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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Access to Federal Employees Health Benefits (FEHB) for Employees of Certain Indian Tribal Employers

AGENCY: U.S. Office of Personnel Management.

ACTION: Final rule; delay of the effective date.

SUMMARY: This rule delays the effective date of the final rule titled, *Access to Federal Employees Health Benefits (FEHB) for Employees of Certain Indian Tribal Employers,* published in the **Federal Register** on December 28, 2016, to a date 60 days from January 20, 2017.

DATES: The effective date for the rule amending 5 CFR part 890 published at 81 FR 95397, December 28, 2016, is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Padma Shah, Policy Analysis Group by telephone (202) 606–0004.

SUPPLEMENTARY INFORMATION: On December 28, 2016, OPM published a rule, titled *Access to Federal Employees Health Benefits (FEHB) for Employees of Certain Indian Tribal Employers* (81 FR 95397), with an effective date of February 27, 2017. On January 20, 2017, the White House distributed a Memorandum for the Heads of Executive Departments and Agencies, titled *Regulatory Freeze Pending Review* (82 FR 8346, Jan. 24, 2017), from Reince Priebus, Assistant to the President and Chief of Staff. Pursuant to the memorandum, an agency was required to temporarily postpone, to a date 60 days from the date of the memorandum, the effective date of any rule, not excluded from the scope of the memorandum or otherwise excepted, that had been published in the **Federal Register** but had not yet taken effect. The rule referenced above, *Access to Federal Employees Health Benefits (FEHB) for Employees of Certain Indian Tribal Employers,* falls within the scope of the January 20, 2017, memorandum. As a result, the purpose of this rule is to perform the required action of postponing the effective date of this rule to March 21, 2017.

U.S. Office of Personnel Management.

Kathleen McGettigan,

Acting Director.

[FR Doc. 2017–03305 Filed 2–17–17; 8:45 am]

BILLING CODE 6325–39–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, and 285

[FNS 2011–0008]

RIN 0584–AD87

Supplemental Nutrition Assistance Program (SNAP): Eligibility, Certification, and Employment and Training Provisions of the Food, Conservation and Energy Act of 2008; Extension of Effective Dates and Comment Period

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule and interim final rule; delay of effective dates and extension of comment period.

SUMMARY: Consistent with the memorandum of January 20, 2017, to the heads of executive departments and agencies from the Assistant to the President and Chief of Staff entitled ''Regulatory Freeze Pending Review'', the Department of Agriculture's Food and Nutrition Service (FNS) is extending the effective dates and comment period for this rule, which was published January 6, 2017 and implements provisions of the Food, Conservation and Energy Act of 2008 (FCEA) affecting the eligibility, benefits, certification, and employment and training (E&T) requirements for applicant or participant households in the Supplemental Nutrition Assistance Program (SNAP).

DATES:

Effective dates: The effective date for the final rule published on January 6, 2017 (82 FR 2010) is delayed to May 8, 2017. The effective date for the amendments to 7 CFR 273.11(e) and 273.11(f), which were issued as an interim final rule, is delayed to June 5, 2017. The effective date for the amendments to 7 CFR 273.2(c)(1)(v) is delayed to March 9, 2018.

Comment date: FNS will consider comments from the public on the amendments to 7 CFR 273.11(e) and 273.11(f). Comments must be received at one of the addresses provided below. The comment date has been extended from March 7, 2017, to April 6, 2017.

ADDRESSES: FNS invites interested persons to submit comments on the interim rule provisions at 7 CFR 273.11(e) and 273.11(f). Comments may be submitted by one of the following methods:

- *Federal e-Rulemaking Portal:* Go to *http://www.regulations.gov.* Preferred method; follow the online instructions for submitting comments on docket FNS 2011–0008.
- *Fax:* Submit comments by facsimile transmission to: Sasha Gersten-Paal, Certification Policy Branch, Fax number 703–305–2486.
- *Mail:* Comments should be addressed to Sasha Gersten-Paal, Certification Policy Branch, 3101 Park Center Drive, Alexandria, VA 22302.
- *Hand Delivery or Courier:* Deliver comments to Sasha Gersten-Paal, Certification Policy Branch, 3101 Park Center Drive, Alexandria, VA 22302, Monday–Friday, 8:30 a.m.–5:00 p.m.

All comments submitted in response to the interim rule provision will be included in the record and will be made available to the public. Please be advised that the substance of the comments and the identity of the individuals or entities submitting the comments will be subject to public disclosure. FNS will make the comments publicly available on the Internet via *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service (FNS), 3101 Park Center Drive, Room 810, Alexandria, Virginia, 22302, (703) 305–2507, *sasha.gersten-paal@fns.usda.gov.*

SUPPLEMENTARY INFORMATION: Consistent with the memorandum of January 20, 2017, to the heads of executive departments and agencies from the

Assistant to the President and Chief of Staff entitle ''regulatory Freeze Pending Review'', FNS is delaying the effective dates by 60 days and extending the comment period by 30 days for this rule as noted under the **DATES** section to ensure that the public has sufficient time to review and comment on the rule.

The January 6, 2017 rule amends the SNAP regulations to: Exclude military combat pay from the income of SNAP households; raise the minimum standard deduction and the minimum benefit for small households; eliminate the cap on the deduction for dependent care expenses; index resource limits to inflation; exclude retirement and education accounts from countable resources; clarify reporting requirements under simplified reporting; permit States to provide transitional benefits to households leaving State-funded cash assistance programs; allow States to establish telephonic and gestured signature systems; permit States to use E&T funds to provide job retention services; and update requirements regarding the E&T funding cycle. These provisions are intended to more accurately reflect needs, reduce barriers to participation, and improve efficiency in the administration of the program. This rule also replaces outdated language in SNAP certification regulations with the new program name and updates procedures for accessing SNAP benefits in drug and alcohol treatment centers and group living arrangements with use of electronic benefit transfer (EBT) cards. This rule provides States with regulatory options for conducting telephone interviews in lieu of face-to-face interviews and for averaging student work hours.

Finally, the Department issued a portion of the rule as an interim final rule (with a request for additional comment) that will require that drug and alcohol treatment and group living arrangements (GLA) centers to: Submit completed change report forms to the State agency when a resident leaves the center; notify the State agency within 5 days when the center is not able to provide the resident with their EBT card at departure; and return EBT cards to residents with pro-rated benefits based up on the date of their departure.

To the extent that 5 U.S.C. 553(b)(A) applies to this action, it is exempt from notice and comment rulemaking for good cause and for reasons cited above, FNS finds that notice and solicitation of comment regarding the brief extension of the effective dates and comment period are impracticable, unnecessary, or contrary to the public interest pursuant to 5 U.S.C. 553(b)(B). FNS believes that affected parties need to be informed as soon as possible of the extensions and their length.

Dated: February 8, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service.

[FR Doc. 2017–03337 Filed 2–17–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6426; Directorate Identifier 2016–NM–023–AD; Amendment 39–18791; AD 2017–02–12]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all The Boeing Company Model 737–300, –400, and –500 series airplanes. This AD was prompted by reports of intergranular cracks on the front spar chord lugs of the outboard horizontal stabilizer. This AD requires repetitive inspections of the front spar chord lugs and lug bores of the horizontal stabilizer, and repair if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 28, 2017.

ADDRESSES: For service information identified in this final rule, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; 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–2016–6426.

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–2016–6426; 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: Payman Soltani, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5313; fax: 562–627–5210; email: *Payman.Soltani@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to all The Boeing Company Model 737–300, –400, and –500 series airplanes. The NPRM published in the **Federal Register** on May 10, 2016 (81 FR 28774) (''the NPRM''). The NPRM was prompted by reports of intergranular cracks on the front spar chord lugs of the outboard horizontal stabilizer. The NPRM proposed to require repetitive inspections of the front spar chord lugs and lug bores of the horizontal stabilizer, and repair if necessary. We are issuing this AD to detect and correct cracking of the front spar chord lugs of the horizontal stabilizer. Such cracking could cause stabilizer instability, adversely affect controllability of the airplane, and adversely affect the structural integrity of the airplane.

Comments

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

Support for the NPRM

Boeing had no objection to the NPRM.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing Supplemental Type

Certificate (STC) ST01219SE does not affect the ability to accomplish the actions specified in the proposed AD.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as paragraph (c)(1) and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

Request To Revise Compliance Time

All Nippon Airways (ANA) requested that we revise paragraph (i) of the proposed AD to provide a grace period of 27 months after the effective date of the AD in which to accomplish the initial inspection on horizontal stabilizers, including replacement horizontal stabilizers. ANA stated that these revisions would reduce the burden on operators. ANA proposed new, complex language for paragraph (i) of the proposed AD that would incorporate their proposal.

We partially agree. We agree that the 27-month after the effective date of this AD grace period applies to replacement horizontal stabilizers. However, we do not agree to add a grace period of 27 months to paragraph (i) of this AD or to incorporate ANA's proposed language. We have revised paragraph (i) of this AD to clarify the provisions to address ANA's concern and to align more closely with the language used in similar ADs.

The compliance time in paragraph (g) of this AD applies to all horizontal stabilizers, including those installed after the effective date of this AD. Because the unsafe condition is related to corrosion, the compliance times in this AD are measured in months. Therefore, time accumulated on a horizontal stabilizer on and off an airplane applies to the initial compliance time and the repetitive inspection interval. A horizontal stabilizer that is off the airplane when the next inspection is due is not required to be inspected until it is ready to be installed on the airplane.

Conclusion

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

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Service Bulletin 737–55A1092, dated August 7, 2015. The service information describes procedures for inspections for corrosion and cracking of the front spar chord lugs of the horizontal stabilizer, and inspections for corrosion of the lug bores. 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 346 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections	14 work-hours × $85 per hour = $1,190 per inspection cycle.	$0	$1,190 per inspection cycle.	$411,740 per inspection cycle

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–02–12 The Boeing Company: Amendment 39–18791; Docket No. FAA–2016–6426; Directorate Identifier 2016–NM–023–AD.

(a) Effective Date

This AD is effective March 28, 2017.

(b) Affected ADs

None.

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–300, –400, and –500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*) does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by reports of intergranular cracks on the front spar chord lugs of the outboard horizontal stabilizer. We are issuing this AD to detect and correct cracking of the front spar chord lugs of the horizontal stabilizer. Such cracking could cause stabilizer instability, adversely affect controllability of the airplane, and adversely affect the structural integrity of the airplane.

(f) Compliance

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

(g) Repetitive Inspections and Repairs

Within 27 months after the effective date of this AD: Do the actions required by paragraphs (g)(1) and (g)(2) of this AD, and do all applicable repairs, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1092, dated August 7, 2015, except as required by paragraph (h) of this AD. Do all applicable repairs before further flight. Repeat the inspections specified in paragraphs (g)(1) and (g)(2) of this AD thereafter at the applicable intervals specified in paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–55A1092, dated August 7, 2015.

(1) Do a detailed inspection for corrosion and an ultrasonic inspection for cracking of the front spar chord lugs of the left and right horizontal stabilizers.

(2) Do a detailed inspection for corrosion of the lug bores of the front spar chord of the left and right horizontal stabilizers.

(h) Service Information Exception

Where Boeing Alert Service Bulletin 737–55A1092, dated August 7, 2015, specifies to contact Boeing for appropriate action, and specifies that action as ''RC'' (Required for Compliance): Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (j) of this AD.

(i) Parts Installation Limitation

As of the effective date of this AD: A horizontal stabilizer may be installed on any airplane, provided all applicable actions required by the introductory text of paragraph (g) and paragraphs (g)(1) and (g)(2) of this AD are done within the compliance times specified in the introductory text of paragraph (g) of this AD, and in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–55A1092, dated August 7, 2015, except as required by paragraph (h) of this AD.

(j) Alternative Methods of Compliance (AMOCs)

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

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, 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) Except as required by paragraph (h) of this AD: For service information that contains steps that are labeled as RC, the provisions of paragraphs (j)(4)(i) and (j)(4)(ii) of this AD apply.

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

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

(k) Related Information

For more information about this AD, contact Payman Soltani, Aerospace Engineer, Airframe Branch, ANM–120L, FAA, Los Angeles ACO, 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5313; fax: 562–627–5210; email: *Payman.Soltani@faa.gov.*

(l) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 737–55A1092, dated August 7, 2015.

(ii) Reserved.

(3) For Boeing service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, WA 98124–2207; telephone: 206–544–5000, extension 1; fax: 206–766–5680; Internet: *https://www.myboeingfleet.com.*

(4) You may view this service information at 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 17, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–01825 Filed 2–17–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9066; Directorate Identifier 2014–NM–113–AD; Amendment 39–18800; AD 2017–04–05]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2011–10–17 for all Airbus Model A300 and A310 series airplanes, and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model C4–605R Variant F

airplanes (collectively called A300–600 series airplanes). AD 2011–10–17 required revising the maintenance program by incorporating certain airworthiness limitation items (ALIs). This AD requires revising the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. This AD also removes Model A310 and A300–600 series airplanes from the applicability. This AD was prompted by a revision of certain ALI documents, which specify more restrictive instructions and/or airworthiness limitations. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 28, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain other publication listed in this AD as of June 17, 2011 (76 FR 27875, May 13, 2011).

ADDRESSES: For service information identified in this final rule, contact Airbus SAS, Airworthiness Office—EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.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–2016–9066.

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–2016–9066; 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 (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011) (''AD 2011–10–17''). AD 2011–10–17 applied to all Airbus Model A300 and A310 series airplanes, and Model A300 B4–600, B4–600R, and F4–600R series airplanes, and Model A300 C4–605R Variant F airplanes (collectively called Model A300–600 series airplanes). The NPRM published in the **Federal Register** on September 12, 2016 (81 FR 62679). The NPRM was prompted by a revision of certain ALI documents, which specify more restrictive instructions and/or airworthiness limitations. The NPRM proposed to require revising the maintenance or inspection program, as applicable, to incorporate new or revised structural inspection requirements. The NPRM also proposed to remove Model A310 and A300–600 series airplanes from the applicability. We are issuing this AD to detect and correct fatigue cracking, damage, and corrosion in certain structure; such fatigue cracking, damage, and corrosion could result in reduced structural integrity of the airplane.

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued Airworthiness Directive 2015–0115, dated June 23, 2015 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI'') to correct an unsafe condition. The MCAI states:

> The airworthiness limitations applicable to the Damage Tolerant Airworthiness Limitation Items (DT ALIs) are currently listed in the Airbus Airworthiness Limitations Sections [ALS] Part 2.
>
> Airbus recently revised the A300 ALS Part 2 and this Revision 02 was approved by EASA. Airbus A300 ALS Part 2 Revision 02 introduces more restrictive maintenance requirements and airworthiness limitations, which have been identified as mandatory actions for continued airworthiness.
>
> EASA issued AD 2014–0124 to require compliance with the maintenance requirements and associated airworthiness limitations defined in Airbus A300 ALS Part 2 Revision 01.
>
> For the reasons described above, this [EASA] AD retains the requirements of EASA AD 2014–0124 for A300 aeroplanes and requires implementation of new or more restrictive maintenance instructions and/or airworthiness limitations as specified in Airbus A300 ALS Part 2 Revision 02.
>
> The requirements for A310 and A300–600 aeroplanes remain unchanged and are covered by EASA AD 2014–0124R1 [FAA AD 2013–13–13, Amendment 39–17501 (79 FR 48957, August 19, 2014), contains the corresponding requirements for the Model A300–600 and A310 series airplanes].

The unsafe condition is fatigue cracking, damage, or corrosion in certain structure (principal structural elements), which could result in reduced structural integrity of the airplane. You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9066.

Comments

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

Request To Revise MCAI Reference

Airbus requested that we reference the correct MCAI in paragraph (k) of the proposed AD, which is EASA Airworthiness Directive 2015–0115, dated June 23, 2015.

We agree with the commenter's request. We have confirmed that EASA Airworthiness Directive 2015–0115, dated June 23, 2015, is the MCAI that should be referenced in this AD. We have revised this AD accordingly.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

Airbus has issued Airbus A300 Airworthiness Limitations Section, Part 2—Damage-Tolerant Airworthiness Limitation Items (DT ALIs), Revision 02, dated October 3, 2014. This service information describes airworthiness limitations applicable to the DT ALIs.

This service information is reasonably available because the interested parties have access to it through their normal

course of business or by the means identified in the **ADDRESSES** section.

Costs of Compliance

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

The actions required by AD 2011–10–17 and retained in this AD take about 1 work-hour per product, at an average labor rate of $85 per work-hour. Based on these figures, the estimated cost of the actions that were required by AD 2011–10–17 is $85 per product.

We also estimate that it would take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD on U.S. operators to be $935, or $85 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011), and adding the following new AD:

2017–04–05 Airbus: Amendment 39–18800; Docket No. FAA–2016–9066; Directorate Identifier 2014–NM–113–AD.

(a) Effective Date

This AD is effective March 28, 2017.

(b) Affected ADs

This AD replaces AD 2011–10–17, Amendment 39–16698 (76 FR 27875, May 13, 2011) (''AD 2011–10–17'').

(c) Applicability

This AD applies to all Airbus Model A300 B2–1A, B2–1C, B4–2C, B2K–3C, B4–103, B2–203, and B4–203 airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Codes 52, Doors; 53, Fuselage; 54, Nacelles/pylons; 55, Stabilizers; and 57, Wings.

(e) Reason

This AD was prompted by a revision of certain airworthiness limitations item (ALI) documents, which specify more restrictive instructions and/or airworthiness limitations. We are issuing this AD to detect and correct fatigue cracking, damage, and corrosion in certain structure; such fatigue cracking, damage, and corrosion could result in reduced structural integrity of the airplane.

(f) Compliance

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

(g) Retained Revision of the Maintenance Program, With Changes

This paragraph restates the requirements of paragraph (s) of AD 2011–10–17, with changes. Within 3 months after June 17, 2011 (the effective date of AD 2011–10–17): Revise the maintenance program to incorporate the structural inspections and inspection intervals defined in the Airbus A300 ALI Document AI/SE–M2/95A.1308/07, Issue 4, dated June 2008. Thereafter, except as required by paragraph (h) of this AD and except as provided by paragraph (j)(1) of this AD, no alternative structural inspections or inspection intervals may be approved. The initial ALI tasks must be done at the times specified in Airbus A300 ALI Document AI/SE–M2/95A.1308/07, Issue 4, dated June 2008.

(h) New Requirement of This AD: Maintenance or Inspection Program Revision

Within 3 months the effective date of this AD: Revise the maintenance program or inspection program, as applicable, to incorporate the structural inspections and inspection intervals defined in Airbus A300 Airworthiness Limitations Section (ALS), Part 2—Damage-Tolerant Airworthiness Limitation Items, Revision 02, dated October 3, 2014. The initial compliance times for the ALI tasks identified in Airbus A300 ALS, Part 2—Damage-Tolerant Airworthiness Limitation Items, Revision 02, dated October 3, 2014, are at the applicable times specified in Airbus A300 ALS, Part 2—Damage-Tolerant Airworthiness Limitation Items, Revision 02, dated October 3, 2014, or within 3 months after the effective date of this AD, whichever occurs later. Accomplishing the applicable initial ALI tasks constitutes terminating action for the requirements of paragraphs (g) of this AD for that airplane only.

(i) No Alternative Actions or Intervals

After the maintenance or inspection program has been revised as required by paragraph (h) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j)(1) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–2125; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.*

(i) 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. The AMOC

approval letter must specifically reference this AD.

(ii) AMOCs approved previously for AD 2011–10–17 are approved as AMOCs for the corresponding provisions of this AD.

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

(k) Related Information

Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2015–0115, dated June 23, 2015, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9066.

(l) Material Incorporated by Reference

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

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

(3) The following service information was approved for IBR on March 28, 2017.

(i) Airbus A300 Airworthiness Limitations Section, Part 2—Damage-Tolerant Airworthiness Limitation Items, Revision 02, dated October 3, 2014.

(ii) Reserved.

(4) The following service information was approved for IBR on June 17, 2011 (76 FR 27875, May 13, 2011).

(i) Airbus A300 Airworthiness Limitations Inspections Document AI/SE–M2/95A.1308/07, Issue 4, dated June 2008.

(ii) Reserved.

(5) For service information identified in this AD, contact Airbus SAS, Airworthiness Office– EAW, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.*

(6) 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.

(7) 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 24, 2017.

Dionne Palermo,

Acting Manager,

Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–03021 Filed 2–17–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9111; Directorate Identifier 2016–NM–132–AD; Amendment 39–18802; AD 2017–04–07]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757 airplanes. This AD was prompted by reports of single and multiple uncommanded spoiler panel extensions during flight when there was a hydraulic system failure. This AD requires replacing certain spoiler power control units (PCUs) with new or changed PCUs. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 28, 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–2016–9111.

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–2016–9111; 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: Myra Kuck, Aerospace Engineer, Cabin Safety/Mechanical & Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, CA 90712–4137; phone: 562–627–5316; fax: 562–627–5210; email: *myra.j.kuck@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757 airplanes. The NPRM published in the **Federal Register** on September 22, 2016 (81 FR 65307) (''the NPRM''). The NPRM was prompted by reports of single and multiple uncommanded spoiler panel extensions during flight. The condition known as ''spoiler panel float'' occurred when there was a hydraulic system pressure loss. When the flaps were extended beyond 20 degrees the spoiler panel float became severe enough to adversely impact airplane control. The NPRM proposed to require replacing certain spoiler PCUs with new or changed PCUs. We are issuing this AD to prevent an uncommanded extension of multiple spoiler panels on one wing, in the event of a hydraulic system failure, which could result in the loss of control of the airplane.

Comments

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

Support for the NPRM

United Airlines expressed support for the NPRM.

Request To Revise Applicability

MOOG Commercial Aircraft Group (MOOG) requested that we revise the applicability to include Boeing Model

757–200SF airplanes. MOOG stated that these airplanes are operated by some cargo operators.

We do not agree with MOOG's request. The designation ''Model 757–200SF'' is used for marketing purposes, but is not included on the Model 757 type certificate data sheet. Therefore, we have not included this reference in the applicability of this AD. We have not revised this AD in this regard.

Request To Revise Compliance Time

The Air Line Pilots Association, International (ALPA) requested that we revise the compliance time from 51 months to 36 months.

We do not agree with ALPA's request. ALPA did not submit any supporting data to justify its request. We have determined that the compliance time of 51 months is appropriate based upon failure probabilities, risk assessments, replacement rates, and part availability. We have not revised this AD in this regard.

Request To Revise Unsafe Condition Statement and Paragraph (e) of the Proposed AD

Boeing requested that we revise the NPRM to clarify the unsafe condition. The NPRM stated that the AD would prevent an ''uncommanded extension of spoiler panels.'' Boeing stated that an ''uncommanded extension of multiple spoiler panels on one wing'' more accurately describes the unsafe condition. Boeing explained that there is sufficient lateral control authority available to overcome an uncommanded extension of a single spoiler panel on one wing, or coincident uncommanded extension of a spoiler panel on each wing.

We agree with Boeing's request and rationale. We have revised the Discussion section of this final rule and paragraph (e) of this AD accordingly.

MOOG requested that we revise paragraph (e) of the proposed AD to emphasize the need to accomplish the service information in order to prevent the unsafe condition.

We find that clarification is necessary. As stated in paragraph (g) of this AD, the spoiler PCUs must be replaced in accordance with the specified service information to address the unsafe condition. Service information that is incorporated by reference in an AD becomes part of the AD, and the applicable requirements must be accomplished as stated in the AD. Paragraph (e) of this AD is intended to specify the unsafe condition; details about accomplishing the service information are not included in this paragraph. We have not revised this AD in this regard.

Request To Add Detail to the SUMMARY Section

MOOG requested that to add clarity, we revise the **SUMMARY** section by adding most of the details found in Boeing's request (See ''Request to Clarify Spoiler Panel Float'' of this final rule.).

We agree that the additional details in Boeing's comment provide a better understanding of the unsafe condition. We have added that information to the Discussion section, as discussed in our response to Boeing's comment. We have not added this information to the **SUMMARY** section of this final rule since it is not the appropriate location for such details.

