum of Fine Arts, Houston, Houston, Texas, from on or about March 5, 2017, until on or about May 29, 2017, at the Walker Art Center, Minneapolis, Minnesota, from on or about November 12, 2017, until on or about March 25, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest. I have ordered that Public Notice of these Determinations be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the imported objects, contact the Office of Public Diplomacy and Public Affairs in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–03127 Filed 2–15–17; 8:45 am]

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