Request To Clarify Spoiler Panel Float

Boeing requested that we revise the Discussion section of the NPRM to clarify that ''spoiler panel float'' occurred when there was a hydraulic system pressure loss, and that when the flaps were extended beyond 20 degrees, the spoiler panel float became severe enough to adversely impact airplane control. Boeing explained that spoiler float will occur at all flap detents in the presence of a failed hydraulic system and a compromised spoiler actuator. Boeing explained that the magnitude of the spoiler float angle at the flap detents of 20 degrees and below is relatively modest and results in a rolling moment that is well within the airplane's capabilities to offset. Boeing stated that when a flap detent greater than 20 degrees is selected, the magnitude of the spoiler float angle increases dramatically, and the float angle becomes large enough to reduce the margin of airplane control authority.

We agree with Boeing's request because it provides additional details that clarify the unsafe condition. We have revised this final rule accordingly.

Request for Warranty Coverage

Thomson Airways stated that MOOG should be providing full industry support and warranty to correct its design fault. Thomson Airways stated that this spoiler PCU upgrade is increasing the ownership costs on an already aging fleet through poor design on behalf of MOOG.

The FAA does not control warranty coverage. Manufacturers are responsible to determine appropriate industry warranty coverage. Therefore, we have not revised this AD in this regard.

Request for Clarification of Parts Installation

FedEx Express (FedEx) requested that we clarify whether a pre-service-bulletin part may be installed in positions 2, 4, 9, 10, and 11 after the effective date of the AD, but before the 51-month compliance date, provided the pre-service-bulletin part is removed and replaced with a post-service bulletin part before the 51-month compliance time.

We agree that it is necessary to provide clarification. An operator may install a pre-service-bulletin part before the 51-month compliance time specified in this AD. As stated in paragraph (g) of this AD, the spoiler PCUs must be replaced at the specified positions with a new or changed PCU within 51 months after the effective date of this AD. However, after an operator complies with paragraph (g) of this AD, only new or changed PCUs may be installed (even if compliance is accomplished before the 51-month compliance time) at the locations identified in paragraph (g) of this AD. No change to this AD is needed in this regard.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing (APB) stated that the installation of winglets per Supplemental Type Certificate (STC) ST01518SE does not affect the accomplishment of the manufacturer's service instructions.

We agree with APB that STC ST01518SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST01518SE does not affect the ability to accomplish the actions required by 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 Boeing Alert Service Bulletin 757–27A0154, dated July 22, 2016. The service information describes procedures for replacing certain spoiler PCUs with new or changed PCUs. 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 573 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
Replacement of six PCUs	8 work-hours × $85 per hour = $680	$32,652	$33,332	$19,099,236

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–04–07 The Boeing Company: Amendment 39–18802; Docket No. FAA–2016–9111; Directorate Identifier 2016–NM–132–AD.

(a) Effective Date

This AD is effective March 28, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200, –200PF, –200CB, and –300 series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 757–27A0154, dated July 22, 2016.

(d) Subject

Air Transport Association (ATA) of America Code 27; Flight controls.

(e) Unsafe Condition

This AD was prompted by reports of single and multiple uncommanded spoiler panel extensions during flight when there was a hydraulic system failure. We are issuing this AD to prevent an uncommanded extension of multiple spoiler panels on one wing, in the event of a hydraulic system failure, which could result in the loss of control of the airplane.

(f) Compliance

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

(g) Replacement

Within 51 months after the effective date of this AD: Replace each spoiler power control unit (PCU) with a new or changed PCU at spoiler positions 2, 3, and 4 on the left wing, and spoiler positions 9, 10, and 11 on the right wing, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 757–27A0154, dated July 22, 2016.

(h) 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 (i) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

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

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

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

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

still be done as specified, and the airplane can be put back in an airworthy condition.

(i) Related Information

For more information about this AD, contact Myra Kuck, Aerospace Engineer, Cabin Safety/Mechanical & Environmental Systems branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office (ACO), 3960 Paramount Boulevard, Lakewood, California 90712–4137; phone: 562–627–5316; fax: 562–627–5210; email: *myra.j.kuck@faa.gov.*

(j) Material Incorporated by Reference

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

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

(i) Boeing Alert Service Bulletin 757–27A0154, dated July 22, 2016.

(ii) Reserved.

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

(4) You may view this 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.

(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 23, 2017.

Dionne Palermo,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–03030 Filed 2–17–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–6664; Directorate Identifier 2015–NM–177–AD; Amendment 39–18795; AD 2017–03–04]

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) 2012–16–07 for certain The Boeing Company Model 737–500 series airplanes. AD 2012–16–07 required inspections of the fuselage skin at the chem-milled steps, and repair if necessary. This new AD adds new inspections, permanent repairs of time-limited repairs, related investigative and corrective actions if necessary, and skin panel replacement. This AD was prompted by evaluation by the design approval holder (DAH) that indicates that the fuselage skin is subject to widespread fatigue damage (WFD), and reports of cracking in certain areas of the fuselage skin. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 28, 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–2016–6664.

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–2016–6664; 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 2012–16–07, Amendment 39–17154 (77 FR 48423, August 14, 2012) (''AD 2012–16–07''). AD 2012–16–07 applied to certain The Boeing Company Model 737–500 series airplanes. The NPRM published in the **Federal Register** on May 13, 2016 (81 FR 29813) (''the NPRM''). The NPRM was prompted by evaluation by the DAH that indicates 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 continue to require inspections of the fuselage skin at the chem-milled steps, and repair if necessary. The NPRM also proposed to add 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. We are issuing this AD to detect and correct cracking on the aft lower lobe fuselage skins, which could result in 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 Remove Time-Limited Repair Exception From Paragraph (g) of the Proposed AD

Boeing requested that we remove the paragraph (h)(5) exception specified in paragraph (g) of the proposed AD. Boeing stated that paragraph (h)(5) of the proposed AD refers to structure with time-limited repairs and is not applicable to paragraph (g) of the proposed AD, which deals with actions on unrepaired structure.

We agree with Boeing's request to remove the paragraph (h)(5) reference in paragraph (g) of this AD for the reason provided by Boeing. We have revised paragraph (g) of this AD accordingly.

Request To Revise Proposed Compliance Time and Method of Compliance

Boeing requested that we revise paragraphs (h)(4), (k)(1), and (k)(2) of the proposed AD to specify that the skin

panel replacement condition is ''before'' 53,000 total flight cycles, not ''at or before'' 53,000 total flight cycles; ''and at or after'' 53,000 total flight cycles, not ''before'' for the terminating action in paragraph (k) of the proposed AD. Boeing explained if a skin panel is replaced at 53,000 total flight cycles, no additional safety inspections would be needed due to the limit of validity (LOV).

Boeing also requested that we revise the compliance time for skin panel replacement in paragraph (h)(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 asserted that a reset of the compliance times is necessary if the panel is replaced before 53,000 total flight cycles. Since a Boeing authorized representative may not approve extensions of compliance times, Boeing pointed out that the AMOC approval for a reset of the compliance times from total flight cycles to flight cycles from when the panel is replaced would have to come from the FAA.

We partially agree with Boeing's requests. We agree to revise the compliance time condition to ''before 53,000 total flight cycles'' in paragraphs (h)(4), (k)(1), and (k)(2) of this AD; and to ''at or after 53,000 total flight cycles'' in paragraph (k) of this AD for the terminating action to address Boeing's LOV concerns.

We also acknowledge the request to change the compliance time in paragraph (h)(4) of this AD from the applicable time for the next inspection as specified in the service information to a time approved by the FAA. However, we have determined that a change to this AD is not necessary. Operators may always request approval for alternative compliance times using a method approved in accordance with the procedures specified in paragraph (m) of this AD. The compliance time in paragraph (h)(4) of this AD is an appropriate compliance time and provides an acceptable level of safety. It should also provide operators with sufficient information for maintenance planning purposes and allow the inspections to be done during scheduled maintenance intervals for most affected operators.

Request To Provide Specific Service Information References

Boeing requested that we revise paragraphs (i)(1) and (i)(2) of the proposed AD to provide reference to the specific part of the service information. Boeing stated that paragraph (g) of the proposed AD includes specific service information part references, so this change would make paragraph (i) consistent with the formatting of paragraph (g) of the proposed AD.

We do not agree with Boeing's requests. Paragraph (g) 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 (j) of the proposed AD to specify that table 3 of paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–53–1315, Revision 1, dated June 30, 2015 (''SASB 737–53–1315 R1''), 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 (j) of this AD to clarify that the post-modification inspections are airworthiness limitations that are required by maintenance and operational rules; therefore, these inspections are not required by this AD.

Request To Revise Corrective Actions in Paragraph (k) of the Proposed AD

Boeing requested that we revise paragraph (k) of the proposed AD, which specifies replacing the applicable skin panels and doing all applicable related investigative and corrective actions. Boeing requested that we remove the phrases ''do all applicable related investigative and corrective actions,'' in accordance with the Accomplishment Instructions of SASB 737–53–1315 R1 and ''do all applicable related investigative and corrective actions before further flight.'' Boeing suggested replacing these phrases with in accordance with ''Part 2: Skin Panel Replacement of the Accomplishment Instructions of Boeing Special Attention Service Bulletin 737–53–1315, Revision 1, dated June 30, 2015,'' to be similar to the wording in other NPRMs.

We disagree with the request to refer to ''Part 2'' of SASB 737–53–1315 R1. We do not agree that the reference is needed for clarity. We also do not agree with removing the phrase ''all applicable related investigative and corrective actions'' because that phrase indicates there are on-condition actions. The skin panel replacement includes a conditional action that specifies reinstalling a certain lap joint modification. The sentence ''do all applicable related investigative and corrective actions before further flight'' is included to reinforce the compliance time for the on-condition actions. We have not changed this AD in regard to these requests.

Request To Revise the NPRM To Address Certain Repaired Areas

For airplanes subject to the requirements of paragraph (g) 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 (g) of this AD specifies to do the applicable inspections and related investigative and corrective actions specified in the Accomplishment Instructions of SASB 737–53–1315 R1. This service information already contains the criteria Boeing proposed. Therefore, this criteria does not need to be repeated in this AD. We have not changed this AD in this regard.

Effect of Winglets on Accomplishment of the Proposed Actions

Aviation Partners Boeing stated that accomplishing the Supplemental Type Certificate (STC) ST01219SE does not affect the actions specified in the NPRM.

We concur with the commenter. We have redesignated paragraph (c) of the proposed AD as (c)(1) and added paragraph (c)(2) to this AD to state that installation of STC ST01219SE does not affect the ability to accomplish the actions required by this final rule. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

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 737–53–1315 R1. The service information describes procedures for inspection and repair of the fuselage skin panels between station 727 and station 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 33 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspections (actions retained from AD 2012–16-07).	23 work-hours × $85 per hour = $1,955 per inspection cycle.	$0	$1,955 per inspection cycle.	$64,515 per inspection cycle.
Inspections (new action)	Up to 1,515 work-hours × $85 per hour = $128,775 per inspection cycle.	0	Up to $128,775 per inspection cycle.	Up to $4,249,575 per inspection cycle.
Skin panel replacement (new action)	688 work-hours × $85 per hour = $58,480.	96,000	$154,480	$5,097,840.

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

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Time-limited repair	24 work-hours × $85 per hour = $2,040.	(1)	$2,040.
Permanent repair	31 work-hours × $85 per hour = $2,635.	(1)	2,635.
Permanent repair inspection	4 work-hours × $85 per hour = $340 per inspection cycle	(1)	340 per inspection cycle.

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

Authority for This Rulemaking

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

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

Regulatory Findings

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) 2012–16–07, Amendment 39–17154 (77 FR 48423, August 14, 2012), and adding the following new AD:

2017–03–04 The Boeing Company: Amendment 39–18795; Docket No. FAA–2016–6664; Directorate Identifier 2015–NM–177–AD.

(a) Effective Date

This AD is effective March 28, 2017.

(b) Affected ADs

This AD replaces AD 2012–16–07, Amendment 39–17154 (77 FR 48423, August 14, 2012) (''AD 2012–16–07'').

(c) Applicability

(1) This AD applies to all The Boeing Company Model 737–500 series airplanes, certificated in any category.

(2) Installation of Supplemental Type Certificate (STC) ST01219SE (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/ebd1cec7b301293e86257cb30045557a/$FILE/ST01219SE.pdf*)

does not affect the ability to accomplish the actions required by this AD. Therefore, for airplanes on which STC ST01219SE is installed, a ''change in product'' alternative method of compliance (AMOC) approval request is not necessary to comply with the requirements of 14 CFR 39.17.

(d) Subject

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

(e) Unsafe Condition

This AD was prompted by an evaluation by the design approval holder (DAH) that indicates 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 detect and correct cracking on the aft lower lobe fuselage skins, which could result in rapid decompression of the airplane.

(f) Compliance

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

(g) Inspections, Related Investigative and Corrective Actions

At the applicable times specified in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Special Attention Service Bulletin 737–53–1315, Revision 1, dated June 30, 2015 (''SASB 737–53–1315 R1''), except as required by paragraphs (h)(1) and (h)(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 737–53–1315 R1, except as required by paragraphs (h)(3) and (h)(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 SASB 737–53–1315 R1. Accomplishment of a repair in accordance with ''Part 3: Repair'' of the Accomplishment Instructions of SASB 737–53–1315 R1, except as required by paragraph (h)(3) of this AD, is terminating action for the repetitive inspections required by this paragraph at the repaired locations only.

(h) Exceptions to SASB 737–53–1315 R1

(1) Where SASB 737–53–1315 R1, specifies compliance times ''after the Revision 1 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 table 1 of Paragraph 1.E., ''Compliance,'' of SASB 737–53–1315 R1, refers to airplanes in certain configurations as of the ''issue date of Revision 1 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 737–53–1315 R1, 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 (m) of this AD, except as required by paragraph (h)(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 53,000 total flight cycles: At the applicable time for the next inspection as specified in table 1 of paragraph 1.E., ''Compliance,'' SASB 737–53–1315 R1, except as provided by paragraphs (h)(1) and (h)(2) of this AD: Perform inspections and applicable corrective actions using a method approved in accordance with the procedures specified in paragraph (m) of this AD.

(5) The Condition column of table 2 of Paragraph 1.E., ''Compliance,'' of SASB 737–53–1315 R1, refers to airplanes in certain configurations as of the ''issue date of Revision 1 of this service bulletin.'' However, this AD applies to airplanes in the specified configurations regardless of when the time limited repair is installed.

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

For airplanes with a time limited repair installed as specified in Boeing Special Attention Service Bulletin 737–53–1315, dated July 29, 2011; or SASB 737–53–1315 R1: At the applicable times specified in table 2 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1315 R1, except as provided by paragraphs (h)(1) and (h)(5) of this AD, do the actions specified in paragraphs (i)(1) and (i)(2) of this AD.

(1) 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 737–53–1315 R1, except as required by paragraph (h)(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 SASB 737–53–1315 R1.

(2) Make the time limited repair permanent and do all applicable related investigative and corrective actions in accordance with the Accomplishment Instructions of SASB 737–53–1315 R1, except as required by paragraph (h)(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 (i)(1) of this AD for the permanently repaired area only.

(j) AD Provisions for Part 26 Supplemental Inspections

Table 3 of paragraph 1.E., ''Compliance,'' of SASB 737–53–1315 R1, 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.

(k) Skin Panel Replacement

At the later of the times specified in paragraphs (k)(1) and (k)(2) of this AD: Replace the applicable skin panels, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of SASB 737–53–1315 R1. Do all applicable related investigative and corrective actions before further flight. Doing the skin panel replacement required by this paragraph terminates the inspection requirements of paragraph (g) of this AD for that skin panel only, provided the skin panel replacement was done with a production skin panel at or after 53,000 total flight cycles.

(1) Before 60,000 total flight cycles, but not before 53,000 total flight cycles.

(2) Within 6,000 flight cycles after the effective date of this AD, but not before 53,000 total flight cycles.

(l) Credit for Previous Actions

This paragraph provides credit for the zone 1 actions required by paragraph (g) of this AD, as described in SASB 737–53–1315 R1, if the zone 1, 2, and 3 actions, as described in Boeing Special Attention Service Bulletin 737–53–1315, dated July 29, 2011, were performed before the effective date of this AD using Boeing Special Attention Service Bulletin 737–53–1315, dated July 29, 2011, except as required by paragraph (h)(4) of this AD. Boeing Special Attention Bulletin 737–53–1315, dated July 29, 2011, was incorporated by reference in AD 2012–16–07.

(m) 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 (n)(1) of this AD. Information may be emailed to: *9-ANM-LAACO-AMOC-Requests@faa.gov.*

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

(3) An AMOC that provides an acceptable level of safety may be used for any repair, modification, or alteration required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, 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 2012–16–07 are approved as AMOCs for the corresponding provisions of paragraph (g) of this AD.

(n) Related Information

(1) For more information about this AD, 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.*

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

(o) 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 737–53–1315, Revision 1, 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 31, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–02661 Filed 2–17–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9190; Directorate Identifier 2016–NM–087–AD; Amendment 39–18797; AD 2017–04–02]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

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

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2014–23–06 for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. AD 2014–23–06 required modifying the main landing gear (MLG) by installing a new bracket on the left and right lower aft-wing planks. This new AD requires modification of the MLG with an improved design. This AD was prompted by a report indicating that inboard and outboard hydraulic lines of the brakes were found connected to the incorrect ports on the swivel assembly of the MLG. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2017.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of March 28, 2017.

ADDRESSES: For service information identified in this final rule, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9190.

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–2016–9190; 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 (telephone 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Fabio Buttitta, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7303; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to supersede AD 2014–23–06, Amendment 39–18022 (79 FR 69037, November 20, 2014) (''AD 2014–23–06''). AD 2014–23–06 applied to certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The NPRM published in the **Federal Register** on October 24, 2016 (81 FR 73042). The NPRM was prompted by a report indicating that inboard and outboard hydraulic lines of the brakes were found connected to the incorrect ports on the swivel assembly of the MLG. The NPRM proposed to require modification of the MLG with an improved design. We are issuing this AD to prevent incorrect installation of the brake hydraulic lines, which could cause the brakes and the anti-skid system to operate incorrectly, and result in catastrophic failure of the airplane during a high-speed rejected takeoff.

Transport Canada Civil Aviation (TCCA), which is the aviation authority for Canada, has issued Canadian Airworthiness Directive CF–2014–10R1, dated May 4, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. The MCAI states:

> Cases of inboard and outboard hydraulic brake lines connected to the incorrect port of the swivel assembly on the main landing gear were found in service. Cross-connected brake hydraulic lines can cause the brakes and/or the anti-skid system to operate incorrectly. During a high speed rejected take-off, inability for the brakes to operate correctly could be catastrophic. The original issue of this [Canadian] AD mandated the modification to prevent inadvertent cross-connection of the inboard and outboard hydraulic brake lines.
>
> Following the initial release of this [Canadian] AD, operators reported that the modifications required by Bombardier Service Bulletin (SB) 601R–32–110 Rev. NC., dated 19 December 2013, still have a potential for incorrect connection. Subsequently, the SB has been revised to introduce a modified design and this [Canadian] AD revision is issued to mandate the incorporation of the modified design.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9190.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Bombardier Service Bulletin 601R–32–110, Revision C, dated May 4, 2016. The service information describes procedures for modifying the MLG by installing a block on the left and right lower aft-wing planks. 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 526 airplanes of U.S. registry.

We also estimate that it will take about 9 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $190 per product. Based on these figures, we estimate the cost of this AD on U.S. operators to be $502,330, or $955 per product.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

1. Is not a ''significant regulatory action'' under Executive Order 12866;
2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);
3. Will not affect intrastate aviation in Alaska; and
4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2014–23–06, Amendment 39–18022 (79 FR 69037, November 20, 2014), and adding the following new AD:

2017–04–02 Bombardier, Inc.: Amendment 39–18797; Docket No. FAA–2016–9190; Directorate Identifier 2016–NM–087–AD.

(a) Effective Date

This AD is effective March 28, 2017.

(b) Affected ADs

This AD replaces AD 2014–23–06, Amendment 39–18022 (79 FR 69037, November 20, 2014) (''AD 2014–23–06'').

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes, certificated in any category, serial numbers 7003 and subsequent.

(d) Subject

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

(e) Reason

This AD was prompted by a report indicating that inboard and outboard hydraulic lines of the brakes were found connected to the incorrect ports on the swivel assembly of the main landing gear (MLG). We are issuing this AD to prevent incorrect installation of the brake hydraulic lines, which could cause the brakes and the anti-skid system to operate incorrectly, and result in catastrophic failure during a high-speed rejected takeoff.

(f) Compliance

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

(g) Modification of the MLG

(1) For airplanes on which Bombardier Service Bulletin 601R–32–110, dated December 19, 2013, has been incorporated: Within 6,600 flight hours or 37 months after the effective date of this AD, whichever occurs first, modify the MLG, in accordance with Part B of the Accomplishment Instructions of Bombardier Service Bulletin 601R–32–110, Revision C, dated May 4, 2016.

(2) For airplanes on which Bombardier Service Bulletin 601R–32–110, dated December 19, 2013, has not been incorporated: Within 4,400 flight hours or 24 months after the effective date of this AD, whichever occurs first, modify the MLG, in accordance with Part A of the Accomplishment Instructions of Bombardier Service Bulletin 601R–32–110, Revision C, dated May 4, 2016.

(h) Credit for Previous Actions

(1) This paragraph provides credit for actions required by paragraph (g)(1) of this AD, if those actions were performed before the effective date of this AD using Part B of Bombardier Service Bulletin 601R–32–110, Revision A, dated October 29, 2015; or Revision B, dated January 26, 2016.

(2) This paragraph provides credit for actions required by paragraph (g)(2) of this AD, if those actions were performed before the effective date of this AD using Part A of Bombardier Service Bulletin 601R–32–110, Revision A, dated October 29, 2015; or Revision B, dated January 26, 2016.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the New York ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7300; fax

516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(2) *Contacting the Manufacturer:* As of the effective date of this AD, for any requirement in this AD to obtain corrective actions from a manufacturer, the action must be accomplished using a method approved by the Manager, New York ACO, ANE–170, FAA; or Transport Canada Civil Aviation (TCCA); or Bombardier, Inc.'s TCCA Design Approval Organization (DAO). If approved by the DAO, the approval must include the DAO-authorized signature.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2014–10R1, dated May 4, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9190.

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

(k) Material Incorporated by Reference

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

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

(i) Bombardier Service Bulletin 601R–32–110, Revision C, dated May 4, 2016.

(ii) Reserved.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* Internet *http://www.bombardier.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 February 1, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–03020 Filed 2–17–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9191; Directorate Identifier 2016–NM–106–AD; Amendment 39–18796; AD 2017–04–01]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Aerospace Corporation Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Gulfstream Aerospace Corporation Model GVI airplanes. This AD was prompted by a report indicating that there are design deficiencies in the software used for monitoring the disconnect for the flight control computer (FCC)-hosted flight controls actuation main ram linear variable differential transducer (LVDT). This AD requires an update of the FCC software. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective March 28, 2017.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of March 28, 2017.

ADDRESSES: For service information identified in this final rule, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone: 800–810–4853; fax: 912–965–3520; email: *pubs@gulfstream.com;* Internet: *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.* 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–2016–9191.

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–2016–9191; 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: Myles Jalalian, Aerospace Engineer, Systems and Equipment Branch, ACE–119A, FAA, Atlanta Aircraft Certification Office (ACO), 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5572; fax: 404–474–5606; email: *Myles.Jalalian@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain Gulfstream Aerospace Corporation Model GVI airplanes. The NPRM published in the **Federal Register** on November 15, 2016 (81 FR 80009). The NPRM was prompted by a report indicating that there are design deficiencies in the software used for monitoring the disconnect for the FCC-hosted flight controls actuation main ram LVDT. The NPRM proposed to require an update of the FCC software. We are issuing this AD to prevent undetected actuation of the main ram LVDT. Undetected actuation of the main ram LVDT, if not corrected, could result in mechanical failure of the flight control surface actuator mechanism under force fight (the actuator is working against the intended load forces), causing primary surface hardover, spoiler hardover, and loss of control of the airplane.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM or on the determination of the cost to the public.

Conclusion

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

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

Related Service Information Under 1 CFR Part 51

We reviewed Gulfstream G650 Aircraft Service Change Number 037, Revision A, dated June 28, 2016; and Gulfstream G650ER Aircraft Service Change Number 037, Revision A, dated June 28, 2016. The service information describes procedures for doing an update of the FCC software. This service information is distinct because it applies to different airplanes. 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 90 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
Software update	57 work-hours × $85 per hour = $4,845	$9,126	$13,971	$1,257,390

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–04–01 Gulfstream Aerospace Corporation: Amendment 39–18796; Docket No. FAA–2016–9191; Directorate Identifier 2016–NM–106–AD.

(a) Effective Date

This AD is effective March 28, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Gulfstream Aerospace Corporation Model GVI airplanes, certificated in any category, serial numbers 6001 through 6164 inclusive.

Note 1 to paragraph (c) of this AD: Model GVI airplanes are also referred to by marketing designations G650 and G650ER.

(d) Subject

Air Transport Association (ATA) of America Code 27; Flight controls.

(e) Unsafe Condition

This AD was prompted by a report indicating that there are design deficiencies in the software used for monitoring the disconnect for the flight control computer (FCC)-hosted flight controls actuation main ram linear variable differential transducer (LVDT). We are issuing this AD to prevent undetected actuation of the main ram LVDT. Undetected actuation of the main ram LVDT, if not corrected, could result in mechanical failure of the flight control surface actuator mechanism under force fight (the actuator is working against the intended load forces), causing primary surface hardover, spoiler hardover, and loss of control of the airplane.

(f) Compliance

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

(g) Software Update for FCC

Within 24 months after the effective date of this AD, do an FCC software update, in accordance with the Modification Instructions of Gulfstream G650 Aircraft Service Change 037, Revision A, dated June 28, 2016; or Gulfstream G650ER Aircraft Service Change 037, Revision A, dated June 28, 2016; as applicable.

(h) Reporting not Required

Although Gulfstream G650 Aircraft Service Change 037, Revision A, dated June 28, 2016; and Gulfstream G650ER Aircraft Service Change 037, Revision A, dated June 28, 2016; specify to submit certain information to the manufacturer, this AD does not require that action.

(i) Alternative Methods of Compliance (AMOCs)

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

(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

(j) Related Information

For more information about this AD, contact Myles Jalalian, Aerospace Engineer, Systems and Equipment Branch, ACE–119A, FAA, Atlanta ACO, 1701 Columbia Avenue, College Park, GA 30337; phone: 404–474–5572; fax: 404–474–5606; email: *Myles.Jalalian@faa.gov.*

(k) Material Incorporated by Reference

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

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

(i) Gulfstream G650 Aircraft Service Change 037, Revision A, dated June 28, 2016.

(ii) Gulfstream G650ER Aircraft Service Change 037, Revision A, dated June 28, 2016.

(3) For service information identified in this AD, contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, GA 31402–2206; telephone: 800–810–4853; fax: 912–965–3520; email: *pubs@gulfstream.com;* Internet: *http://www.gulfstream.com/product_support/technical_pubs/pubs/index.htm.*

(4) You may view this service information at 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 February 2, 2017.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–03026 Filed 2–17–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2016–1087]

Drawbridge Operation Regulation; Atlantic Intracoastal Waterway, Wrightsville Beach, NC

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the S.R. 74 Bridge across the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, NC. The deviation is necessary to accommodate the free movement of pedestrians and vehicles during the 8th Annual Wrightsville Beach Marathon. This deviation allows the bridge to remain in the closed-to-navigation position.

DATES: The deviation is effective from 5 a.m. to 11 a.m. on March 25, 2017.

ADDRESSES: The docket for this deviation, [USCG–2016–1087] is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH''. Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: The event director, Without Limits, with approval from the North Carolina Department of Transportation, who owns and operates the S.R. 74 Bridge across the Atlantic Intracoastal Waterway, mile 283.1, at Wrightsville Beach, NC, has requested a temporary deviation from the current operating regulations. This temporary deviation is necessary to accommodate the free movement of pedestrians and vehicles during the 8th Annual Wrightsville Beach Marathon. The bridge is a double bascule bridge and has a vertical clearance in the closed position of 20 feet above mean high water.

The current operating schedule is set out in 33 CFR 117.821(a)(4). Under this temporary deviation, the bridge will remain in the closed-to-navigation position from 5 a.m. to 11 a.m., on March 25, 2017. The Atlantic Intracoastal Waterway is used by a variety of vessels including recreational vessels, tug and barge traffic, fishing vessels, and small commercial vessels. The Coast Guard has carefully coordinated the restrictions with waterway users in publishing this temporary deviation.

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

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the effective period of this temporary deviation. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: February 14, 2017.

Hal R. Pitts,

Bridge Program Manager, Fifth Coast Guard District.

[FR Doc. 2017–03372 Filed 2–17–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0050]

RIN 1625–AA09

Drawbridge Operation Regulation; Sturgeon Bay, Sturgeon Bay, WI

AGENCY: Coast Guard, DHS.

ACTION: Interim rule with request for comments.

SUMMARY: The Coast Guard is modifying the operating regulation that governs the Bayview (State Route 42/57) Bridge, Mile 3.0, Maple-Oregon Bridge, Mile 4.17, and Michigan Street Bridge, Mile 4.3, all over Sturgeon Bay Ship Canal in Sturgeon Bay, WI, to allow testing of the remote operation equipment for all three drawbridges. The operating schedules are not changing. The three drawbridges will be remotely operated by a single tender throughout the 2017 navigation season with request for comments from all stakeholders on the safety and effectiveness of the remote operation arrangement.

DATES: This interim rule is effective from March 23, 2017 to midnight on March 15, 2018. Comments and related material must reach the Coast Guard on or before December 1, 2017.

ADDRESSES: You may submit comments or view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type [USCG–2017–0050] in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section

below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or email Mr. Lee Soule, Bridge Management Specialist, Ninth Coast Guard District; telephone 216–902–6085, or *Lee.D.Soule@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
SNPRM Supplemental notice of proposed rulemaking
Pub. L. Public Law
§ Section
U.S.C. United States Code
WI–DOT Wisconsin Department of Transportation

II. Background Information and Regulatory History

The Coast Guard is issuing this interim rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the operating schedules and methods to signal for openings of the three drawbridges across Sturgeon Bay Ship Canal under this regulation are not changing, and WI–DOT has been testing the remote operation equipment the past two navigation seasons without any reported negative impact to safety or navigation. Also, stakeholders and the general public will have the opportunity, and are encouraged, to submit comments throughout most of the interim rule period.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this interim rule under the authority of 33 U.S.C. 499. The operating schedules for the three drawbridges that cross Sturgeon Bay Ship Canal in Sturgeon Bay, WI are found under the existing regulation, 33 CFR 117.1101; Surgeon Bay. All three drawbridges are bascule-type bridges with unlimited vertical clearance in the open position. In the closed position, the three drawbridges provide the following clearances: Bayview Bridge 42-feet, Maple-Oregon Bridge 25-feet, and Michigan Street Bridge 14-feet. Under the current regulations, from March 15 thru November 30, the Bayview Bridge opens on signal for vessels 24 hours per day, 7 days per week. Between December 1 and March 14 the Bayview Bridge will open for vessels if at least 12-hours advance notice is provided. Between March 15 and December 31, the Maple-Oregon Bridge will open for recreational vessels on the quarter-hour and three-quarter hour, 24 hours per day, 7 days per week. Between March 15 and December 31 the Michigan Street Bridge will open for vessels on the hour and half-hour, 24 hours per day, 7 days per week. Between January 1 and March 14 both the Maple-Oregon and the Michigan Street Bridges will open for vessels if at least 12-hours advance notice is provided. All three drawbridges open at any time for commercial vessels. Due to the close proximity of the Maple-Oregon and the Michigan Street Bridges, both are required to open simultaneously if requested by a commercial vessel and both shall open on signal at any time if at least 10 vessels have accumulated at either bridge waiting for an opening or vessels are seeking shelter from severe weather.

WI–DOT, owner of all three drawbridges, has requested the Coast Guard authorize permanent remote operation of Bayview Bridge and Michigan Street Bridge, with operation from a single tender stationed at the middle bridge, Maple-Oregon Bridge, under the provisions of 33 CFR 117.42. This interim rule is intended to allow remote operation arrangement throughout the 2017 navigation season under testing conditions to fully evaluate any impacts at the conclusion of the test period. Authorizing temporary remote operation of the Sturgeon Bay drawbridges provides a good opportunity to evaluate the use of current technology to monitor and operate remote drawbridges. This is particularly true given the conditions on this waterway and the demonstrated record over time by the bridge owner, WI–DOT, to efficiently manage and operate their drawbridges within the Ninth Coast Guard District.

The Sturgeon Bay Ship Canal carries large (freighter) and smaller (tug/barge) commercial vessels, recreational vessels (including sailing vessels), vessels seeking emergency yard services, transient vessels, and vessels seeking shelter from severe weather. There are numerous commercial, recreational, and transient facilities along Sturgeon Bay Ship Canal, including a shipyard capable of servicing freighter size commercial vessels. Vessels may enter or exit the Ship Canal through east or west entrances, with some traffic passing through the entire waterway and requiring openings of all three drawbridges, and some traffic reaching facilities without requiring any drawbridge openings by entering the waterway from either the Lake Michigan or Green Bay sides.

Based on data provided by WI–DOT for the 2014 and 2015 navigation seasons, the following charts show the number of commercial and recreational vessel traffic openings for each bridge:

Bayview Bridge:

Year	Commercial vessels	Recreational vessels	Total openings
2014	179	466	579
2015	171	476	570

Maple-Oregon Bridge:

Year	Commercial vessels	Recreational vessels	Total openings
2014	470	1335	1351
2015	463	1449	1442

Michigan Street Bridge:

Year	Commercial vessels	Recreational vessels	Total openings
2014	1766	2897	2764
2015	2057	3922	3239

WI–DOT will gather additional throughout the 2017 navigation season and during this interim rule. WI–DOT will also collect additional data to evaluate the remote operation arrangement, including vehicular and pedestrian traffic totals. The operating schedules for all three drawbridges will not be changed.

IV. Discussion of the Rule

WI–DOT completed installation of remote operation equipment on all three drawbridges in 2014 and operated all three drawbridges via remote operation equipment from the middle bridge, Maple-Oregon, during the 2015 and 2016 navigation seasons. During this period WI–DOT identified improvements to equipment, best practices and protocols.

WI–DOT has proposed permanently operating the Bayview and Michigan Street Bridges with a single bridge tender operating remote equipment from the Maple-Oregon Bridge, which is located between the Bayview and Michigan Street Bridges. In order to fulfill the required methods to receive and respond to bridge opening requests from vessels, as outlined in Subpart A of 33 CFR 117, WI–DOT will employ the following equipment and protocols; separate programmable logic controllers (PLC) designed for each bridge on fiber optic connections, digital camera coverage (with ability to pan and provide overlap video coverage) of all approaches from land and water, thermal imaging during severe weather or restricted visibility, two-way audio capability, VHF–FM marine radiotelephone, landline telephone, horn, signal lights, back-up and redundant systems, exclusive duties of bridge tenders, and signage at the bridges advising mariners of communication and signaling methods. WI–DOT has developed protocols to suspend the remote operation arrangement and provide tenders at each drawbridge during emergencies or equipment failures and during busy holidays or weekends (Memorial Day, July Fourth, Labor Day). At the conclusion of the comment period of this interim rule period WI–DOT will provide a report documenting various data and observations, including; frequency of bridge openings, vehicular traffic counts, vessel traffic counts (and type), pedestrian counts, frequency of equipment failure and temporary suspension of remote operation, frequency of restricted visibility, best practices, lessons learned, and any other information useful for evaluating the remote operation arrangement. The Coast Guard and WI–DOT will evaluate the data and all comments provided by stakeholders and the general public and determine whether to extend the test period, modify the arrangement, or make the remote operation arrangement permanent in Sturgeon Bay.

The existing operating schedules of the drawbridges will not be changed during the interim rule period, and are not expected to be changed following the period.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget.

This regulatory action determination is based on the fact no changes to operating schedules are implemented with this action. The remote drawbridge operation is expected and designed to be transparent to vessels with no additional requirements or actions necessary to pass any of the three drawbridges.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This Interim Rule imposes no changes or additional requirements for any vessel operator or small entity to pass a drawbridge compared to current conditions.

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

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

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

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

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Commandant Instruction.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

VI. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *http://www.regulations.gov,* contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to *http://www.regulations.gov* and will include any personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this notice, and all public comments, are in our online docket at *http://www.regulations.gov* and can be viewed by following that Web site's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.1101, add introductory text to read as follows:

§ 117.1101 Sturgeon Bay.

The draws of the Bayview (State Route 42/57) and Michigan Street bridges, miles 3.0 and 4.3, respectively, at Sturgeon Bay, are remotely operated by the tender at Maple-Oregon bridge, mile 4.17, and shall open as follows:

* * * * *

Dated: February 3, 2017.

J.E. Ryan,

Rear Admiral, U.S. Coast Guard, Commander, Ninth Coast Guard District.

[FR Doc. 2017–03346 Filed 2–17–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 14

RIN 2900–AP51

Recognition of Tribal Organizations for Representation of VA Claimants; Delay of Effective Date

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' this action delays the effective date of the final rule (''Recognition of Tribal Organizations for Representation of VA Claimants'') published January 19, 2017, from February 21, 2017, until March 21, 2017.

DATES: The effective date of the rule that published on January 19, 2017, at 82 FR 6265, is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Brandon A. Jonas, Staff Attorney, Benefits Law Group, Office of the General Counsel, (022D), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 461–7699. (This is not a toll free number.)

SUPPLEMENTARY INFORMATION: On January 19, 2017, the Department of Veterans Affairs (VA) issued a final rule amending its regulations concerning recognition of certain national, State, and regional or local organizations for purposes of VA claims representation. Specifically, the rulemaking allows the Secretary to recognize tribal organizations in a similar manner as the Secretary recognizes State organizations. The final rule allows a tribal organization that is established and funded by one or more tribal governments to be recognized for the purpose of providing assistance on VA benefit claims. In addition, the rulemaking allows an employee of a tribal government to become accredited through a recognized State organization in a similar manner as a County

Veterans' Service Officer (CVSO) may become accredited through a recognized State organization. The rule was published with an effective date of February 21, 2017.

VA bases this action on the memorandum of January 20, 2017 (82 FR 8346), from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review'' (White House memorandum). That memorandum directed the heads of Executive Departments and Agencies to temporarily postpone for 60 days from the date of the memorandum the effective dates of all 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.'' VA, therefore, is revising the effective date of the rule that published on January 19, 2017 (82 FR 6265), to March 21, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, VA's implementation of this action without opportunity for public comment, effective immediately upon publication today in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and (d)(3). Seeking public comment is impracticable, unnecessary, and contrary to the public interest. The temporary delay in the effective date until March 21, 2017, is necessary to give VA officials the opportunity for further review and consideration of the new regulation, consistent with the White House memorandum. Given the imminence of the effective date, the brief length of the extension, and the public's full opportunity to comment prior to the publishing of the final rule, seeking public comment on this temporary delay would have been impracticable, as well as contrary to the public interest in the orderly promulgation and implementation of regulations. VA also believes that further delay, beyond what is required by the White House memorandum, would cause undue inconvenience to the affected entities.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017, for publication.

Approved: February 15, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–03328 Filed 2–17–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 17

RIN 2900–AP94

Fertility Counseling and Treatment for Certain Veterans and Spouses, Correction

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule; correcting amendment.

SUMMARY: The Department of Veterans Affairs published in the **Federal Register** on January 19, 2017, an interim final rulemaking adding a new section authorizing in vitro fertilization (IVF) for a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. In addition, we added a new section authorizing VA to provide fertility counseling and treatment using assisted reproductive technologies (ART), including IVF, to a spouse of a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. These sections contain an error regarding the expiration date VA's authority to provide health care services. This document corrects the errors and does not make any substantive change to the content of the interim final rule.

DATES: *Effective:* February 21, 2017.

FOR FURTHER INFORMATION CONTACT: Patricia M. Hayes, Ph.D. Chief Consultant, Women's Health Services, Patient Care Services, Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington, DC 20420. (202) 461–0373. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: VA published an interim final rule at 82 FR 6275 (January 19, 2017) that implemented section 260 of the Continuing Appropriations and Military Construction, Veterans Affairs, and Related Agencies Appropriations Act, 2017, and Zika Response and Preparedness Act (Pub. L. 114–223) as it pertains to fertility counseling and treatment for certain veterans and spouses. This law states that VA may use appropriated funds available to VA for the Medical Services account to provide fertility counseling and treatment using assisted reproductive technology (ART) to a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment, and to the spouse of such veteran. The ART treatments referred to in this law are those relating to reproductive assistance provided to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to title 10 of the United States Code (U.S.C.) section 1074(c)(4)(A), as described in a policy memorandum issued by the Assistant Secretary of Defense for Health Affairs on April 3, 2012, titled ''Policy for Assisted Reproductive Services for the Benefit of Seriously or Severely Ill/Injured (Category II or III) Active Duty Service Members,'' and the guidance issued to implement such policy, including any limitations on the amount of benefits available to each eligible member.

VA added new § 17.380 which states that IVF may be provided when clinically appropriate to a veteran who has a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment, as well as a spouse of such veteran. IVF services available to such veterans are the same as those provided by DoD to a member of the Armed Forces who incurs a serious injury or illness on active duty pursuant to 10 U.S.C. 1074(c)(4)(A), as described in DoD policy guidance, including any limitations on the amount of such benefits available to such a member. Fertility counseling and treatment other than IVF is available to veterans as part of the medical benefits package at § 17.38.

We also added new § 17.412 which states that VA may provide fertility counseling and treatment using ART to a spouse of a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment to the extent such services are available to enrolled veterans under the medical benefits package. It also states that VA may provide IVF to a spouse of a veteran with a service-connected disability that results in the inability of the veteran to procreate without the use of fertility treatment. Such health care services may be provided when clinically appropriate and consistent with the benefits relating to reproductive assistance provided to a member of the Armed Forces who incurs a serious injury or illness on

active duty as described in DoD policy guidance.

In paragraph (b) of both §§ 17.380 and 17.412 we incorrectly stated that authority to provide health care services under these sections expires on September 30, 2017, the end of fiscal year 2017. In this correction, we amend both paragraphs to reflect that authority to provide health care services under these sections expires on September 30, 2018.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017, for publication.

List of Subjects in 38 CFR Part 17

Administrative practice and procedure, Alcohol abuse, Alcoholism, Claims, Day care, Dental health, Drug abuse, Government contracts, Grant programs—health, Grant programs—veterans, Health care, Health facilities, Health professions, Health records, Homeless, Medical and Dental schools, Medical devices, Medical research, Mental health programs, Nursing homes, Reporting and recordkeeping requirements, Travel and transportation expenses, Veterans.

Dated: February 15, 2017.

Janet Coleman,

Chief, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set out in the preamble, VA is correcting 38 CFR part 17 by making the following correcting amendments:

PART 17—MEDICAL

■ 1. The authority citation for part 17 continues to read as follows:

Authority: 38 U.S.C. 501, and as noted in specific sections.

Section 17.38 is also issued under 38 U.S.C. 101, 501, 1701, 1705, 1710, 1710A, 1721, 1722, 1782, and 1786.

Sections 17.380 and 17.412 are also issued under sec. 260, Public Law 114–223, 130 Stat. 857.

Section 17.415 is also issued under 38 U.S.C. 7301, 7304, 7402, and 7403.

Sections 17.640 and 17.647 are also issued under sec. 4, Public Law 114–2, 129 Stat. 30.

Sections 17.641 through 17.646 are also issued under 38 U.S.C. 501(a) and sec. 4, Public Law 114–2, 129 Stat. 30.

§ 17.380 [Amended]

■ 2. In § 17.380 paragraph (b), remove ''2017'' and add in its place ''2018''.

§ 17.412 [Amended]

■ 3. In § 17.412 paragraph (b), remove ''2017'' and add in its place ''2018''.

[FR Doc. 2017–03319 Filed 2–17–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 36

RIN 2900–AP95

Veterans Benefits Administration; Loan Guaranty: Technical Corrections

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correcting amendment.

SUMMARY: On June 15, 2010, VA published a document in the **Federal Register** eliminating redundant provisions from its loan guaranty regulations following the implementation of a new electronic reporting system and redesignating the section numbers of these regulations. At that time, VA did not update cross-reference citations to conform to the redesignated sections. A subsequent notice updated some, but not all, cross-reference citations. VA is now updating the remaining non-substantive, cross-reference citations for clarity and accuracy.

DATES: This correction is effective on February 21, 2017.

FOR FURTHER INFORMATION CONTACT: Jeffrey F. London, Director, Loan Guaranty Service (26), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 632–8862. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On June 15, 2010, at 75 FR 33704, VA amended what had been the 36.4800 series of 38 CFR part 36 to eliminate redundant and obsolete regulations, found from 38 CFR 36.4800 through 36.4893, and redesignated those sections as CFR 36.4300 through 36.4393.

On October 22, 2010, at 75 FR 65238, VA amended the cross-references in the 36.4300 series to reflect the June 15, 2010, amendments. At that time, VA inadvertently failed to update a number of cross-references. Additionally, VA attempted to amend 38 CFR 36.4309(c)(1)(vii) to replace a reference to 36.4826 with a reference to 36.4326. However, VA erroneously cited paragraph (c)(1)(vi) as containing the reference to 36.4826. Consequently, the Electronic Code of Federal Regulations, published by the Government Printing Office, could not implement the change, noting an ''inaccurate amendatory instruction'' at the bottom of 38 CFR 36.4309.

With this notice, VA is amending §§ 36.4309, 36.4322, 36.4335, and 36.4378, to correct the outdated cross-references to the 36.4800 series regulations.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017, for publication.

List of Subjects in 38 CFR Part 36

Condominiums, Housing, Individuals with disabilities, Loan programs—housing and community development, Loan programs—veterans, Manufactured homes, Mortgage insurance, Reporting and recordkeeping requirements, Veterans.

Correction

For the reasons discussed in the preamble, VA is amending 38 CFR part 36 with the following correcting amendments:

PART 36—LOAN GUARANTY

■ 1. The authority citation for part 36 continues to read as follows:

Authority: 38 U.S.C. 501 and as otherwise noted.

§ 36.4309 [Amended]

■ 2. In § 36.4309, amend paragraph (c)(1)(vii) by removing ''36.4826'' and adding in its place ''36.4326''.

§ 36.4322 [Amended]

■ 3. In § 36.4322, amend paragraphs (b)(2) and (3) by removing ''38 CFR 36.4848'' and adding in its place ''38 CFR 36.4348''.

§ 36.4335 [Amended]

■ 4. Amend § 36.4335 by removing ''§§ 36.4800 to 36.4880'' and adding in its place ''§§ 36.4300 to 36.4380''.

■ 5. Revise the section heading for § 36.4378 to read as follows:

§ 36.4378 Debits and credits to insurance account under § 36.4320.

* * * * *

Approved: February 15, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–03329 Filed 2–17–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 74

RIN 2900–AP93

VA Veteran-Owned Small Business Verification Guidelines

AGENCY: Department of Veterans Affairs.

ACTION: Interim final rule.

SUMMARY: This document implements a portion of the Veterans Benefits, Health Care, and Information Technology Act of 2006, which requires the Department of Veterans Affairs (VA) to verify ownership and control of veteran-owned small businesses (VOSB), including service-disabled veteran-owned small businesses (SDVOSB) in order for these firms to participate in VA acquisitions set-aside for SDVOSB/VOSBs. This interim final rule contains a minor revision to require re-verification of SDVOSB/VOSB status only every three years rather than biennially. The purpose of this change is to reduce the administrative burden on SDVOSB/VOSBs regarding participation in VA acquisitions set asides for these types of firms.

DATES:

Effective Date: February 21, 2017.

Comment Date: Comments must be received on or before April 24, 2017.

ADDRESSES: Written comments may be submitted by: Mail or hand-delivery to Director, Regulations Management (00REG1), Department of Veterans Affairs, 810 Vermont Ave. NW., Room 1068, Washington, DC 20420; fax to (202) 273–9026; or email through *http://www.Regulations.gov*. Comments should indicate that they are submitted in response to ''RIN 2900–AP93—VA Veteran-Owned Small Business Verification Guidelines.'' All comments received will be available for public inspection in the Office of Regulation Policy and Management, Room 1063B, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays). Please call (202) 273–9515 for an appointment.

FOR FURTHER INFORMATION CONTACT: Thomas McGrath, Director, Center for Verification and Evaluation (00VE), Department of Veterans Affairs, 810 Vermont Ave. NW., Washington DC 20420, phone (202) 461–4300.

SUPPLEMENTARY INFORMATION: In a final rule published in the **Federal Register** on February 8, 2010, (73 FR 6098), VA established new 38 CFR part 74 setting forth a mechanism for verifying ownership and control of VOSBs, including SDVOSBs. At that time, with respect to 38 CFR 74.15, VA anticipated that annual examinations were necessary to ensure the integrity of the Verification Program. This was deemed consistent with the annual Federal size and status recertification requirement in the Central Contractor Registry. In June 2012, the period was extended to two years. Subsequently, VA has determined that a three-year eligibility period is warranted.

In administering this program since February 2010, VA has concluded that an annual examination is not necessary to adequately maintain the integrity of the program and proposes a 3-year eligibility period. This change is appropriate because VA conducts a robust examination of personal and company documentation to verify ownership and control by Veterans of applicant businesses. In addition to verifying individual owners' service-disabled veteran status or veteran status, in accordance with 38 CFR 74.20(b), VA reviews an applicant's financial statements; Federal personal and business tax returns; personal history statements; articles of incorporation/organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; State-issued certificates of good standing; contract, lease and loan agreements; payroll records; bank account signature cards; and licenses. Given the depth of this review, annual or biennial re-verification examinations have become an unnecessary administrative burden on both applicants/participants and VA.

Given this extensive initial examination, VA is confident that the integrity of the verification program will not be compromised by establishing a 3-year eligibility period. This is borne out by fiscal year 2016 data that shows that out of 1,109 reverification applications, only ten were denied. Therefore, only 0.9 percent of firms submitting reverification applications were found to be ineligible after two years. Other integrity aspects of the program remain adequate to oversee a 3-year eligibility period. Once verified, 38 CFR 74.15(a) mandates that the participant must maintain its eligibility during its tenure and, if ownership or control changes occur, must inform VA's Center for Verification and Evaluation (CVE) of any changes that would adversely affect its eligibility. Moreover, in accordance with 38 CFR part 74.20(a), VA has the right to conduct random, unannounced site examinations of participants or to conduct a further examination upon receipt of specific and credible information that a participant is no longer eligible. Lastly, in the course of specific SDVOSB/VOSB set-aside acquisitions, VA contracting officers and also competing SDVOSB/VOSBs have the right to raise a SDVOSB/VOSB status protest to VA's Office of Small and Disadvantaged Business Utilization (OSDBU) if either has a reasonable basis upon which to challenge the SDVOSB/VOSB status of a verified firm.

Establishment of a longer, 3-year eligibility period is consistent with other Federal set-aside programs. With respect to the Historically Underutilized Business Zone (HUBZone) small business certification program, U.S. Small Business Administration (SBA) regulations at 13 CFR 126.500 require that any qualified HUBZone small business concern seeking to remain on the HUBZone approved list must recertify every 3 years with SBA. With regard to SBA's Section 8(a) Business Development program, SBA authorizes a program term of up to 9 years in 13 CFR 124.2. For VA's SDVOSB/VOSB verification program, VA has now determined that a program term of 3 years is reasonable given the mandatory nature of VA's SDVOSB/VOSB set-aside authority in contrast to the discretionary nature of the HUBZone and Section 8(a) set-aside programs. In accordance with 38 U.S.C. 8127 and VA Acquisition Regulation, 48 CFR part 819, VA is required to set aside any open market procurement for SDVOSBs and then VOSBs, first and second respectively, if two or more such concerns are reasonably anticipated to submit offers at fair and reasonable pricing. Given the large volume of appropriated funds subject to these set-aside requirements, a 3-year eligibility period prior to re-examination is deemed reasonable to adequately balance the burden on SDVOSB/VOSBs and to protect the integrity of the program.

Administrative Procedure Act

The Secretary of Veterans Affairs finds good cause to issue this interim final rule prior to notice and comment procedures. The interim rule makes a minor modification to extend the eligibility period for SDVOSB/VOSBs after VA's initial robust verification examination and approval from 2 years to 3 years. The rule will reduce the

administrative burden on SDVOSB/VOSB participants by extending the re-verification submissions. The integrity of the program remains protected by the initial robust and detailed verification examination, the regulatory requirement of participants to report changes to ownership and control during their eligibility period, VA's authority to conduct random site examinations and to re-examine eligibility upon receipt of any reasonably credible information affecting SDVOSB/VOSB verified status, and, for individual acquisitions, the status protest process, where VA contracting officers or competing vendors can challenge the SDVOSB/VOSB status of offerors if a reasonable basis can be asserted to be decided by VA OSDBU on SDVOSB/VOSB set-aside acquisitions.

For these reasons, the Secretary of Veterans Affairs is issuing this as an interim final rule. In view of the detrimental effects of continuing an unnecessary administrative burden on program participants and verifying officials, and to avoid delays in verification caused by repetitive biennial reviews, the Secretary finds it is impracticable, unnecessary, and contrary to public interest to delay the effective date of this regulation for the purpose of soliciting advance public comment. The Secretary of Veterans Affairs will consider and address comments that are received within 60 days of the date this interim final rule is published in the **Federal Register**.

For these same reasons, and because this interim final rule relieves a restriction, the Secretary finds that this rule will be effective on the date of publication.

Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601–612, applies to this final rule. This interim final rule is generally neutral in its effect on small businesses because it relates only to small businesses applying for verified status in VA's SDVOSB/VOSB verified database. The overall impact of the rule will benefit small businesses owned by veterans or service-disabled veterans because it will reduce their administrative burden associated with maintaining verified status by extending the need for re-verification by VA from 2 years to 3 years. VA has estimated the cost to an individual business to be null. Increasing the verification period will decrease the frequency of any costs. On this basis, the Secretary certifies that the adoption of this interim final rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. Therefore, under 5 U.S.C. 605(b), this regulation is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

Executive Orders 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, and other advantages; distributive impacts; and equity). Executive Order 13563 (Improving Regulation and Regulatory Review) emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Executive Order 12866 (Regulatory Planning and Review) defines a ''significant regulatory action,'' which requires review by the Office of Management and Budget (OMB), as ''any regulatory action that is likely to result in a rule that may: (1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities; (2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency; (3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or (4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in this Executive Order.''

The economic, interagency, budgetary, legal, and policy implications of this regulatory action have been examined and it has been determined not to be a significant regulatory action under Executive Order 12866.

VA has already established the SDVOSB/VOSB verification program in regulation at 38 CFR part 74, and the minor change in this interim final rule will modify the term of eligibility after initial verification from 2 years to 3 years before re-verification would be required.

Unfunded Mandates

The Unfunded Mandates Reform Act of 1995 requires, at 2 U.S.C. 1532, that agencies prepare an assessment of anticipated costs and benefits before issuing any rule that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any given year. This interim final rule would have no such effect on State, local, and tribal governments, or on the private sector.

Paperwork Reduction Act

This document contains no provisions constituting a collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3521).

Catalog of Federal Domestic Assistance

This interim final rule affects the verification guidelines of veteran-owned small businesses, for which there is no Catalog of Federal Domestic Assistance program number.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on February 15, 2017 for publication.

List of Subjects in 38 CFR Part 74

Administrative practice and procedures, Privacy, Reporting and recordkeeping requirements, Small business, Veteran, Veteran-owned small business, Verification.

Approved: February 15, 2017.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

For the reasons set out in the preamble, VA amends 38 CFR part 74 as follows:

PART 74—VETERANS SMALL BUSINESS REGULATIONS

■ 1. The authority citation for part 74 continues to read as follows:

Authority: 38 U.S.C. 501, 513, and as noted in specific sections.

§ 74.15 [Amended]

■ 2. Section 74.15(a) is amended by removing ''2 years'' and adding, in its place, ''3 years''.

[FR Doc. 2017–03331 Filed 2–17–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[GN Docket No. 12–268; MB Docket No. 16–306; DA 17–154]

Incentive Auction Task Force and Media Bureau Finalize Catalog of Reimbursement Expenses

AGENCY: Federal Communications Commission.

ACTION: Final action; requirements and procedures.

SUMMARY: In this document the Incentive Auction Task Force and the Media Bureau of the Federal Communications Commission (Commission) adopts: Updates to the categories of eligible equipment and services, as well as updated baseline costs, in the catalog of eligible reimbursement expenses (Catalog); an economic methodology for adjusting the Catalog's baseline costs annually such that they remain accurate, by using the Bureau of Labor Statistics' Producer Price Index, WPUFD4 series; and revisions to the online Reimbursement Form to incorporate the updates to the Catalog, which will be embedded in the Reimbursement Form, as well as other features, including checkboxes for entities to indicate if they are seeking upgrades or partial payment requests, which are designed to make it more user-friendly.

DATES: February 21, 2017.

ADDRESSES: Copies of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Cathy Williams, Federal Communications Commission, 445 12th Street SW., Washington, DC 20554, or by email to *PRA@fcc.gov* and *Cathy.Williams@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Pamela Gallant, 202–418–0614, or Raphael Sznajder, 202–418–1648, of the Media Bureau, Video Division.

SUPPLEMENTARY INFORMATION: With the assistance of a third-party contractor, Widelity, Inc., and based on the record to date, the Media Bureau has developed, updated, and now adopted an updated catalog of eligible reimbursement expenses (Catalog) for reimbursement-eligible entities to use for reference during the post-incentive auction transition. The Catalog is not exhaustive, but rather a tool to facilitate the process for reimbursement-eligible entities to claim reimbursement on the Reimbursement Form. This Public Notice (available at: DA 17–154), adopts not only the proposed updated categories and prices for the reimbursement expenses listed, but also adopts an economic methodology to update the prices in the Catalog throughout the three-year reimbursement period so that they accurately reflect the current market for the equipment and services listed in the Catalog. The Catalog that the Incentive Auction Task Force and the Media Bureau adopt will be embedded in the on-line Reimbursement Form (FCC Form 2100, Schedule 399) which will be used by entities seeking reimbursement to file estimated costs and reimbursement claims for the costs they actually incur. The Reimbursement Form is a web-based electronic form containing previously approved information collections (under existing OMB control number 3060–1178). The Commission previously sought, and, on March 17, 2016, obtained OMB approval for the information collection requirements contained in the Reimbursement Form, which became effective on March 24, 2016, for a period of three years. (*See Expanding the Economic and Innovation Opportunities of Spectrum Through Incentive Auctions,* 81 FR 15649, Vol. 81, No. 57 (Mar. 24, 2016)). Because the Catalog will be embedded within the Reimbursement Form, available via the Commission's Licensing and Management System (LMS), we now resubmit the Reimbursement Form to the Office of Management and Budget (OMB) for approval under the Paperwork Reduction Act (PRA) of the incremental changes resulting from the Catalog's updates, as well as other minor modifications made to the Reimbursement Form that are designed to make it more user-friendly and assist filers in describing their claims. For example, we have added check boxes that allow entities to easily indicate if they are seeking optional equipment upgrades or requesting partial payment of particular expenses. The public will now have an opportunity to comment on these modifications to the data collections in the Reimbursement Form. This is a summary of the FCC's document GN Docket No. 12–268; MB Docket No. 16–306; DA 17–154 (released Feb. 9, 2017). The full text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (Room CY–A257), 445 12th Street SW., Washington, DC 20554.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Division, Media Bureau.

[FR Doc. 2017–03174 Filed 2–17–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131113952–7147–03]

RIN 0648–BD78

Snapper-Grouper Fishery Off the Southern Atlantic States; Regulatory Amendment 16; Technical Amendment

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

ACTION: Final rule; technical amendment.

SUMMARY: NMFS is hereby making a technical amendment to our regulations without altering the substance of the regulations. These changes will clarify our regulations to make them more easily understood by the public. As a result of a previously published final rule to implement Regulatory Amendment 16 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), that published in the **Federal Register** on December 29, 2016, NMFS has identified a section of the regulations for black sea bass pot commercial trip limits in need of clarification. This rule does not make any substantive changes to the regulations governing South Atlantic snapper-grouper or to other species managed by NMFS.

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

ADDRESSES: Electronic copies of Regulatory Amendment 16, which includes an environmental impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office Web site at *https://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2013/reg_am16/index.html.*

FOR FURTHER INFORMATION CONTACT: Nikhil Mehta, 727–824–5305; email: *nikhil.mehta@noaa.gov.*

SUPPLEMENTARY INFORMATION: Black sea bass is in the snapper-grouper fishery and is managed under the FMP. The FMP was prepared by the Council and

is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On December 29, 2016, NMFS published the final rule for Regulatory Amendment 16 (81 FR 95893). The final rule for Regulatory Amendment 16 revised the seasonal prohibition on the use of black sea bass pot gear in the South Atlantic and added an additional gear marking requirement for black sea bass pot gear. The purpose of that final rule was to reduce the adverse socioeconomic impacts from the previous seasonal black sea bass pot gear prohibition while continuing to protect Endangered Species Act listed North Atlantic right whales in the South Atlantic. That final rule also required additional gear markings to help identify black sea bass pot gear in the South Atlantic. This technical amendment to that final rule clarifies that black sea bass pot commercial trip limits are meant to be in effect year-round.

Background

On June 1, 2012, NMFS published the final rule for Amendment 18A to the FMP (77 FR 32408). Among the measures in Amendment 18A was the establishment of a year-round commercial trip limit of 1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight.

On September 23, 2013, NMFS published the final rule for Regulatory Amendment 19 to the FMP (78 FR 58249). Regulatory Amendment 19 established an annual prohibition on the use of black sea bass pot gear from November through April.

On November 7, 2014, NMFS published the final rule for Regulatory Amendment 14 to the FMP (79 FR 66316). One of the measures implemented through Regulatory Amendment 14 was the establishment of a 300 lb (136-kg), gutted weight; 354 lb (161 kg), round weight, commercial trip limit for the black sea bass hook-and-line component in the South Atlantic from January 1 through April 30, each year. In addition, NMFS changed the commercial trip limit for the black sea bass pot component from year-round to May 1 through October 31, each year. The intent of referencing the May through October dates for the black sea bass pot commercial trip limit was because at that time, May through October was the only time period that pots could be fished. The final rule for Regulatory Amendment 14 simply clarified the seasonal differences in commercial trip limits among the different black sea bass gear components (pots and hook-and-line) in the commercial sector.

The final rule for Regulatory Amendment 16 revised the black sea bass pot seasonal prohibition. As of December 29, 2016, sea bass pots are allowed to be fished year-round in specific areas in the South Atlantic. During the development of the rulemaking to implement Regulatory Amendment 16, NMFS inadvertently did not revise the relevant regulatory text to correctly reference that the commercial trip limits for black sea bass fishers are meant to be in effect year-round. However, the South Atlantic Fishery Management Council's stated intent in Regulatory Amendment 16 was to retain the 1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight, year-round commercial trip limit for the black sea bass pot sector originally implemented in 2012.

Correction

Currently, the regulations at § 622.191(a)(8)(ii) contain a reference that the 1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight, commercial trip limit is only applicable from May 1 through October 31. The May 1 through October 31 condition was added to clarify the seasonal differences in commercial trip limits among the hook-and-line and black sea bass pot components in the commercial sector. As currently written, the regulations at § 622.191(a)(8)(ii) incorrectly have no commercial trip limit in place from November 1 through April 30. As had been described in Regulatory Amendment 16, the intent by NMFS and the South Atlantic Fishery Management Council was for the commercial trip limit for sea bass pots to be in effect year-round.

This technical amendment corrects the text within § 622.191(a)(8)(ii) to accurately state that the black sea bass pot trip limit is in effect year-round.

Classification

The Regional Administrator, Southeast Region, NMFS, has determined this final rule is necessary for the conservation and management of South Atlantic black sea bass and is consistent with the Magnuson-Stevens Act and other applicable laws.

This final rule has been determined to be not significant for the purposes of Executive Order 12866.

The Assistant Administrator for Fisheries, NOAA (AA), finds that the need to immediately implement this regulatory clarification constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B) of the Administrative Procedure Act (APA), because prior notice and opportunity for public comment on this final rule is unnecessary and contrary to the public interest. Such procedures are unnecessary and contrary to the public interest, because the rules establishing the commercial trip limits and the seasonal closures have already been subject to notice and comment and not immediately correcting the regulatory text would result in confusion and uncertainty for the affected entities.

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

These measures are thus exempt from the procedures of the Regulatory Flexibility Act because prior notice and comment have been waived under the APA.

List of Subjects in 50 CFR Part 622

Black sea bass, Commercial trip limits, Fisheries, Fishing, South Atlantic.

Dated: February 14, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.191, revise paragraph (a)(8)(ii) to read as follows:

§ 622.191 Commercial trip limits.

* * * * *

(a) * * *

(8) * * *

(ii) Sea bass pot component. Until the applicable quota specified in § 622.190(a)(5) is reached—1,000 lb (454 kg), gutted weight; 1,180 lb (535 kg), round weight.

* * * * *

[FR Doc. 2017–03291 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150818742–6210–02]

RIN 0648–XF235

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Pot Gear in the Western Regulatory Area of the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2017 Pacific cod total allowable catch apportioned to vessels using pot gear in the Western Regulatory Area of the GOA.

DATES: Effective 1200 hours, Alaska local time (A.l.t.), February 16, 2017, through 1200 hours, A.l.t., June 10, 2017.

FOR FURTHER INFORMATION CONTACT: Obren Davis, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679. Regulations governing sideboard protections for GOA groundfish fisheries appear at subpart B of 50 CFR part 680.

The A season allowance of the 2017 Pacific cod total allowable catch (TAC) apportioned to vessels using pot gear in the Western Regulatory Area of the GOA is 4,854 metric tons (mt), as established by the final 2016 and 2017 harvest specifications for groundfish of the GOA (81 FR 14740, March 18, 2016) and inseason adjustment (81 FR 95063, December 27, 2016).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator) has determined that the A season allowance of the 2017 Pacific cod TAC apportioned to vessels using pot gear in the Western Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 4,844 mt and is setting aside the remaining 10 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by vessels using pot gear in the Western Regulatory Area of the GOA. After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the directed fishing closure of Pacific cod for vessels using pot gear in the Western Regulatory Area of the GOA. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of February 14, 2017.

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

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

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

Dated: February 15, 2017.

Karen H. Abrams,

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

[FR Doc. 2017–03378 Filed 2–15–17; 4:15 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 33
Tuesday, February 21, 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 AGRICULTURE

Office of Procurement and Property Management

7 CFR Part 3201

RIN 0599–AA24

Designation of Product Categories for Federal Procurement

AGENCY: Office of Procurement and Property Management, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: The U.S. Department of Agriculture (USDA) is extending by 30 days the deadline to submit comments on the proposed rule to designate 12 product categories for federal procurement, which was published on January 13, 2017 (82 FR 4206) under the authority of section 9002 of the Farm Security and Rural Investment Act of 2002 (the 2002 Farm Bill), as amended by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill), and further amended by the Agricultural Act of 2014 (the 2014 Farm Bill), 7 U.S.C. 8102. The 60-day comment period in the proposed rule is scheduled to end on March 14, 2017. The extended comment period will now close on April 13, 2017. In this proposed rule, USDA is proposing to amend the Guidelines for Designating Biobased Products for Federal Procurement (Guidelines) to add 12 sections that will designate the product categories within which biobased products would be afforded procurement preference by Federal agencies and their contractors.

DATES: Comments on the proposed rule published January 13, 2017 (82 FR 4206) must be received on or before April 13, 2017.

ADDRESSES: You may submit comments by any of the following methods. All submissions received must include the agency name and Regulatory Information Number (RIN). The RIN for this rulemaking is 0599–AA24. Also, please identify submittals as pertaining to the ''Proposed Designation of Product Categories.''

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: biopreferred_support@amecfw.com.* Include RIN number 0599–AA24 and ''Proposed Designation of Product Categories'' on the subject line. Please include your name and address in your message.
- *Mail/commercial/hand delivery:* Mail or deliver your comments to: Marie Wheat, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024.
- Persons with disabilities who require alternative means for communication for regulatory information (Braille, large print, audiotape, etc.) should contact the USDA TARGET Center at (202) 720–2600 (voice) and (202) 690–0942 (TTY).

FOR FURTHER INFORMATION CONTACT: Marie Wheat, USDA, Office of Procurement and Property Management, Room 361, Reporters Building, 300 7th St. SW., Washington, DC 20024; email: *biopreferred_support@amecfw.com;* phone (202) 239–4502. Information regarding the Federal preferred procurement program (one initiative of the BioPreferred Program) is available on the Internet at *http://www.biopreferred.gov.*

SUPPLEMENTARY INFORMATION:

Comment Period

USDA is extending the public comment period for an additional 30 days. The public comment period will end on April 13, 2017, instead on March 14, 2017.

List of Subjects in 7 CFR Part 3201

Biobased products, Procurement.

Dated: February 3, 2017.

Malcom Shorter,

Acting Assistant Secretary for Administration, U.S. Department of Agriculture.

[FR Doc. 2017–03288 Filed 2–17–17; 8:45 am]

BILLING CODE 3410–93–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

[Docket No. PRM–50–113; NRC–2015–0230]

Uninterruptible Monitoring of Coolant and Fuel in Reactors and Spent Fuel Pools

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; denial.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM), dated September 10, 2015, submitted by Dr. Alexander DeVolpi (the petitioner). The petition was docketed by the NRC on September 21, 2015, and was assigned Docket No. PRM–50–113. The petitioner requested that the NRC amend its regulations to require ''installation of ex-vessel instrumentation for uninterruptible monitoring of coolant and fuel in reactors and spent-fuel pools.'' The NRC is denying the petition because the Commission finds that the issues raised by the petitioner have been addressed by actions taken by the NRC in response to the Fukushima Dai-ichi nuclear accident.

DATES: The docket for the petition for rulemaking, PRM–50–113, is closed on February 21, 2017.

ADDRESSES: Please refer to Docket ID NRC–2015–0230, when contacting the NRC about the availability of information regarding this petition. You may obtain publicly-available information related to this petition by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0230. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS*

Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* For the convenience of the reader, instructions about obtaining materials referenced in this document are provided in Section IV, ''Availability of Documents,'' of this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Jennifer C. Tobin, Office of Nuclear Reactor Regulation, telephone: 301–415–2328; email: *Jennifer.Tobin@nrc.gov;* U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

SUPPLEMENTARY INFORMATION:

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I. The Petition
II. Reasons for Denial
III. Conclusion
IV. Availability of Documents

I. The Petition

Section 2.802 of title 10 of the *Code of Federal Regulations* (10 CFR), ''Petition for rulemaking,'' provides an opportunity for any interested person to petition the Commission to issue, amend, or rescind any regulation. The NRC received a petition dated September 10, 2015, from Dr. Alexander DeVolpi and assigned it Docket No. PRM–50–113. The NRC published a notice of docketing in the **Federal Register** (FR) on December 1, 2015 (80 FR 75009). The NRC did not request public comment on PRM–50–113 because it had sufficient information to review the issues raised by the petitioner.

The petitioner requested that the NRC amend 10 CFR part 50, ''Domestic licensing of production and utilization facilities,'' to require ''installation of ex-vessel instrumentation for uninterruptible monitoring of coolant and fuel in reactors and spent-fuel pools.''

II. Reasons for Denial

The NRC is denying the petition because the issues raised by the petitioner have been addressed through actions taken in response to the Fukushima Dai-ichi nuclear accident. The NRC determined that there is no sufficient technical or regulatory basis to amend the NRC's regulations as requested by the petitioner.

The petitioner proposed that Recommendation 5.1A in the 2014 National Academy of Sciences (NAS) report entitled ''Lessons Learned from the Fukushima Nuclear Accident for Improving Safety of U.S. Nuclear Plants'' should be mandated (as an NRC regulation) to require installation of ex-vessel instrumentation for uninterruptible monitoring of coolant and fuel in reactors and spent fuel pools. The petitioner stated that NAS gave a high priority to this recommendation and the petitioner indicated that he has developed instrumentation that is capable of uninterruptible monitoring of critical thermodynamic parameters. The petitioner included diagrams and explanations of his patented instrumentation and supportive technical papers and requested that the NRC require use of such instrumentation to prevent or mitigate accidents. In particular, the petitioner contends that the accident at Three Mile Island, Unit 2 might have been prevented if real-time uninterruptible ex-vessel reactor water-level monitoring had been in place. Further, the petitioner states that one or two of the Fukushima Dai-ichi meltdowns might have been delayed or averted if uninterruptible ex-vessel real-time reactor water-level monitoring had been in place and operating on self-contained low-current battery supplies.

The NRC staff responded to the NAS report and its recommendations in SECY–15–0059, ''Seventh 6-Month Status Update on Response to Lessons Learned from Japan's March 11, 2011, Great Tōhoku Earthquake and Subsequent Tsunami,'' dated April 9, 2015. The NRC staff's discussion of Recommendation 5.1A in enclosure 6 of SECY–15–0059 addresses the installation of ex-vessel instrumentation for uninterruptible monitoring of coolant and fuel in reactors and spent fuel pools. The NRC staff found that this recommendation was addressed by existing requirements and other ongoing activities. The issues that the petitioner's proposal would address are being or have already been addressed by NRC actions taken in response to the Fukushima Dai-ichi nuclear accident, as summarized in this document.

Instrumentation used to support strategies in the mitigation of beyond-design-basis events is addressed in Order EA–12–049, ''Issuance of Order to Modify Licenses with Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events.'' This Order ensures that plant operators have the information concerning key parameters needed to support implementation of mitigation strategies to maintain or restore core cooling, spent fuel pool cooling, and containment prior to the onset of core or spent fuel damage. Either installed instrumentation remains powered during an extended loss of alternating current power via safety-related batteries and other power supplies that provide coping capabilities for an indefinite period of time, or portable instruments are used that are independent from installed plant power systems. If mitigation strategies are not successful and severe accident conditions develop, the enhancements made in response to Order EA–12–049 will provide for monitoring of key parameters on the condition of the reactor, containment, and spent fuel pool throughout the accident's progression until instrumentation becomes unavailable or unreliable. These enhancements should also enable licensees to more easily transition to the use of computational aids when direct diagnosis of key plant conditions cannot be determined reliably from instrumentation. Further, spent fuel pool instrumentation is also required by Order EA–12–051, ''Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation,'' to remotely report three distinct water levels: Normal level; low level but still enough to shield workers above the pools from radiation; and a level near the top of the spent fuel rods, at which more water should be added without delay.

Following the issuance of the Orders, the NRC staff presented its evaluation of enhanced instrumentation for beyond-design-basis conditions in enclosure 5 to SECY–15–0137, ''Proposed Plans for Resolving Open Fukushima Tier 2 and 3 Recommendations.'' The staff recommended that the Commission not pursue additional regulatory requirements for enhanced reactor and containment instrumentation. The NRC staff concluded that additional studies are unlikely to support additional regulatory requirements related to enhanced reactor and containment instrumentation for beyond-design-basis conditions, when evaluated against the criteria for operating reactors in § 50.109, ''Backfitting,'' or the issue finality provisions of 10 CFR part 52, ''Licenses, Certifications, and Approvals for Nuclear Power Plants.''

In the staff requirements memorandum associated with SECY–15–0137, the Commission directed the NRC staff to provide the final results of its evaluation following interactions with external stakeholders and the Advisory Committee on Reactor Safeguards (ACRS). Accordingly, the NRC staff provided updated information regarding enhanced reactor and

containment instrumentation for beyond-design-basis conditions in enclosure 2 to SECY–16–0041, ''Closure of Fukushima Tier 3 Recommendations Related to Containment Vents, Hydrogen Control, and Instrumentation.'' The updated information addressed the observations provided by the ACRS in letters dated November 16, 2015, and March 15, 2016, and insights provided by external stakeholders. For example, information was added to the final assessment that describes the technical support guidance (TSG) for the severe accident management guidelines (SAMGs) and related assessments of plant parameters as well as the status of safety functions that would be performed by plant personnel during a severe accident. The SAMGs are entered when plant conditions indicate that cooling of the spent fuel pool or core cannot be maintained and the fuel in the spent fuel pool or reactor is on a trajectory towards damage. The SAMGs then invoke the TSGs that are based on an engineering evaluation of the scenario. This would include an assessment of the available parameter indications, their functional consistency, and their trends as the plant transitions to severe accident conditions, which may be more severe than the conditions assumed in instrument design and environmental qualifications. The severe accident response strategies are then based on fundamental principles that do not rely on precise indications of parameter values, but rather on an integrated technical assessment of the evolving event scenario and the conditions that preceded the onset of fuel damage in the spent fuel pool or core.

The additional NRC staff evaluations further support the conclusion that regulatory actions to require enhancements to reactor and containment instrumentation to support the response to severe accidents would not provide a substantial safety enhancement, and therefore, additional regulatory actions would not be warranted when evaluated against the § 50.109 criteria. The ACRS agreed in its March 15, 2016, letter that no further regulatory action is warranted in support of the closure of the recommendation on enhanced instrumentation.

In addition to the discussions in SECY–15–0137 and SECY–16–0041, the NRC staff notes that, depending on an accident's progression, licensees will use available indicators and technical assessments of the evolving scenario to implement adequate measures to protect public health and safety in accordance with the NRC's emergency preparedness requirements. If an accident progresses to fuel damage, specific additional actions may be required, including initiating predetermined protective actions for the public.

Moreover, the NRC is proposing to amend its regulations to establish regulatory requirements for nuclear power reactor applicants and licensees to mitigate beyond-design-basis events to reflect requirements imposed on current licensees by Order and the lessons learned from the Fukushima Dai-ichi accident. This proposed rule, ''Mitigation of Beyond-Design-Basis Events,'' which was published in the **Federal Register** on November 13, 2015 (80 FR 70610; corrected November 30, 2015 at 80 FR 74717), would, among other things, add a new regulation (proposed 10 CFR 50.155) to make Orders EA–12–049 and EA–12–051 generically applicable, establish regulatory requirements for an integrated response capability, and include requirements for enhanced onsite emergency response capabilities.

Therefore, in accordance with the NRC staff's evaluation in SECY–15–0137, the Commission's direction on SECY–15–0137, updated information provided in SECY–16–0041, and existing emergency preparedness requirements, and the proposed Mitigation of Beyond-Design-Basis Events rulemaking, the NRC has determined that additional instrumentation requirements to address severe accident conditions proposed in PRM–50–113 are not necessary.

III. Conclusion

For the reasons cited in Section II of this document, the NRC has concluded that the issues raised by the petitioner have been addressed by NRC actions taken in response to the Fukushima Dai-ichi nuclear accident and there is no sufficient technical or regulatory basis to amend the NRC's regulations as requested by the petitioner. Therefore, the NRC is denying PRM–50–113.

IV. Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the methods listed in the **ADDRESSES** section of this document.

Document	ADAMS accession No./Web link/**Federal Register** citation
ACRS Letter, ''Plans for Resolving the NRC Near-Term Task Force Open Fukushima Tier 2 and 3 Recommendations,'' November 16, 2015.	ML15320A074.
ACRS Letter, ''Closure of Fukushima Tier 3 Recommendations Related to Vents, Hydrogen Control, and Enhanced Instrumentation,'' March 15, 2016.	ML16075A330.
Federal Register notice, ''Uninterruptible Monitoring of Coolant and Fuel in Reactors and Spent Fuel Pools,'' December 1, 2015.	80 FR 75009.
Federal Register notice, ''Mitigation of Beyond-Design-Basis Events,'' November 13, 2015	80 FR 70610 (corrected by 80 FR 74717; November 30, 2015).
Letter from Nuclear Energy Institute to NRC, ''Submittal of Industry Initiative to Maintain Severe Accident Management Guidelines,'' October 26, 2015.	ML15335A442.
National Academy of Sciences, ''Lessons Learned from the Fukushima Nuclear Accident for Improving Safety of U.S. Nuclear Plants,'' 2014.	*http://www.nap.edu/read/18294/chapter/1.*
NRC Generic Letter 1982–033, ''Supplement 1 to NUREG–0737—Requirements for Emergency Response Capability,'' December 17, 1982.	ML031080548.
NUREG–0933, ''Resolution of Generic Safety Issues,'' December 2011	*http://nureg.nrc.gov/sr0933.*
Order EA–12–049, ''Issuance of Order to Modify Licenses With Regard to Requirements for Mitigation Strategies for Beyond-Design-Basis External Events,'' March 12, 2012.	ML12054A735.
Order EA–12–051, ''Order Modifying Licenses with Regard to Reliable Spent Fuel Pool Instrumentation,'' March 12, 2012.	ML12056A044.
PRM–50–113, ''Uninterruptible Monitoring of Critical Thermodynamic Parameters (Coolant and Fuel in Reactors and Spent-Fuel Pools),'' September 10, 2015.	ML15264A857.
SECY–15–0059, ''Seventh 6-Month Status Update on Response to Lessons Learned from Japan's March 11, 2011, Great Tohoku Earthquake and Subsequent Tsunami,'' April 9, 2015.	ML15069A444, ML15069A568 (enc. 3), ML15069A600 (enc. 6).

Document	ADAMS accession No./Web link/**Federal Register** citation
SECY–15–0065, ''Proposed Rulemaking: Mitigation of Beyond-Design-Basis Events (RIN 3150–AJ49),'' April 30, 2015.	ML15049A201.
SECY–15–0137, ''Proposed Plans for Resolving Open Fukushima Tier 2 and 3 Recommendations,'' October 29, 2015.	ML15254A006, ML15254A034 (enc. 5).
SECY–16–0041, ''Closure of Fukushima Tier 3 Recommendations Related to Containment Vents, Hydrogen Control, and Enhanced Instrumentation,'' March 31, 2016.	ML16049A079.
SRM–SECY–15–0065, ''Proposed Rulemaking: Mitigation of Beyond-Design-Basis Events (RIN 3150–AJ49),'' August 27, 2015.	ML15239A767.
SRM–SECY–15–0137, ''Proposed Plans for Resolving Open Fukushima Tier 2 and 3 Recommendations,'' February 8, 2016.	ML16039A175.

Dated at Rockville, Maryland, this 14th day of February 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2017–03284 Filed 2–17–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2016–9571; Directorate Identifier 2016–NM–139–AD]

RIN 2120–AA64

Airworthiness Directives; Airbus Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Airbus Model A321 series airplanes. This proposed AD was prompted by a full scale fatigue test campaign on these airplanes in the context of the extended service goal. This proposed AD would require inspections of the affected frame locations, and repair if necessary. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by April 7, 2017.

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

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Airbus, Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9571; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–9571; Directorate Identifier 2016–NM–139–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Union, has issued EASA Airworthiness Directive 2016–0146, dated July 20, 2016 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Airbus Model A321 series airplanes. The MCAI states:

> Following the results of a new full scale fatigue test campaign on the A321 airframe in the context of the A321 extended service goal, it was identified that cracks could develop on the fastener holes of frame (FR) 35.1, FR 35.2, and FR 35.3 between stringers (STR) 29 and STR 32 and at the FR 35.2 to Slidebox junction (Triform fitting), both left hand (LH) and right hand (RH) sides.
>
> This condition, if not detected and corrected, could reduce the structural integrity of the fuselage. Prompted by these findings, Airbus developed an inspection programme, published in Service Bulletin (SB) A320–53–1308, SB A320–53–1309, SB A320–53–1310, SB A320–53–1311, SB A320–53–1312 and SB A320–53–1313, each containing instructions for a different location. For the reasons described above, this [EASA] AD requires repetitive special detailed (rototest) inspections (SDI) of the affected frame locations and, depending on findings, accomplishment of a repair.
>
> This [EASA] AD is considered an interim action, pending the development of a permanent solution.

You may examine the MCAI in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9571.

Related Service Information Under 1 CFR Part 51

We reviewed the following Airbus service information. This service information describes procedures for repetitive rototest inspections for cracking of the affected frame locations, and contacting Airbus for repair instructions. These service bulletins are distinct because they apply to different frame locations.

- Airbus Service Bulletin A320–53–1308, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1309, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1310, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1311, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1312, dated November 4, 2015.
- Airbus Service Bulletin A320–53–1313, dated November 4, 2015.

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

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, we have been notified of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all pertinent information and determined an unsafe condition exists and is likely to exist or develop on other products of the same type design.

Costs of Compliance

We estimate that this proposed AD affects 176 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Inspection	54 work-hours × $85 per hour = $4,590 per inspection cycle.	$1,070 per inspection cycle.	$5,660 per inspection cycle.	$996,160 per inspection cycle.

We have no way to estimate the costs to do any necessary repairs that would be required based on the results of the proposed inspection. We have no way of determining the number of airplanes that might need these repairs.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify this proposed regulation:

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Airbus: Docket No. FAA–2016–9571; Directorate Identifier 2016–NM–139–AD.

(a) Comments Due Date

We must receive comments by April 7, 2017.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Airbus Model A321–111, –112, –131, –211, –212, –213, –231, and –232 airplanes, certificated in any category.

(d) Subject

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

(e) Reason

This AD was prompted by a full scale fatigue test campaign on Airbus Model A321 series airplanes in the context of the extended service goal. It was determined that cracks could develop on the fastener holes of certain frames on the left-hand (LH) and right-hand (RH) sides of the affected airplanes. We are issuing this AD to detect and correct cracking of the fastener holes at certain frame locations, which could result in reduced structural integrity of the fuselage.

(f) Compliance

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

(g) Repetitive Inspections of the Frames, Stringers, and Slidebox Junctions

At the applicable time specified in table 1 to paragraph (g) of this AD, do a rototest inspection for cracking at frame (FR) 35.1, FR 35.2, and FR 35.3 on the LH and RH sides, in accordance with the Accomplishment Instructions of the Airbus service information specified in paragraphs (g)(1), (g)(2), (g)(3), (g)(4), (g)(5), and (g)(6) of this AD. Repeat the inspection thereafter at intervals not to exceed 5,300 flight cycles.

(1) Airbus Service Bulletin A320–53–1308, dated November 4, 2015 (FR 35.1 LH side).

(2) Airbus Service Bulletin A320–53–1309, dated November 4, 2015 (FR 35.1 RH side).

(3) Airbus Service Bulletin A320–53–1310, dated November 4, 2015 (FR 35.2 LH side).

(4) Airbus Service Bulletin A320–53–1311, dated November 4, 2015 (FR 35.2 RH side).

(5) Airbus Service Bulletin A320–53–1312, dated November 4, 2015 (FR 35.3 LH side).

(6) Airbus Service Bulletin A320–53–1313, dated November 4, 2015 (FR 35.3 RH side).

TABLE 1 TO PARAGRAPH (g) OF THIS AD—INSPECTION THRESHOLD

Airplane accumulated total flight cycles at the effective date of this AD	Compliance time
For airplanes with 18,300 total flight cycles or less	Before exceeding 18,300 total flight cycles, or within 5,300 flight cycles after the effective date of this AD, whichever occurs later.
For airplanes with more than 18,300 total flight cycles	Before exceeding 23,600 total flight cycles, or within 2,100 flight cycles after the effective date of this AD, whichever occurs later.

(h) Corrective Action

If any crack is found during any inspection required by paragraph (g) of this AD: Before further flight, repair using a method approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or the European Aviation Safety Agency (EASA); or Airbus's EASA Design Organization Approval (DOA). Although the service information specified in paragraph (g) of this AD specifies to contact Airbus for repair instructions, and specifies that action as ''RC'' (Required for Compliance), this AD requires repair as specified in this paragraph. Repair of an airplane as required by this paragraph does not constitute terminating action for the repetitive inspections required by paragraph (g) of this AD for that airplane, unless specified otherwise in the repair instructions approved by the Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA; or EASA; or Airbus's EASA DOA.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Sanjay Ralhan, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057–3356; telephone 425–227–1405; fax 425–227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

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

(3) *Required for Compliance (RC):* Except as required by paragraph (h) of this AD: If any service information contains procedures or tests that are identified as RC, those procedures and tests must be done to comply with this AD; any procedures or tests that are not identified as RC are recommended. Those procedures and tests that are not identified as RC may be deviated from using accepted methods in accordance with the operator's maintenance or inspection program without obtaining approval of an AMOC, provided the procedures and tests identified as RC can be done and the airplane can be put back in an airworthy condition. Any substitutions or changes to procedures or tests identified as RC require approval of an AMOC.

(j) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) EASA Airworthiness Directive 2016–0146, dated July 20, 2016, for related information. This MCAI may be found in the AD docket on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9571.

(2) For service information identified in this AD, contact Airworthiness Office—EIAS, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France; telephone +33 5 61 93 36 96; fax +33 5 61 93 44 51; email *account.airworth-eas@airbus.com;* Internet *http://www.airbus.com.* You may view this service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

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

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2017–03031 Filed 2–17–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

42 CFR Part 88

[NIOSH Docket 094]

World Trade Center Health Program; Petition 014—Autoimmune Diseases; Finding of Insufficient Evidence

AGENCY: Centers for Disease Control and Prevention, HHS.

ACTION: Denial of petition for addition of a health condition.

SUMMARY: On September 29, 2016, the Administrator of the World Trade Center (WTC) Health Program received a petition to add autoimmune diseases, including rheumatoid arthritis, to the List of WTC-Related Health Conditions (List). Upon reviewing the information provided by the petitioner, the Administrator has determined that Petition 014 is not substantially different from Petitions 007, 008, 009, 011, and 013, which also requested the addition of autoimmune diseases, including various subtypes. The Administrator has published responses to the five previous petitions in the **Federal Register** and has determined that Petition 014 does not provide additional evidence of a causal relationship between 9/11 exposures and autoimmune diseases, including rheumatoid arthritis. Accordingly, the Administrator finds that insufficient evidence exists to request a recommendation of the WTC Health Program Scientific/Technical Advisory Committee (STAC), to publish a proposed rule, or to publish a determination not to publish a proposed rule.

DATES: The Administrator of the WTC Health Program is denying this petition for the addition of a health condition as of February 21, 2017.

FOR FURTHER INFORMATION CONTACT: Rachel Weiss, Program Analyst, 1090 Tusculum Avenue, MS: C–46, Cincinnati, OH 45226; telephone (855)

818–1629 (this is a toll-free number); email *NIOSHregs@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Table of Contents

A. WTC Health Program Statutory Authority
B. Petition 014
C. Review of Scientific and Medical Information and Administrator Determination
D. Administrator's Final Decision on Whether To Propose the Addition of Autoimmune Diseases to the List
E. Approval To Submit Document to the Office of the Federal Register

A. WTC Health Program Statutory Authority

Title I of the James Zadroga 9/11 Health and Compensation Act of 2010 (Pub. L. 111–347, as amended by Pub. L. 114–113), added Title XXXIII to the Public Health Service (PHS) Act,[1] establishing the WTC Health Program within the Department of Health and Human Services (HHS). The WTC Health Program provides medical monitoring and treatment benefits to eligible firefighters and related personnel, law enforcement officers, and rescue, recovery, and cleanup workers who responded to the September 11, 2001, terrorist attacks in New York City, at the Pentagon, and in Shanksville, Pennsylvania (responders), and to eligible persons who were present in the dust or dust cloud on September 11, 2001, or who worked, resided, or attended school, childcare, or adult daycare in the New York City disaster area (survivors).

All references to the Administrator of the WTC Health Program (Administrator) in this notice mean the Director of the National Institute for Occupational Safety and Health (NIOSH) or his or her designee.

Pursuant to section 3312(a)(6)(B) of the PHS Act, interested parties may petition the Administrator to add a health condition to the List in 42 CFR 88.15. Within 90 days after receipt of a petition to add a condition to the List, the Administrator must take one of the following four actions described in section 3312(a)(6)(B) and 42 CFR 88.16: (1) Request a recommendation of the STAC; (2) publish a proposed rule in the **Federal Register** to add such health condition; (3) publish in the **Federal Register** the Administrator's determination not to publish such a proposed rule and the basis for such determination; or (4) publish in the **Federal Register** a determination that insufficient evidence exists to take action under (1) through (3) above. However, in accordance with 42 CFR 88.16(a)(5), the Administrator is required to consider a new submission for a previously-evaluated health condition determined not to qualify for addition to the List as a valid new petition only if the submission presents a new medical basis—evidence not previously reviewed by the Administrator—for the association between 9/11 exposures and the condition to be added.[2]

In addition to the regulatory provisions, the WTC Health Program has developed policies to guide the review of submissions and petitions [3] and the analysis of evidence supporting the potential addition of a non-cancer health condition to the List.[4] In accordance with the non-cancer health condition policy, the Administrator directs the WTC Health Program to conduct a review of the scientific literature to determine if the available scientific information has the potential to provide a basis for a decision on whether to add the health condition to the List. A literature review includes a search for peer-reviewed, published epidemiologic studies (including direct observational studies in the case of health conditions such as injuries) about the health condition among 9/11-exposed populations; such studies are considered ''relevant.'' Relevant studies identified in the literature search are further reviewed for their quantity and quality to provide a basis for deciding whether to propose adding the health condition to the List. Where the available evidence has the potential to provide a basis for a decision, the scientific and medical evidence is further assessed to determine whether a causal relationship between 9/11 exposures and the health condition is supported. A health condition may be added to the List if peer-reviewed, published epidemiologic studies (including direct observational studies in the case of health conditions such as injuries) provide substantial support [5] for a causal relationship between 9/11 exposures and the health condition in 9/11-exposed populations. If the evidence assessment provides only modest support [6] for a causal relationship between 9/11 exposures and the health condition, the Administrator may then evaluate additional peer-reviewed, published epidemiologic studies, conducted among non-9/11-exposed populations, evaluating associations between the health condition of interest and 9/11 agents.[7] If that additional assessment adds enough support for the Administrator to determine there is substantial support [8] for a causal relationship between a 9/11 agent or agents and the health condition, the health condition may be added to the List.

B. Petition 014

On September 29, 2016, the Administrator received a petition from a WTC Health Program member to add ''autoimmune conditions like Rheumatoid Arthritis'' to the List, considered Petition 014.[9] This is the sixth petition to the Administrator requesting the addition of autoimmune diseases, including various subtypes, to the List; each of the first five autoimmune disease petitions were denied due to insufficient evidence, as described in respective **Federal Register** notices (FRNs).[10] Petition 014 was

[1] Title XXXIII of the PHS Act is codified at 42 U.S.C. 300mm to 300mm–61. Those portions of the James Zadroga 9/11 Health and Compensation Act of 2010 found in Titles II and III of Public Law 111–347 do not pertain to the WTC Health Program and are codified elsewhere.

[2] 42 CFR 88.16(a)(5) further allows that a ''submission that provides no new medical basis and is received after the publication of a response in the **Federal Register** to a petition requesting the addition of the same health condition will not be considered a valid petition and will not be answered in a **Federal Register** notice. . . . The interested party will be informed of the . . . decision in writing.''

[3] *See* WTC Health Program [2014], *Policy and Procedures for Handling Submissions and Petitions to Add a Health Condition to the List of WTC-Related Health Conditions,* May 14, *http://www.cdc.gov/wtc/pdfs/WTCHPPPPetitionHandlingProcedures14May2014.pdf.*

[4] *See* WTC Health Program [2016], *Policy and Procedures for Adding Non-Cancer Conditions to the List of WTC-Related Health Conditions,* May 11, *http://www.cdc.gov/wtc/pdfs/WTCHP_PP_Adding_NonCancer_Conditions_Revision_11_May_2016.pdf.*

[5] The substantial evidence standard is met when the Program assesses all of the available, relevant information and determines with high confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

[6] The modest evidence standard is met when the Program assesses all of the available, relevant information and determines with moderate confidence that the evidence supports its findings regarding a causal association between the 9/11 exposure(s) and the health condition.

[7] 9/11 agents are chemical, physical, biological, or other agents or hazards reported in a published, peer-reviewed exposure assessment study of responders or survivors who were present in the New York City disaster area, at the Pentagon site, or at the Shanksville, Pennsylvania site, as those locations are defined in 42 CFR 88.1.

[8] *See supra* note 5.

[9] *See* Petition 014, WTC Health Program: Petitions Received, *http://www.cdc.gov/wtc/received.html.*

[10] ''World Trade Center Health Program; Petition 007—Autoimmune Diseases; Finding of Insufficient Evidence,'' 80 FR 32333 (June 8, 2015); ''World Trade Center Health Program; Petition 008—Autoimmune Diseases; Finding of Insufficient Evidence,'' 80 FR 39720 (July 10, 2015); ''World Trade Center Health Program; Petition 009—Autoimmune Diseases; Finding of Insufficient Evidence,'' 80 FR 65980 (Oct. 28, 2015); ''World Trade Center Health Program; Petition 011—Autoimmune Diseases; Finding of Insufficient

Continued

received prior to recent amendments to WTC Health Program regulations regarding petitions for additions to the List taking effect.[11] The Petition was evaluated pursuant to the regulations and policies in effect at the time of its receipt [12] and, therefore, Petition 014 was considered valid. Future such submissions requesting the addition of autoimmune diseases to the List and providing the same peer-reviewed, published, epidemiologic evidence, however, may not be considered valid in accordance with 42 CFR 88.16(a)(5), as amended.

In accordance with WTC Health Program policy, the medical basis for a potential addition to the List may be demonstrated by reference to a peer-reviewed, published epidemiologic study about the health condition among 9/11-exposed populations or to clinical case reports of health conditions in WTC responders or survivors.[13] Petition 014 presented an online news article [14] announcing the online publication of a study published by Webber *et al.* [2015], entitled ''Nested Case-Control Study of Selected Systemic Autoimmune Diseases in World Trade Center Rescue/Recovery Workers.'' [15] Because Webber *et al.* [2015] is a peer-reviewed, published epidemiologic study of autoimmune diseases among 9/11-exposed responders and survivors, the petition was considered valid. Accordingly, the Program conducted a review of available scientific information regarding the causal association between 9/11 exposure and autoimmune diseases, including rheumatoid arthritis.

C. Review of Scientific and Medical Information and Administrator Determination

A literature search conducted in response to Petition 007 [16] included all of the autoimmune conditions in the 2015 Webber study; the Program conducted updates of that literature search in response to Petition 011 and Petition 013, looking for relevant studies published since the date of the previous literature search.[17] In reviewing Petition 014, the Program conducted a search [18] to update the results of the previous literature review for all of the types of autoimmune diseases identified in the 2015 Webber *et al.* study.[19] The Program identified one new reference since the publication of the Petition 013 FRN in September 2016, a conference abstract regarding sarcoidosis in 9/11-exposed firefighters.[20] Upon review, the abstract was determined not to be relevant because it is not a published epidemiologic study in a peer-reviewed scientific journal.

The literature review did not identify any newly-published, relevant studies of autoimmune diseases, including rheumatoid arthritis, in the 9/11-exposed population.[21] Therefore, in accordance with the Program policy discussed above, the Program was unable to further evaluate Petition 014.

D. Administrator's Final Decision on Whether To Propose the Addition of Autoimmune Diseases to the List

Finding no newly-published, relevant studies with regard to Petition 014, the Administrator has accordingly determined that insufficient evidence is available to take further action at this time, including either proposing the addition of autoimmune diseases, including rheumatoid arthritis, to the List (pursuant to PHS Act, sec. 3312(a)(6)(B)(ii) and 42 CFR 88.16(a)(2)(ii)) or publishing a determination not to publish a proposed rule in the **Federal Register** (pursuant to PHS Act, sec. 3312(a)(6)(B)(iii) and 42 CFR 88.16(a)(2)(iii)). The Administrator has also determined that requesting a recommendation from the STAC (pursuant to PHS Act, sec. 3312(a)(6)(B)(i) and 42 CFR 88.16(a)(2)(i)) is unwarranted.

For the reasons discussed above, the Petition 014 request to add autoimmune diseases, including rheumatoid arthritis, to the List of WTC-Related Health Conditions is denied.

E. Approval To Submit Document to the Office of the Federal Register

The Secretary, HHS, or her/his designee, the Director, Centers for Disease Control and Prevention (CDC) and Administrator, Agency for Toxic Substances and Disease Registry (ATSDR), authorized the undersigned, the Administrator of the WTC Health Program, to sign and submit the document to the Office of the Federal Register for publication as an official document of the WTC Health Program. Anne Schuchat, M.D., Acting Director, CDC, and Acting Administrator, ATSDR, approved this document for publication on February 9, 2017.

John Howard,

Administrator, World Trade Center Health Program and Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention, Department of Health and Human Services.

[FR Doc. 2017–03336 Filed 2–17–17; 8:45 am]

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Evidence,'' 81 FR 24047 (April 25, 2016); and ''World Trade Center Health Program; Petition 013—Autoimmune Disease; Finding of Insufficient Evidence,'' 81 FR 60329 (Sept. 1, 2016).

[11] *See* ''World Trade Center Health Program; Amendments to Definitions, Appeals, and Other Requirements; Final Rule,'' 81 FR 90926 (Dec. 15, 2016), effective Jan. 17, 2017.

[12] *See* 42 CFR 88.17 (2016); *see also* 77 FR 24628 (Apr. 25, 2012).

[13] *See supra* note 2.

[14] Boynes-Shuck A [2015], *Why Rheumatoid Arthritis Is Plaguing 9/11 First Responders,* Healthline News, *http://www.healthline.com/health-news/why-rheumatoid-arthritis-is-plaguing-9-11-first-responders-040415#1.*

[15] Webber M, Moir W, Zeig-Owens R, *et al.* [2015], *Nested Case-Control Study of Selected Systemic Autoimmune Diseases in World Trade Center Rescue/Recovery Workers,* Arthritis Rheumatol 67(5):1369–1376.

[16] 80 FR 32333 (June 8, 2015).

[17] *See* 81 FR 24047 (April 25, 2016) and 81 FR 60329 (Sept. 1, 2016), respectively.

[18] Databases searched include: CINAHL, Embase, NIOSHTIC–2, ProQuest Health and Safety Science Abstracts, PubMed, Scopus, Toxicology Abstracts, and TOXLINE.

[19] Rheumatoid arthritis; spondyloarthritis; inflammatory myositis (polymyositis and dermatomyositis); systemic lupus erythematosus; systemic sclerosis (scleroderma); Sjogren's syndrome; antiphospholipid syndrome; granulomatosis with polyangiitis (Wegener's); and eosinophilic granulomatosis with polyangiitis (Churg-Strauss).

[20] Hena K, Yip J, Jaber N, *et al.* [2016], *Clinical Characteristics of Sarcoidosis in World Trade Center (WTC) Exposed Fire Department of the City of New York (FDNY) Firefighters,* Chest 150(4S):514A.

[21] Two relevant studies identified in previous FRNs, Webber *et al.* [2015] and Webber M, Moir W, Crowson C, *et al.* [2016], *Post-September 11, 2001, Incidence of Systemic Autoimmune Diseases in World Trade Center-Exposed Firefighters and Emergency Medical Service Workers,* Mayo Clin Proc 2016;91(1):23–32, were reviewed in the Petition 011 and Petition 013 FRNs and found not to have the potential to provide a basis for a decision on whether to propose adding autoimmune diseases to the List. These studies are not further discussed in this notice; discussions of the Administrator's findings with regard to these studies may be found in previous notices for Petition 011, 81 FR 24047 (April 25, 2016) and Petition 013, 81 FR 60329 (Sept. 1, 2016).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 161103999–7146–01]

RIN 0648–BG43

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Coastal Migratory Pelagic Resources in the Gulf of Mexico and Atlantic Region; Framework Amendment 4

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes to implement management measures described in Framework Amendment 4 to the Fishery Management Plan for the Coastal Migratory Pelagics Fishery of the Gulf of Mexico and Atlantic Region (FMP) as prepared and submitted jointly by the Gulf of Mexico Fishery Management Council and South Atlantic Fishery Management Council (Councils). For the recreational sector, this proposed rule would establish bag and vessel limits, and revise the minimum size limit and accountability measures (AMs) for Atlantic migratory group cobia (Atlantic cobia). This proposed rule would also establish a commercial trip limit for Atlantic cobia. Framework Amendment 4 and this proposed rule apply to the commercial and recreational harvest of Atlantic cobia in the exclusive economic zone (EEZ) from Georgia through New York. The purpose of Framework Amendment 4 and this proposed rule is to slow the rate of harvest of Atlantic cobia and reduce the likelihood that landings will exceed the commercial and recreational annual catch limits (ACL), thereby triggering the AMs and reducing harvest opportunities.

DATES: Written comments must be received on or before March 23, 2017.

ADDRESSES: You may submit comments on the proposed rule, identified by ''NOAA–NMFS–2016–0167,'' by either of the following methods:

- *Electronic submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal: *http://www.regulations.gov.* Go to *www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0167, click the* ''*Comment Now!*'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Karla Gore, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (*e.g.,* name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter ''N/A'' in required fields if you wish to remain anonymous).

Electronic copies of Framework Amendment 4 may be obtained from the Southeast Regional Office Web site at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_sa/cmp/2016/framework_am4/index.html.* Framework Amendment 4 includes an environmental assessment, a Regulatory Flexibility Act (RFA) analysis, and a regulatory impact review.

FOR FURTHER INFORMATION CONTACT: Karla Gore, Southeast Regional Office, NMFS, telephone: 727–551–5753, or email: *karla.gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: The coastal migratory pelagic fishery of the Gulf and Atlantic Regions is managed under the FMP and includes the management of the Gulf and Atlantic migratory groups of king mackerel, Spanish mackerel, and cobia. The FMP was prepared jointly by the Councils and is implemented through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

Background

The Magnuson-Stevens Act requires NMFS and regional fishery management councils to prevent overfishing and achieve, on a continuing basis, optimum yield from federally managed fish stocks. All weights described in this proposed rule are in round weight.

The current recreational AM for Atlantic cobia provides that if landings exceed the stock ACL (commercial and recreational ACLs combined), then during the following fishing year, the length of the recreational season will be reduced by the amount necessary to ensure recreational landings may achieve the recreational annual catch target (ACT) of 500,000 lb (226,796 kg) for 2016 and subsequent fishing years), but do not exceed the recreational ACL.

The current commercial AM for Atlantic cobia provides that if commercial landings reach or are estimated to reach the commercial quota (ACL), then the commercial sector will be closed for the remainder of the fishing year. The commercial quota for Atlantic cobia is 50,000 lb (22,680 kg).

Additionally, cobia is currently defined as a limited harvest species and no person may possess more than two cobia per day in or from the Gulf, Mid-Atlantic, or South Atlantic EEZ, regardless of whether harvested by the commercial or recreational sector.

In 2015, recreational landings for Atlantic cobia exceeded the 2015 recreational ACL of 630,000 lb (285,763 kg) and the 2015 stock ACL of 690,000 lb (312,979 kg). Therefore, as a result of the stock ACL being exceeded in 2015, the 2016 recreational season for Atlantic cobia in Federal waters closed on June 20, 2016 (81 FR 12601, March 10, 2016). Because the recreational closure occurred during months of high recreational effort for cobia, the early closure had negative social and economic impacts on recreational anglers, charter vessel and headboat (for-hire) businesses, for-hire clients, and associated businesses such as tackle shops.

The following actions in Framework Amendment 4 and this proposed rule are intended to slow the rate of harvest of Atlantic cobia and reduce the likelihood that sector landings will exceed the sector and stock ACLs, thereby triggering the AMs and reducing harvest opportunities. The goal is to provide equitable access for all recreational participants in the participants in the Atlantic cobia component of the coastal migratory pelagics fishery.

Management Measures Contained in This Proposed Rule

For the recreational sector, this proposed rule would establish bag and vessel limits and revise the minimum size limit and AMs for Atlantic cobia. This proposed rule would also establish a commercial trip limit for Atlantic cobia. As a result of the proposed recreational bag and possession limits and the commercial trip limit, Atlantic migratory cobia would no longer be subject to the two fish per person per day possession limit for limited harvest species.

Recreational Minimum Size Limit

The current minimum size limit for the recreational harvest of Atlantic cobia in the EEZ is 33 inches (83.8 cm), fork length. This proposed rule would increase the recreational minimum size limit for the Atlantic cobia recreational sector to 36 inches (91.4 cm), fork length. This modification would result in a recreational harvest reduction in the Atlantic, that in combination with the proposed recreational bag and vessel limits, would be expected slow the rate of recreational harvest and thereby reduce the likelihood of exceeding the recreational and stock ACLs and thereby triggering the AM.

Recreational Bag and Vessel Limits

This proposed rule would remove Atlantic cobia from the limited harvest species possession limit and would establish a recreational bag limit of one fish per person per day or six fish per vessel, whichever is more restrictive.

As explained above, the proposed increase in the recreational minimum size limit, and the proposed recreational bag limit and vessel limit are expected to slow the harvest rate and reduce the likelihood that recreational landings will exceed the ACL and trigger the recreational AMs for the following fishing year.

Recreational AMs

This proposed rule would revise the recreational AMs for Atlantic cobia. Currently, if the sum of commercial and recreational landings of cobia exceed the stock ACL, then during the following fishing year, the length of the recreational fishing season will be reduced to ensure that the harvest achieves the recreational ACT, but does not exceed the recreational ACL. Also, the current recreational AM uses a moving average of the most recent 3 years of landings to compare to the ACL. Additionally, if Atlantic cobia are overfished, and the stock ACL is exceeded, then during the following fishing year the recreational ACL and ACT would be reduced by the amount of any recreational ACL overage.

Framework Amendment 4 would remove the current 3-year average of landings to compare to the ACL. NMFS expects that using a single year of landings to determine if an overage occurred will better represent the patterns and behavior of the Atlantic cobia fishery. Cobia landings can be variable; including very high or very low recreational landings into a 3-year average can result in an artificial reduction or lengthening of the recreational fishing season, respectively.

The proposed recreational AM would require that if the recreational ACL and the stock ACL are exceeded, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings, and, if necessary, the Assistant Administrator for Fisheries, NOAA (AA) will file a notification with the Office of the Federal Register to reduce the recreational vessel limit, to no less than 2 fish per vessel to ensure recreational landings achieve the recreational ACT, but do not exceed the recreational ACL in that fishing year. Any reduction to the proposed recreational vessel limit would only apply for the fishing year in which it is implemented. Additionally, if the reduction to the vessel limit is insufficient to ensure that recreational landings will not exceed the recreational ACL, then the length of the recreational fishing season would also be reduced to ensure recreational landings do not exceed the recreational ACL in that fishing year. The recreational vessel limit and the length of the recreational fishing season would not be reduced if NMFS determines, based on the best scientific information available, that a recreational vessel limit and fishing season reduction are unnecessary.

Commercial Trip Limit

There is currently no specific commercial trip limit for Atlantic cobia. However, as previously discussed, Atlantic cobia is currently a limited harvest species and there is a possession limit of two cobia per person per day for both sectors. This proposed rule would remove Atlantic cobia from the limited harvest species possession limit and establish a commercial trip limit for Atlantic cobia of two fish per person per day or six fish per vessel per day, whichever is more restrictive.

Establishing a commercial trip limit will reduce the rate of harvest of cobia to help ensure the commercial and stock ACLs are not exceeded and the AMs triggered, resulting in a reduced season length or reduced vessel limit for the recreational sector and a commercial closure as a result of exceeding the commercial quota.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Regional Administrator, Southeast Region, NMFS, has determined that this proposed rule is consistent with Framework Amendment 4, the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) that this rule, if adopted, would not have significant economic impacts on a substantial number of small entities. The factual basis for this determination is as follows:

A description of this proposed rule, why it is being considered, the objectives of, and legal basis for this proposed rule are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble of this proposed rule. The Magnuson-Stevens Act provides the statutory basis for this proposed rule.

NMFS expects this proposed rule to directly affect federally permitted commercial fishermen fishing for Atlantic cobia. Recreational anglers fishing for Atlantic cobia would also be directly affected by the proposed action, but they are not considered business entities under the RFA. Charter vessel and headboat operations are business entities but they are only indirectly affected by the proposed rule. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

From 2010 through 2015, excluding the Mid-Atlantic states, an annual average of 98 vessels took 318 commercial trips that combined landed an average of 13,469 lb (6,109 kg) gutted weight of Atlantic cobia annually with a dockside value (2014 dollars) of $31,115. Average annual dockside revenue from Atlantic cobia represented approximately 3.6 percent of total dockside revenues from trips that landed Atlantic cobia from 2010 through 2015. For the Mid-Atlantic states during the same time period, an annual average of 24 vessels took 178 commercial trips that combined landed an average of 14,732 lb (6,682 kg) landed weight of Atlantic cobia annually with a dockside value (2014 dollars) of $39,227. For these vessels, per vessel revenue (2014 dollars) from Atlantic cobia was approximately $1,644. On average, vessels in the South Atlantic that harvested Atlantic cobia also took 2,338 commercial fishing trips per year without Atlantic cobia landings. Combining all sources of revenues, the average annual dockside revenues of vessels that landed Atlantic cobia was $74,066 (2014 dollars) per vessel. Annual dockside revenues from Atlantic cobia landings represented, on average, approximately 0.4 percent of the total dockside revenues from all commercial landings from 2010 through 2015 of vessels that landed Atlantic cobia. On average, the crew size per trip, including captains, of vessels in the South Atlantic that landed Atlantic cobia was 1.8 persons for hook and line vessels, 2.0 persons for gillnet vessels, and 2.4 persons for vessels using other gear types. The overall average crew size per trip for all vessels landing Atlantic cobia was less than 2 persons. Similar information on overall revenues from all sources and crew size for vessels in the Mid-Atlantic is not available. However, it is expected that the crew size for vessels in the Mid-Atlantic would be

similar to that for vessels in the Southeast because they employ similar gear types in fishing for Atlantic cobia. Vessels that caught and landed Atlantic cobia may also operate in other fisheries, such as the shellfish fisheries, the revenues of which are not known and are not reflected in these totals. Based on revenue information, all commercial vessels directly affected by the proposed rule may be assumed to be small entities.

Because all entities expected to be directly affected by this proposed rule are assumed to be small entities, NMFS has determined that this proposed rule would affect a substantial number of small entities; however, the issue of disproportionate effects on small versus large entities does not arise in the present case.

The proposed rule would establish a commercial cobia trip limit of two fish per person per day and would also implement a limit of six fish per vessel per day, whichever is more restrictive. This action would affect only those vessels with a crew of more than three persons. Noting that the 2010 through 2015 average crew size for vessels landing Atlantic cobia was less than two persons per trip, it is likely that this action would have only minor effects on vessel revenues. It is, therefore, expected that this proposed rule would not have significant economic impacts on a substantial number of small entities.

No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this proposed rule. Accordingly, this rule does not implicate the Paperwork Reduction Act.

The information provided above supports a determination that this proposed rule would not have significant economic impacts on a substantial number of small entities. Because this proposed rule, if implemented, is not expected to have significant economic impacts on any small entities, an initial regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Annual catch limits, Cobia, Fisheries, Fishing, Gulf of Mexico, South Atlantic.

Dated: February 14, 2017.

Alan D. Risenhoover,

Acting Deputy Assistant Administrator, for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.380, revise paragraph (a) to read as follows:

§ 622.380 Size limits.

* * * * *

(a) *Cobia.* (1) In the Gulf—33 inches (83.8), fork length.

(2) *In the Mid-Atlantic or South Atlantic.* (i) 33 inches (83.8), fork length, for cobia that are sold (commercial sector).

(ii) 36 inches (91.4 cm), fork length, for cobia that are not sold (recreational sector).

* * * * *

■ 3. In § 622.382, revise paragraph (a) introductory text and add paragraph (a)(1)(vi) to read as follows:

§ 622.382 Bag and possession limits.

* * * * *

(a) *King mackerel, Spanish mackerel, and Atlantic migratory group cobia*—

(1) * * *

(vi) Atlantic migratory group cobia that are not sold (recreational sector)—1, not to exceed 6 fish per vessel per day.

* * * * *

■ 4. In § 622.383, revise paragraph (b) to read as follows:

§ 622.383 Limited harvest species.

* * * * *

(b) *Gulf migratory group cobia.* No person may possess more than two Gulf migratory group cobia per day in or from the EEZ, regardless of the number of trips or duration of a trip.

■ 5. In § 622.385, add paragraph (c) to read as follows:

§ 622.385 Commercial trip limits.

* * * * *

(c) *Cobia.* (1) *Atlantic migratory group.* Until the commercial ACL specified in § 622.384(d)(2) is reached, 2 fish per person, not to exceed 6 fish per vessel.

(2) [Reserved]

■ 6. In § 622.388, revise paragraph (f) to read as follows:

§ 622.388 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

* * * * *

(f) *Atlantic migratory group cobia.* (1) The following ACLs and AMs apply to cobia that are sold (commercial sector):

(i) If the sum of the cobia landings that are sold, as estimated by the SRD, reach or are projected to reach the quota specified in § 622.384(d)(2) (ACL), the AA will file a notification with the Office of the Federal Register to prohibit the sale and purchase of cobia for the remainder of the fishing year;

(ii) In addition to the measures specified in paragraph (f)(1)(i) of this section, if the sum of the cobia landings that are sold and not sold in or from the Atlantic migratory group, as estimated by the SRD, exceeds the stock ACL, as specified in paragraph (f)(3) of this section, and Atlantic migratory group cobia are overfished, based on the most recent status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register, at or near the beginning of the following fishing year to reduce the applicable quota (ACL), as specified in paragraph (f)(1)(i) of this section, for that following year by the amount of any applicable sector-specific ACL overage in the prior fishing year.

(2) The following ACLs and AMs apply to cobia that are not sold (recreational sector). If recreational landings for cobia, as estimated by the SRD, exceed both the recreational ACL of 620,000 lb (281,227 kg), and the stock ACL, as specified paragraph (f)(3) of this section, then during the following fishing year, recreational landings will be monitored for a persistence in increased landings, and, if necessary, the AA will file a notification with the Office of the Federal Register to reduce the recreational vessel limit, specified in § 622.382(a)(1)(vi), to no less than 2 fish per vessel to ensure recreational landings achieve the recreational ACT, but do not exceed the recreational ACL in that fishing year. Any recreational vessel limit reduction that is implemented as described in this paragraph is only applicable for the fishing year in which it is implemented. Additionally, if the reduction in the recreational vessel limit is determined by the AA to be insufficient to ensure that recreational landings will not exceed the recreational ACL, the AA will also reduce the length of the recreational fishing season by the amount necessary to ensure recreational landings do not exceed the recreational ACL in that fishing year. The recreational vessel limit and the length of the recreational fishing season will

not be reduced if NMFS determines, based on the best scientific information available, that a recreational vessel limit and fishing season reduction are unnecessary. The recreational ACT is 500,000 lb (226,796 kg).

(3) The stock ACL for Atlantic migratory group cobia is 670,000 lb (303,907 kg).

[FR Doc. 2017–03290 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 33
Tuesday, February 21, 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

Agricultural Marketing Service

[Docket No. AMS–SC–17–0005; SC–900–1]

Notice of Request for Extension of a Currently Approved Assessment Exemption for Organic Commodities

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Agricultural Marketing Service's (''AMS'') intention to request an extension for the form currently used by marketers to apply for exemption from market promotion assessments under 23 marketing order programs.

DATES: Comments on this notice must be received by April 24, 2017.

FOR FURTHER INFORMATION CONTACT: Contact Andrew Hatch, Supervisory Marketing Specialist, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Room 1406–S, Washington, DC 20250–0237; Tel: (202) 720–2491, Email: *andrew.hatch@ams.usda.gov.*

Small businesses may request information on this notice by contacting Richard Lower, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Room 1406–S, Washington, DC 20250–0237; Tel: (202) 720–2491; or Email: *Richard.Lower@ams.usda.gov.*

Comments are welcome and should reference the docket number and the date and page number of this issue of the **Federal Register**, as well as the appropriate marketing order number. Comments may be submitted by mail to the Docket Clerk, Specialty Crops Program, AMS, USDA, 1400 Independence Avenue SW., Stop 0237, Room 1406–S, Washington, DC 20250–0237, or online at *www.regulations.gov.* All comments received will be available for public inspection in the Office of the Docket Clerk during regular USDA business hours, or they can be viewed at *www.regulations.gov.*

All comments to this notice will be summarized and included in the request for OMB approval, and will become a matter of public record.

SUPPLEMENTARY INFORMATION:

Title: Organic Handler Market Promotion Assessment Exemption under Federal Marketing Orders.

OMB Number: 0581–0216.

Expiration Date of Approval: April 30, 2017.

Type of Request: Extension of a currently-approved information collection.

Abstract: Marketing order programs provide an opportunity for producers of fresh fruit, vegetables, and specialty crops in specified production areas to work together to solve marketing problems that cannot be solved individually.

Under the Agricultural Marketing Agreement Act of 1937 as amended (7 U.S.C. 601–674), marketing orders may authorize production and marketing research, including paid advertising, to promote various commodities, which is paid for by assessments that are levied on the handlers who are regulated by the Orders.

On May 13, 2002, the Farm Security and Rural Investment Act (7 U.S.C. 7901) amended the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7201), exempting any person who handles or markets solely 100 percent organic products from paying these assessments with respect to any agricultural commodity that is produced on a certified organic farm, as defined in the Organic Foods Production Act of 1990 (7 U.S.C. 6502). A certified organic handler can apply for this exemption by completing a ''Certified Organic Handler Application for Exemption from Market Promotion Assessments Paid Under Federal Marketing Orders,'' and submitting it to the applicable marketing order committee or board.

Section 900.700 of the regulations (7 CFR part 900.700) provides for exemption from assessments. This notice applies to the following marketing orders: 7 CFR parts 906, Oranges and grapefruit grown in Lower Rio Grande Valley in Texas; 915, Avocados grown in south Florida; 922, Apricots grown in designated counties in Washington; 923, Sweet cherries grown in designated counties in Washington; 925, Grapes grown in a designated area of southeastern California; 927, Pears grown in Oregon and Washington; 929, Cranberries grown in Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in New York; 930, Tart cherries grown in Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; 932, Olives grown in California; 948, Irish potatoes grown in Colorado; 955, Vidalia onions grown in Georgia; 956, Sweet onions grown in the Walla Walla Valley of southeast Washington and northeast Oregon; 958, Onions grown in certain designated counties in Idaho, and Malheur County, Oregon; 959, Onions grown in South Texas; 966, Tomatoes grown in Florida; 981, Almonds grown in California; 982, Hazelnuts grown in Oregon and Washington; 984, Walnuts grown in California; 985, spearmint oil produced in Washington, Idaho, Oregon, and parts of Nevada and Utah; 986, Pecans produced in Alabama, Arkansas, Arizona, California, Florida, Georgia, Kansas, Louisiana, Missouri, Mississippi, North Carolina, New Mexico, Oklahoma, South Carolina, and Texas; 987, Domestic dates produced or packed in Riverside County, California; 989, Raisins produced from grapes grown in California; and 993, Dried prunes produced in California.

The information collected is used only by authorized marketing order committee or board employees, who are the primary users of the information, and by authorized representatives of the USDA, including the AMS Specialty Crops Program's regional and headquarters staff, who are the secondary users of the information.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average 15 minutes per response.

Respondents: Respondents are eligible certified organic handlers.

Estimated Number of Respondents: 210.

Estimated Number of Total Annual Responses: 210.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 53 hours.

Comments are invited on: (1) 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) 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) was 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.

Dated: February 15, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–03341 Filed 2–17–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

February 15, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by March 23, 2017 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725 17th Street NW., Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Animal and Plant Health Inspection Service

Title: Interstate Movement of Certain Land Tortoises.

OMB Control Number: 0579–0156.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to prevent, control, and eliminate domestic diseases such as tuberculosis, as well as to take actions to prevent and to manage exotic diseases such as heartwater disease. The regulations in 9 CFR part 93 prohibit the importation of the leopard tortoise, the African spurred tortoise, and the Bell's hingeback tortoise to prevent the introduction and spread of exotic ticks known to be vectors of heartwater disease, an acute, infectious disease of cattle and other ruminants. The regulations in 9 CFR part 74 prohibit the interstate movement of those tortoises that are already in the United States unless the tortoises are accompanied by a health certificate or certificate of veterinary inspection.

Need and Use of the Information: APHIS will collect information to ensure that the interstate movement of these leopard, African spurred, and Bell's hingeback tortoises poses no risk of spreading exotic ticks within the United States. Owners and veterinarians are required to provide the following information to Federal or accredited veterinarians for completion of the health certificate: Name, address, and telephone number of the owner; information identifying the animal such as collar or tattoo number; breed; age; sex; color; distinctive marks; vaccination history; and certifications from both the owner and the veterinarian that all information is true and accurate. The collected information is used for the purposes of identifying each specific tortoise and documenting the State of its health so that the animals can be transported across State and national boundaries. If the information is not collected APHIS would be forced to continue their complete ban on the interstate movement of leopard, African spurred, and Bell's hingeback tortoises. This would economically harm U.S. tortoise breeders.

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

Number of Respondents: 50.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 375.

Animal and Plant Health Inspection Service

Title: Importation of Table Eggs from Regions Where Newcastle Disease Exists.

OMB Control Number: 0579–0328.

Summary of Collection: The Animal Health Protection Act (AHPA) of 2002 is the primary Federal law governing the protection of animal health. The law gives the Secretary of Agriculture broad authority to detect, control, or eradicate pests or diseases of livestock or poultry. Veterinary Services, a program with the Animal and Plant Health Inspection Service (APHIS) is responsible for administering regulations intended to prevent the dissemination of animal disease within the United States. Regulations in title 9, Code of Federal Regulations, section 94.6 deal specifically with the importation of table eggs from certain regions that may pose a risk of introducing Exotic Newcastle Disease (END) into the United States.

Need and Use of the Information: Although this collection applies to any region where END is considered to exist, the United States is not currently importing table eggs from any END-affected region. APHIS requires the following with regard to imported table eggs: (1) A certificate for table eggs from END-affected regions; and (2) a government seal issued by the veterinarian accredited by the national government who signed the certificate. APHIS will also use form VS–17–6, Export Health Certificate for Poultry or Hatching Eggs for Export. If the information were collected less frequently or not collected at all, APHIS would be unable to establish an effective defense against the incursion of END from table eggs imported from END-affected regions. This would cause serious economic consequences for U.S. poultry industry, which would be

unable to export poultry and hatching eggs.

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

Number of Respondents: 201.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 3,405.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017–03303 Filed 2–17–17; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program Regulations—Reporting and Record-Keeping Burden

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 this proposed information collection. This collection is a revision to a currently approved information collection in the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Regulations (7 CFR part 246) for the reporting and record-keeping burdens associated with the WIC Program regulations.

DATES: Written comments must be received on or before April 24, 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 that were 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 use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments may be sent to: Kurtria Watson, Food and Nutrition Service, U.S. Department of Agriculture, 3101 Park Center Drive, Room 524, Alexandria, VA 22302. Comments may also be submitted via fax to the attention of Kurtria Watson at 703–305–2196 or via email to *Kurtria.Watson@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 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 Kurtria Watson at 703–605–4387.

SUPPLEMENTARY INFORMATION:

Title: Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) Program Regulations—Reporting and Record-keeping Burden.

Form Number: N/A.

OMB Number: 0584–0043.

Expiration Date: April 30, 2017.

Type of Request: Revision of a currently approved collection.

Abstract: The purpose of the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) is to provide supplemental foods, nutrition education, and health care referrals to low income, nutritionally at-risk pregnant, breastfeeding and postpartum women, infants, and children up to age five. Currently, WIC operates through State health departments in 50 States, 34 Indian Tribal Organizations, American Samoa, District of Columbia, Guam, Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Virgin Islands. The Federal regulations governing the WIC Program (7 CFR part 246) require that certain program-related information be collected and that full and complete records concerning WIC operations are maintained. The information reporting and record-keeping burdens are necessary to ensure appropriate and efficient management of the WIC program.

The reporting and record-keeping burdens covered by this Information Collection Burden (ICB) include requirements that involve the certification of WIC participants; the nutrition education that is provided to participants; the authorization, training and monitoring of vendors; and the collection of vendor pricing information in order to comply with the Federal regulations regarding WIC cost containment. State Plans are the principal source of information about how each State agency operates its WIC Program. Information collected from participants and local agencies is collected through State-developed forms or Management Information Systems. The information collected is used by the Department of Agriculture to manage, plan, evaluate, make decisions and report on WIC program operations. This information collection is requesting a revision in the burden hours due to program changes related to Electronic Benefits Transfer (EBT) delivery and program adjustments that primarily reflect expected changes in the number of WIC participants; WIC authorized vendors; and WIC local agencies. The revisions decreased the approved reporting burden by 169,424 hours and decreased the total approved record-keeping burden by 88,203 hours.

Reporting Burden

Affected Public: Individual/Households; Business or Other for Profit; State, Local and Tribal Government.

Estimated Number of Respondents: The total estimated number of respondents is 7,739,970. This includes: 1,927 State and local agencies; 7,693,319 WIC participants; and 44,724 Retail Vendors.

Estimated Number of Responses per Respondent: The estimated number of responses per respondent is 3.07.

Estimated Total Annual Responses: The estimated total for annual responses is 23,734,452.

Estimated Time per Response: The estimated time per response is .13 hours.

Estimated Total Annual Reporting Burden Hours: The estimated total annual reporting burden hours is 3,159,555.

Current OMB Inventory: 3,328,979.

Difference (Burden Revisions Requested): 169,424.

Record-Keeping Burden

Estimated Number of Record-keepers: The estimated number of record-keepers is 11,927.

Estimated Number of Records: The estimated number of records is 2,586.

Total Estimated Annual Records: The total estimated annual records is 30,848,590.

Estimated Annual Hours per Record-keeper: The estimated annual hours per record-keeper is .02.

Estimated Total Record-keeping Burden Hours: The estimated total record-keeping burden hours is 607,555.

Current OMB Inventory: 695,758.

Difference (Burden Revisions Requested): 88,203.

Estimated Grand Total for Reporting and Record-keeping Burden: The estimated grand total for reporting and record-keeping is 3,767,110.

Type of respondent	Total estimated number of respondents	Annual responses per respondent	Total estimated annual responses	Number of burden hours per request (hours)	Estimated burden hours
State, Local, & Indian Tribal Governments (90 WIC State agencies; 1,837 WIC local agencies)	1,927	6,192	11,932,833	0.20	2,397,410
Business or Other For-Profit (44,724 WIC authorized vendors)	44,724	2.24	100,338	1.77	177,455
Individuals/Households (7,693,319 WIC participants)	7,693,319	1.52	11,701,281	0.05	584,689
Total Reporting Burden	7,739,970		24,756,206		3,271,644

Type of respondent	Estimated number of record-keepers	Estimated number of records	Total estimated annual records	Estimated time (hours)	Estimated burden hours
State, Local, & Indian Tribal Governments (90 WIC State agencies; 1,837 WIC local agencies, 10,000)	11,927	2,586	30,848,590	0.02	607,555

Dated: February 13, 2017.

Jessica Shahin,

Acting Administrator, Food and Nutrition Service, USDA.

[FR Doc. 2017–03340 Filed 2–17–17; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Forest Service

Butte County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Butte County Resource Advisory Committee (RAC) will meet in Oroville, California. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *http://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held on February 28, 2017, at 6:30 p.m. For anyone who would like to attend via conference call, please contact the person listed under the **FOR FURTHER INFORMATION CONTACT.**

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Feather River Ranger District, Conference Room, 875 Mitchell Avenue, Oroville, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the Plumas National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Lee Anne Schramel, RAC Coordinator, by phone at 530–283–7850 or by email at *easchramel@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to recommend projects for Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by February 16, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Lee Anne Schramel, Plumas National Forest Supervisor's Office, 159 Lawrence Street, Quincy, California 95971; or by email to *easchramel@fs.fed.us.*

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: February 8, 2017.

Jeanne Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–03270 Filed 2–17–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Lake Tahoe Basin Federal Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Lake Tahoe Basin Federal Advisory Committee (LTBFAC) will meet in South Lake Tahoe, California. The Committee is established pursuant to Executive Order 13057, and the Federal Advisory Committee Act of 1972. Additional information concerning the Committee can be found by visiting the Committee's Web site at: *http://www.fs.usda.gov/goto/ltbmu/LTFAC.*

DATES: The meeting will be held on Tuesday, February 28, 2017, from 1:00

p.m. to 4:00 p.m. All LTBFAC meetings are subject to cancellation. For updated status of the meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at the Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, California.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses, when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at the USDA Forest Service, 35 College Drive, South Lake Tahoe, California.

FOR FURTHER INFORMATION CONTACT: Heather Noel, Lake Tahoe Basin Management Unit, USDA Forest Service, 35 College Drive, South Lake Tahoe, California 96150 by phone at 530–543–2608, or by email at *hmnoel@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to:

1. Provide an update on the South Nevada Public Land Management Act (SNPLMA) secondary list and priority setting,
2. Provide a review of LTFAC goals and objectives,
3. Provide the 2017 schedule of meetings, and
4. Provide membership and vacancy information.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should submit a request in writing by February 24, 2017, to be scheduled on the agenda. However, anyone who would like to bring related matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Written comments, time requests for oral comments, or requests for remote access via a conference call line must be sent to Heather Noel, USDA Forest Service, Lake Tahoe Basin Management Unit, 35 College Drive, South Lake Tahoe, California 96150; by email at *hmnoel@fs.fed.us,* or via facsimile to 530–543–2693.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: February 8, 2017.

Jeanne Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–03268 Filed 2–17–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Land Between The Lakes Advisory Board

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Land Between The Lakes Advisory Board (Board) will meet in Golden Pond, Kentucky. The Board is authorized under Section 450 of the Land Between The Lakes Protection Act of 1998 (Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the Board is to advise the Secretary of Agriculture on the means of promoting public participation for the land and resource management plan for the recreation area; and environmental education. Board information can be found at the following Web site: *http://www.landbetweenthelakes.us/.*

DATES: The meeting will be held on March 2, 2017, at 9:00 a.m.

All Board meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

ADDRESSES: The meeting will be held at the Land Between The Lakes Administration Building, 100 Van Morgran Drive, Golden Pond, Kentucky.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Land Between The Lakes Adminstrative Building. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Christine Bombard, Board Coordinator, by phone at 270–924–2002 or via email at *cabombard@fs.fed.us*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Discuss Environmental Education, and
2. Effectively communicate future land management plan activities.

The meeting is open to the public. The Board discussion is limited to Forest Service staff and Board members; however, persons who wish to bring related matters to the attention of the Board may file written statements with the Designated Federal Officer (DFO) before February 16, 2017. Written comments must be sent to Tina Tilley, Area Supervisor/DFO, Land Between The Lakes, 100 Van Morgan Drive, Golden Pond, Kentucky 42211; by email to *ttilley@fs.fed.us,* or via facsimile to 270–924–2086.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: February 8, 2017.

Jeanne Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–03269 Filed 2–17–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF AGRICULTURE

Forest Service

Siskiyou (OR) Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Siskiyou (OR) Resource Advisory Committee (RAC) will meet in Brookings, Oregon. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to

provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. RAC information can be found at the following Web site: *https://www.fs.usda.gov/main/pts/specialprojects/racweb.*

DATES: The meeting will be held from 10:00 a.m. to 4:30 p.m., on the following dates:

- March 8, 2017, and
- March 9, 2017.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

ADDRESSES: The meeting will be held at Best Western Plus Beachfront Inn, South Conference Room, 16008 Boat Basin Road, Brookings, Oregon.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION.** All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at Rogue River-Siskiyou National Forest Supervisor's Office. Please call ahead to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Virginia Gibbons, RAC Coordinator, by phone at 541–618–2113 or via email at *vgibbons@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to:

1. Review project proposals, and
2. Make project recommendations for Title II funds.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by March 3, 2017, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time to make oral comments must be sent to Virginia Gibbons, RAC Coordinator, Rogue River-Siskiyou National Forest Supervisor's Office, 3040 Biddle Road, Medford, Oregon 97525; by email to *vgibbons@fs.fed.us,* or via facsimile to 541–618–2144.

Meeting Accommodations: If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices, or other reasonable accommodation. For access to the facility or proceedings, please contact the person listed in the section titled **FOR FURTHER INFORMATION CONTACT.** All reasonable accommodation requests are managed on a case by case basis.

Dated: February 8, 2017.

Jeanne Higgins,

Acting Associate Deputy Chief, National Forest System.

[FR Doc. 2017–03271 Filed 2–17–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Transportation and Related Equipment Technical Advisory Committee: Notice of Partially Closed Meeting

The Transportation and Related Equipment Technical Advisory Committee will meet on March 8, 2017, 9:30 a.m., in the Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to transportation and related equipment or technology.

Agenda

Public Session

1. Welcome and Introductions.
2. Status reports by working group chairs.
3. Public comments and Proposals.

Closed Session

4. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than March 1, 2017.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 section (10)(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: February 15, 2017.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–03351 Filed 2–17–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Processing Equipment Technical Advisory Committee: Notice of Partially Closed Meeting

The Materials Processing Equipment Technical Advisory Committee (MPETAC) will meet on March 7, 2017, 9:00 a.m., Room 3884, in the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that affect the level of export controls applicable to materials processing equipment and related technology.

Agenda

Open Session

1. Opening remarks and introductions.
2. Presentation of papers and comments by the Public.
3. Discussions on results from last, and proposals from last Wassenaar meeting.
4. Report on proposed and recently issued changes to the Export Administration Regulations.
5. Other business.

Closed Session

6. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10 (a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than February 28, 2017.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 section 10(d)), that the portion of the meeting dealing with matters the premature disclosure of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 sections 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: February 15, 2017.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–03348 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Emerging Technology and Research Advisory Committee; Notice of Partially Closed Meeting

The Emerging Technology and Research Advisory Committee (ETRAC) will meet on March 23–24, 2017, 8:30 a.m., Room 3884, at the Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration on emerging technology and research activities, including those related to deemed exports.

Agenda

Open Session

1. Welcome Remarks & Update of ETRAC activities.
2. Update on Export Control Issues.
3. Review: Emerging Technologies in the News:
- Regulatory uncertainty and the associated business risk for emerging technologies'' by Robert A. Hoerr Springer Science and Business Media B.V.
- ''Denied Access'' Pentagon Betting on New Technologies to Foil Future Adversaries.
- ''China's $9 billion effort to beat the U.S. in genetic testing'' Washington Post December 30, 2016.
- Tech Connect World Innovation Conference and Expo—May 14–17, 2017—Washington, DC.
- ''Encourage governments to need scientific advice'' by ETRAC member William Colglazier *Nature* September 29, 2016.
- 3D Graphene'' TechConnect interviews.
- 'Airborne Optics and Photonics' *photonics.com.*
4. Discussion of recent export control and emerging technologies activities.
- Council on Government Relations—Research Compliance and Administration.
- Committee.
- Association of University Technology Managers—Global Issues session at AUTM Annual Meeting in March, 2017.
- Advanced Design and Production Technologies at Sandia National Laboratories.
- JASON-: Scientific group that advises government on matters of science, technology and national security.
- The National Academies of Sciences, Engineering, Medicine—Dual Use Research of Concern: Options for Future Management—January 4, 2017.
5. Discussion on Industry Sectors being reviewed by the ETRAC.

Electronics & Graphene Circuits
Graphene metamaterials
Robotics and Big Data
Optoelectronics & Photonics
Additive Manufacturing
Advanced materials
Autonomous Technology
Hypersonics

6. Comments from the Public.
7. Industry presentations.

Closed Session

8. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and l0(a)(3).

The open sessions will be accessible via teleconference to 25 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov* no later than, March 16, 2017.

A limited number of seats will be available for the public session. Reservations are not accepted. To the extent that time permits, members of the public may present oral statements to the Committee. The public may submit written statements at any time before or after the meeting. However, to facilitate the distribution of public presentation materials to the Committee members, the Committee suggests that presenters forward the public presentation materials prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to Section l0(d) of the Federal Advisory Committee Act, as amended, that the portion of the meeting dealing with matters of which would be likely to frustrate significantly implementation of a proposed agency action as described in 5 U.S.C. 552b(c)(9)(B) shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)1 and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–03377 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

Materials Technical Advisory Committee; Notice of Partially Closed Meeting

The Materials Technical Advisory Committee will meet on March 9, 2017, 10:00 a.m., Herbert C. Hoover Building, Room 3884, 14th Street between Constitution & Pennsylvania Avenues NW., Washington, DC. The Committee advises the Office of the Assistant Secretary for Export Administration with respect to technical questions that

affect the level of export controls applicable to materials and related technology.

Agenda

Open Session

1. Opening remarks and introductions by the Bureau of Industry and Security Senior Management.

2. A discussion with industry on current illicit procurement trends related to the carbon fiber production process and associated commodities by Michael Burnett from Export Enforcement.

3. Regime and working group discussions.

4. Public Comments/New Business/ Closed session.

Closed Session

5. Discussion of matters determined to be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 §§ 10(a)(1) and 10(a)(3).

The open session will be accessible via teleconference to 20 participants on a first come, first serve basis. To join the conference, submit inquiries to Ms. Yvette Springer at *Yvette.Springer@bis.doc.gov,* no later than March 2, 2017.

A limited number of seats will be available during the public session of the meeting. Reservations are not accepted. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting. However, to facilitate distribution of public presentation materials to Committee members, the materials should be forwarded prior to the meeting to Ms. Springer via email.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 15, 2017, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. app. 2 § 10(d)), that the portion of the meeting dealing with pre-decisional changes to the Commerce Control List and the U.S. export control policies shall be exempt from the provisions relating to public meetings found in 5 U.S.C. app. 2 § § 10(a)(1) and 10(a)(3). The remaining portions of the meeting will be open to the public.

For more information, call Yvette Springer at (202) 482–2813.

Dated: February 15,2017.

Yvette Springer,

Committee Liaison Officer.

[FR Doc. 2017–03374 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–JT–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–201–838]

Seamless Refined Copper Pipe and Tube From Mexico: Final Results of Antidumping Duty Administrative Review and Final Determination of No Shipments; 2014–2015

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

SUMMARY: On December 12, 2016, the Department of Commerce (the Department) published the preliminary results of the administrative review of the antidumping duty order on seamless refined copper pipe and tube from Mexico. The review covers three producers/exporters of the subject merchandise, GD Affiliates S. de R.L. de C.V. (Golden Dragon), Nacional de Cobre, S.A. de C.V. (Nacobre), and IUSA, S.A. de C.V. (IUSA). The period of review (POR) is November 1, 2014, through October 31, 2015. No interested party submitted comments on the preliminary results. The final results do not differ from the preliminary results.

DATES: *Effective* February 21, 2017.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or George Ayache, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–5973 or (202) 482–2623, respectively.

SUPPLEMENTARY INFORMATION:

Background

This review covers three producers/exporters of the subject merchandise, Golden Dragon,[1] Nacobre, and IUSA. On December 12, 2016, the Department published in the **Federal Register** the preliminary results of administrative review of the antidumping duty order on seamless refined copper pipe and tube from Mexico.[2]

We invited parties to comment on the *Preliminary Results.* No interested party submitted comments. As a result, the final results do not differ from the *Preliminary Results.* We continue to find that sales of subject merchandise by Golden Dragon and Nacobre were made at prices less than normal value during the POR. We continue to find that IUSA had no shipments of subject merchandise during the POR. The Department conducted this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act).

Scope of the Order [3]

The merchandise subject to the order is seamless refined copper pipe and tube. The product is currently classified under the Harmonized Tariff Schedule of the United States (HTSUS) subheadings 7411.10.1030 and 7411.10.1090, and also may enter under HTSUS subheadings 7407.10.1500, 7419.99.5050, 8415.90.8065, and 8415.90.8085. Although the HTSUS numbers are provided for convenience and customs purposes, the written product description, available in the Preliminary Decision Memorandum,[4] remains dispositive.

Final Determination of No Shipments

As noted in the *Preliminary Results,* the Department received a claim of no shipments from IUSA. Based on the results of our U.S. Customs and Border Protection (CBP) data query to determine whether there were any entries of subject merchandise during the POR from IUSA, for the final results, the Department continues to find that IUSA did not have any reviewable entries during the POR.[5]

Final Results of the Review

The Department determines that the following weighted-average dumping margins exist for entries of subject merchandise that were produced and/or exported by the following companies during the POR:

[1] The Department previously treated GD Affiliates S. de R.L. de C.V. as part of a single entity including: (1) GD Copper Cooperatief U.A.; (2) Hong Kong GD Trading Co. Ltd.; (3) Golden Dragon Holding (Hong Kong) International, Ltd.; (4) GD Copper U.S.A. Inc.; (5) GD Affiliates Servicios S. de R.L. de C.V.; and (6) GD Affiliates S. de R.L. de C.V., which is collectively referred to as Golden Dragon. *See, e.g., Seamless Refined Copper Pipe and Tube from Mexico: Final Results of Antidumping Duty New Shipper Review,* 77 FR 59178 (September 26, 2012), and accompanying Issues and Decision Memorandum.

[2] *See Seamless Refined Copper Pipe and Tube from Mexico: Preliminary Results of Antidumping Duty Administrative Review; 2014–2015,* 81 FR 89434 (December 12, 2016) (*Preliminary Results*), and accompanying Preliminary Decision Memorandum.

[3] *See Seamless Refined Copper Pipe and Tube from Mexico and the People's Republic of China: Antidumping Duty Orders and Amended Final Determination of Sales at Less Than Fair Value From Mexico,* 75 FR 71070 (November 22, 2010) (*Amended Final and Order*).

[4] For a complete description of the scope of the order, see the Preliminary Decision Memorandum at 3, which can be accessed directly at *http://enforcement.trade.gov/frn/.*

[5] For a full explanation of the Department's analysis, *see* the Preliminary Decision Memorandum at 4.

Exporter/producer	Weighted-average dumping margins (percent)
GD Affiliates S. de R.L. de C.V.	1.93
Nacional de Cobre, S.A. de C.V.	6.50

Assessment Rates

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries of subject merchandise in accordance with the final results of this review.[6] We intend to instruct CBP to liquidate entries of subject merchandise produced and/or exported by the aforementioned companies. In accordance with the Department's ''automatic assessment'' practice, for entries of subject merchandise during the POR produced by Golden Dragon or Nacobre for which they did not know their merchandise was destined for the United States, we intend to instruct CBP to liquidate unreviewed entries at the all-others rate.[7] Additionally, because the Department determined that IUSA had no shipments of subject merchandise during the POR, any suspended entries that entered under IUSA's AD case number (*i.e.,* at that exporter's rate) will be liquidated at the all-others rate effective during the period of review.[8]

The Department intends to issue assessment instructions to CBP 41 days after the date of publication of these final results of review, pursuant to 19 CFR 356.8(a).

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of these final results for all shipments of seamless refined copper pipe and tube from Mexico entered, or withdrawn from warehouse, for consumption on or after the publication date as provided by section 751(a)(2) of the Act: (1) The cash deposit rate for the reviewed companies will be the rates established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a completed prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment for the manufacturer of the merchandise; (4) the cash deposit rate for all other manufacturers or exporters will continue to be 26.03 percent, the all-others rate established in the *Amended Final and Order.* These cash deposit requirements, when imposed, 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)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties has occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

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

Notification to Interested Parties

We intend to issue and publish these results in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h) and 351.221(b)(5).

Dated: February 14, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–03338 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–DS–P

[6] *See* section 751(a)(2)(C) of the Act and 19 CFR 351.212(b).

[7] For a full discussion of this clarification, *see Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[8] *Id.*

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF149

Marine Mammals; File No. 20465

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the NMFS Alaska Fisheries Science Center (AFSC) Marine Mammal Laboratory, 7600 Sand Point Way NE., Seattle, WA 98115–6349 (Responsible Party: Dr. John Bengtson), has applied in due form for a permit to conduct research on 21 species of marine mammals.

DATES: Written, telefaxed, or email comments must be received on or before March 23, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20465 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Amy Hapeman or Shasta McClenahan, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR

part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

AFSC's Marine Mammal Laboratory requests a 5-year permit to monitor and evaluate cetacean trends, abundance, distribution, and health in the North Pacific Ocean, Bering, Beaufort, and Chukchi Seas, and in the Gulf of Maine and mid-Atlantic waters. Up to 21 species of cetaceans may be targeted for study including the following endangered or threatened species/stocks: Cook Inlet beluga (*Delphinapterus leucas*), blue (*Balaenoptera musculus*), fin (*B. physalus*), sei (*B. borealis*), bowhead (*Balaena mysticetus*), humpback (*Megaptera novaeangliae*), North Pacific right (*Eubalaena japonica*), Southern Resident killer (*Orcinus orca*), and sperm (*Physeter macrocephalus*) whales. Research would involve aerial surveys, vessel surveys, and captures. Researchers would conduct manned and unmanned aerial surveys for counts, observations, photo-identification, photogrammetry, and video of cetaceans. Vessel surveys would be conducted for counts, biological sampling, observation, photo-identification, photogrammetry, video, tagging, and/or acoustic playbacks of cetaceans. Non-listed beluga whale stocks would be captured for health assessments involving a suite of biological sampling, acoustic playbacks, and/or tagging prior to release. Up to four mortalities of each beluga stock are requested over the life of the permit for capture work. Seven pinniped species including endangered Steller sea lions (*Eumetopias jubatus*) may be harassed incidental to research. Please see the take tables for numbers of animals requested by species.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), an initial determination has been made that the activity proposed is categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of the application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: February 15, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–03344 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RINs 0648–XA888, 0648–XA599, 0648–XC599, 0648–XE469, 0648–XE684, 0648–XE773, 0648–XE913, and 0648–XE915

Marine Mammals and Endangered Species; File Nos. 15682, 16094, 17845, 19627, 20197, 20452, 20341, and 20658

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

ACTION: Notice; issuance of permit and permit amendments.

SUMMARY: Notice is hereby given that permits and permit amendments have been issued to the following entities:

RIN 0648–XA888; Permit No. 15682–01: Mithriel MacKay, Ph.D., 1394 Alameda Ave., Spring Hill, FL 34609;

RIN 0648–XA599; Permit No. 16094–04: Alaska Department of Fish and Game, Wildlife Conservation, 1255 West 8th Street, Juneau, AK 99811–5526 (Responsible Party: Robert Small, Ph.D.);

RIN 0648–XC599; Permit No. 17845–03: Rachel Cartwright, Ph.D., Keiki Kohola Project, 4945 Coral Way, Oxnard, CA 93035;

RIN 0648–XE469; Permit No. 19627: NMFS Southeast Fisheries Science Center, 75 Virginia Beach Drive, Room 207, Miami, FL 33149 (Responsible Party: Dr. Bonnie Ponwith);

RIN 0648–XE684; Permit No. 20197: NMFS Northeast Fisheries Science Center, 166 Water Street, Woods Hole, MA 025433 (Responsible Party: Dr. Jon Hare);

RIN 0648–XE773; Permit No. 20341: Craig Matkin, North Gulf Oceanic Society, 3430 Main St., Suite B1, Homer, AK 99603;

RIN 0648–XE913; Permit No. 20452: SMRU Consulting North America, LLC, P.O. Box 764, Friday Harbor, WA 98250;

RIN 0648–XE915; Permit No. 20658: Joseph Wilson, 1st Augustine's Yard, Gaunts Lane, Bristol, BS1 5DE, United Kingdom;

ADDRESSES: The permits and related documents are available for review upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Carrie Hubard (File Nos. 15682, 17845 and 20532), Sara Young (File Nos. 16094 and 20452), Shasta McClenahan (File Nos. 17845, 20532, and 20658), Amy Hapeman (File Nos. 19627, 20197, & 20658), and Erin Markin (File Nos. 19627, & 20197) at (301) 427–8401.

SUPPLEMENTARY INFORMATION: Notices were published in the **Federal Register** that requests for a permit or permit amendment had been submitted by the above-named applicants. The requested permits have been issued under the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), as applicable.

Permit No. 15682–01: The original permit (No. 15682), issued on December 20, 2011 (77 FR 268, January 4, 2012) authorized Dr. MacKay up to 700 takes of humpback whales (*Megaptera novaeangliae*) annually in waters off Puerto Rico during vessel-based photo-identification, behavioral observation, and passive acoustic recording. The minor amendment (No. 15682–01) extends the duration of the permit through December 31, 2017, but does not change any other terms or conditions of the permit.

Permit No. 16094–04: The original permit (No. 16094), issued on September 20, 2011 (76 FR 61345, October 4, 2011) authorized the permit holder to conduct research on harbor seals (*Phoca vitulina*) throughout their range in Alaska, including Southeast Alaska, Gulf of Alaska, and Bering Sea. Subsequent amendments were issued on March 28, 2012 (Permit No. 16094–01), June 1, 2012 (Permit No. 16094–02), and March 5, 2013 (Permit No. 16094–03). The minor amendment (No. 16094–04) extends the duration of the permit through December 31, 2017, but does not change any other terms or conditions of the permit.

Permit No. 17845–03: Permit No. 17845, issued on January 25, 2014 (79 FR 5382), authorizes Level A and B harassment of humpback whales during photo-identification, behavioral follows, and surface and underwater observations in Hawaii, Alaska, and California. Nine other cetacean species may be studied opportunistically and

two species of pinnipeds may be incidentally harassed. The permit amendment (81 FR 67997, October 3, 2016) authorizes Level B playbacks for humpback whales in Hawaii to estimate their hearing range using behavioral observation audiometry. The sounds will be presented to a maximum of 300 humpback whales and their behavioral responses will be measured through visual and acoustic recordings including an unmanned aerial system. Only humpback whales will be targeted for active playback, but incidental harassment to additional species may occur including bottlenose dolphins (*Tursiops truncatus*), spinner dolphins *(Stenella longirostris*), false killer whales (*Pseudorca crassidens*), melon headed whales (*Peponocephala electra*), and short-finned pilot whales (*Globicephala macrorhynchus*). The permit is valid through January 31, 2019.

Permit No. 19627: The requested permit (81 FR 12077, March 8, 2016) authorizes the permit holder to monitor and provide data on green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys kempii*), leatherback (*Dermochelys coriacea*), loggerhead (*Caretta caretta*), and olive ridley (*L. olivacea*) sea turtles that interact with commercial fisheries and other authorized activities in the Gulf of Mexico and along the U.S. East Coast. Researchers may handle, photograph, measure, weigh, flipper and passive integrated transponder tag, tissue sample, and temporary carapace mark live sea turtles and salvage dead specimens legally taken during commercial fishing and other activities. The permit is valid through January 15, 2022.

Permit No. 20197: The requested permit (81 FR 41296, June 24, 2016) authorizes researchers to collect data on green, Kemp's ridley, leatherback, loggerhead, and unidentified sea turtles that interact with commercial fisheries in the U.S. Northwest Atlantic Ocean. Researchers may handle, photograph, measure, weigh, flipper tag, and tissue sample live sea turtles and salvage dead specimens legally taken in commercial fisheries. The permit is valid through January 15, 2022.

Permit No. 20341: The requested permit (81 FR 59196, August 29, 2016) authorizes photo-identification, passive acoustics, morphometrics, biopsy sampling, and deployment of both suction cup and dart tagging in Alaskan waters for killer (*Orcinus orca*), gray (*Eschrichtius robustus*), minke (*Balaenoptera acutorostrata*), Baird's beaked (*Berardius bairdii*), Cuvier's beaked (*Ziphius cavirostris*), and Stejneger's beaked (*Mesoplodon stenergeri*) whales. Photogrammetry using unmanned aircraft systems may be used for killer whales. Prey remains may be collected from minke and gray whales, harbor porpoise (*Phocoena phocoena*), Dall's porpoise (*Phocoenoides dalli*), harbor seals, Pacific white-sided dolphins (*Lagenorhynchus obliquidens*), and northern fur seals *(Callorhinus ursinus*). The permit is valid through December 31, 2021.

Permit No. 20452: The requested permit (81 FR 68406, October 4, 2016) authorizes a combination of land-based surveys and passive acoustic monitoring methods to characterize the fine-scale habitat use of harbor porpoise and pinnipeds in tidal inlets directed at harbor porpoises and harbor seals in Washington waters. Steller sea lions (*Eumetopias jubatus*) and California sea lions (*Zalophus californianus*) may also be taken by acoustic playbacks and UAS.

Permit No. 20658: The requested permit (81 FR 70101, October 11, 2016) authorizes Mr. Wilson to film and photograph killer and Antarctic minke (*Balaenoptera bonaerensis*) whales in McMurdo Sound and the Ross Sea for the production of a documentary film for Disneynature studio. Up to 60 whales of each species per year may be targeted and disturbed during aerial filming and photography. The permit is valid through December 31, 2018.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities proposed are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

As required by the ESA, as applicable, issuance of these permits and amendments were based on a finding that such permits and amendments: (1) Were applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) are consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: February 15, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–03334 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF215

Endangered Species; File No. 20315

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Kristen Hart, Ph.D., U.S. Geological Survey, 3205 College Ave., Davie, Florida, 33314 has applied in due form for a permit to take green (*Chelonia mydas*), hawksbill (*Eretmochelys imbricata*), and loggerhead (*Caretta caretta*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or email comments must be received on or before March 23, 2017.

ADDRESSES: The application and related documents are available for review by selecting ''Records Open for Public Comment'' from the ''Features'' box on the Applications and Permits for Protected Species (APPS) home page, *https://apps.nmfs.noaa.gov,* and then selecting File No. 20315 from the list of available applications.

These documents are also available upon written request or by appointment in the Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

Written comments on this application should be submitted to the Chief, Permits and Conservation Division, at the address listed above. Comments may also be submitted by facsimile to (301) 713–0376, or by email to *NMFS.Pr1Comments@noaa.gov.* Please include the File No. in the subject line of the email comment.

Those individuals requesting a public hearing should submit a written request to the Chief, Permits and Conservation Division at the address listed above. The request should set forth the specific reasons why a hearing on this application would be appropriate.

FOR FURTHER INFORMATION CONTACT: Erin Markin or Amy Hapeman, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and

exporting of endangered and threatened species (50 CFR parts 222–226).

The applicant requests a five-year research permit to continue projects studying green, hawksbill, and loggerhead sea turtles in the U.S. Virgin Islands, including Buck Island Reef National Monument, Virgin Islands Coral Reef National Monument, and Virgin Islands National Park. Proposed research would involve vessel surveys for abundance counts and capture of turtles to determine connectivity of populations, monitor movement, identify habitat utilization, estimate abundance, and determine diet composition of sea turtles. Annually, up to 160 green, 190 hawksbill, and 10 loggerhead sea turtles would be captured by hand, rodeo, or dip, tangle, or cast nets. Each turtle would be subject to epibiota removal, flipper and passive integrated transponder tagging, temporary carapace marking, morphometric measurements, gastric lavage, photograph/video, opportunistic recapture, fecal collection, and blood/tissue sampling. Loggerhead sea turtles and a subset of green and hawksbill sea turtles would also be outfitted with up to three transmitters at a time.

Dated: February 15, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–03333 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Sea Grant Advisory Board; Meeting

AGENCY: National Sea Grant Advisory Board (NSGAB), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce.

ACTION: Notice of public meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Board. Board members will discuss and provide advice on the National Sea Grant College Program (NSGCP) in the areas of program evaluation, strategic planning, education and extension, science and technology programs, and other matters as described in the agenda found on the National Sea Grant College Program Web site at *http://seagrant.noaa.gov/WhoWeAre/Leadership/NationalSeaGrantAdvisoryBoard/UpcomingAdvisoryBoardMeetings.aspx.*

Time and Dates: The announced meeting is scheduled for Monday, March 6, 2017 from 9:00 a.m. to 5:00 p.m. EST, and Tuesday, March 7, 2017 from 8:30 a.m. to 12:00 p.m. EST.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel at 10 Thomas Circle NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: For any questions concerning the meeting, please contact Ms. Mary Ann Garlic, National Sea Grant College Program, National Oceanic and Atmospheric Administration, 1315 East-West Highway, SSMC 3, Room 11717, Silver Spring, Maryland 20910, or *Maryann.Garlic@noaa.gov.* If you need additional assistance, call 301–734–1088.

Status: The meeting will be open to public participation with a 15-minute public comment period on Tuesday, March 7, 2017 at 11:00 a.m. Check the agenda on the Web site to confirm time.

Matters To Be Considered: The Board expects that public statements presented at its meetings will not be repetitive of previously submitted verbal or written statements.

In general, each individual or group making a verbal presentation will be limited to a total time of three (3) minutes. Written comments should be received by Ms. Mary Ann Garlic using the methods under the **FOR FURTHER INFORMATION CONTACT** section by Monday, February 27, 2017 to provide sufficient time for the Board review. Comments received after the deadline will be distributed to the Board, but may not be reviewed prior to the meeting date. Seats will be available on a first-come, first-serve basis.

Special Accomodations: These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Ms. Mary Ann Garlic using the methods under the **FOR FURTHER INFORMATION CONTACT** section by Monday, February 20, 2017.

SUPPLEMENTARY INFORMATION: The Board, which consists of a balanced representation from academia, industry, state government and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Pub. L. 94–461, 33 U.S.C. 1128). The Board advises the Secretary of Commerce and the Director of the National Sea Grant College Program with respect to operations under the Act, and such other matters as the Secretary refers to them for review and advice.

The agenda for this meeting will be available at: *http://seagrant.noaa.gov/WhoWeAre/Leadership/NationalSeaGrantAdvisoryBoard/UpcomingAdvisoryBoardMeetings.aspx.*

Dated: February 14, 2017.

Paul Johnson,

Acting Deputy Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–03345 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–KA–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF236

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a joint public meeting of its Whiting Committee and Advisory Panel to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Monday, March 13, 2017 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Fairfield Inn & Suites, 185 MacArthur Drive, New Bedford, MA 02740, telephone: (774) 634–2000.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Committee and Advisory Panel will review and approve draft alternatives for Amendment 22 to the Small Mesh Multi-Species FMP, including limited access qualification criteria, permit conditions, and possession limits. Council staff will provide an update on the schedule for planned 2017 actions, including a specifications package for 2018–2020. Other business will be discussed as necessary.

Special Accommodations

This meeting is physically accessible to people with disabilities. This meeting will be recorded. Consistent with U.S.C. 1852, a copy of the recording is available upon request. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date.

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

Dated: February 15, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–03310 Filed 2–17–17; 8:45 am]

BILLING CODE 3510–22–P

BUREAU OF CONSUMER FINANCIAL PROTECTION

[Docket No. CFPB–2017–0005]

Request for Information Regarding Use of Alternative Data and Modeling Techniques in the Credit Process

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Notice and request for information.

SUMMARY: The Consumer Financial Protection Bureau (CFPB or Bureau) seeks information about the use or potential use of alternative data and modeling techniques in the credit process. Alternative data and modeling techniques are changing the way that some financial service providers conduct business. These changes hold the promise of potentially significant benefits for some consumers but also present certain potentially significant risks. The Bureau seeks to learn more about current and future market developments, including existing and emerging consumer benefits and risks, and how these developments could alter the marketplace and the consumer experience. The Bureau also seeks to learn how market participants are or could be mitigating certain risks to consumers, and about consumer preferences, views, and concerns.

DATES: Comments must be received on or before May 19, 2017.

ADDRESSES: You may submit responsive information and other comments, identified by Docket No. CFPB–2017–0005, by any of the following methods:

- *Electronic:* Go to *http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20552.
- *Hand Delivery/Courier:* Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1275 First Street NE., Washington, DC 20002.

Instructions: Please note the number associated with any question to which you are responding at the top of each response (you are not required to answer all questions to receive consideration of your comments). The Bureau encourages the early submission of comments. All submissions must include the document title and docket number. Because paper mail in the Washington, DC area and at the Bureau is subject to delay, commenters are encouraged to submit comments electronically. In general, all comments received will be posted without change to *http://www.regulations.gov.* In addition, comments will be available for public inspection and copying at 1275 First Street NE., Washington, DC 20002, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Standard Time. You can make an appointment to inspect the documents by telephoning 202–435–7275.

All submissions, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information, such as account numbers or Social Security numbers, or names of other individuals, should not be included. Submissions will not be edited to remove any identifying or contact information.

FOR FURTHER INFORMATION CONTACT: For general inquiries, submission process questions or any additional information, please contact Monica Jackson, Office of the Executive Secretary, at 202–435–7275.

Authority: 12 U.S.C. 5511(c).

SUPPLEMENTARY INFORMATION: The Bureau would like to encourage responsible innovations that could be implemented in a consumer-friendly way to help serve populations currently underserved by the mainstream credit system. To that end, in reviewing the comments to this request for information (RFI), the Bureau seeks not only to understand the benefits and risks stemming from use of alternative data and modeling techniques but also to begin to consider future activity to encourage their responsible use and lower unnecessary barriers, including any unnecessary regulatory burden or uncertainty that impedes such use.

The Bureau encourages comments from all interested members of the public. The Bureau anticipates that the responding public may encompass the following groups, some of which may overlap in part:

- Individual consumers;
- Consumer, civil rights, and privacy advocates;
- Community development and service organizations;
- Lenders, including depository and non-depository institutions;
- Consumer reporting agencies, including specialty consumer reporting agencies;
- Data brokers and aggregators;
- Model developers and licensors, as well as companies involved in the analysis of new or existing models;
- Consultants, attorneys, or other professionals who advise market participants on these issues;
- Regulators;
- Researchers or members of academia;
- Telecommunication, utility, and other non-financial companies that rely on consumer data for eligibility decisions;
- Participants in non-U.S. consumer markets with knowledge of or experience in the use of alternative data or modeling techniques for use in the credit process; and
- Any other interested parties.

All commenters are welcome to respond in any manner they see fit, including by sharing their knowledge of standard practices, their understanding of the market as a whole, or their own positions and views on the questions included in this RFI. Commenters may also choose to answer only a subset of questions. The information obtained in response to this RFI will help the Bureau monitor consumer credit markets and consider any appropriate steps. Comments may also help industry develop best practices. The Bureau seeks information predominantly pertaining to products and services offered to consumers. However, because some of the Bureau's authorities relate to small business lending,[1] the Bureau welcomes information about alternative data and modeling techniques in business lending markets as well. Information submitted by financial institutions should not include any personal information relating to any customer, such as name, Social Security

[1] For example, the Equal Credit Opportunity Act covers both consumer and commercial credit transactions. 15 U.S.C. 1691 *et seq.* In addition, section 1071 of the Dodd-Frank Act requires data collection and reporting for lending to women-owned, minority-owned, and small businesses. The Bureau has yet to write regulations implementing that section but it has begun that process.

number, address, telephone number, or account number.

For the purposes of this RFI, we define the following terms. None of these definitions should be construed as statutory or regulatory definitions or descriptions of statutory or regulatory coverage.

• ''Traditional data'' refers to data assembled and managed in the core credit files of the nationwide consumer reporting agencies, which includes tradeline information (including certain loan or credit limit information, debt repayment history, and account status), and credit inquiries, as well as information from public records relating to civil judgments, tax liens, and bankruptcies. It also refers to data customarily provided by consumers as part of applications for credit, such as income or length of time in residence.

• ''Alternative data'' refers to any data that are not ''traditional.'' We use ''alternative'' in a descriptive rather than normative sense and recognize there may not be an easily definable line between traditional and alternative data.

• ''Traditional modeling techniques'' refers to statistical and mathematical techniques, including models, algorithms, and their outputs, that are traditionally used in automated credit processes, especially linear and logistic regression methods.

• ''Alternative modeling techniques'' refers to all other modeling techniques that are not ''traditional,'' including but not limited to decision trees, random forests, artificial neural networks, k-nearest neighbor, genetic programming, ''boosting'' algorithms, etc. We use ''alternative'' in a descriptive rather than normative sense and recognize that there may not be an easily definable line between traditional and alternative modeling techniques.

• ''The credit process'' refers to all the processes and decisions made by the creditor during the full lifecycle of the credit product, including marketing, pre-screening, fraud prevention, application procedures, underwriting, account management, credit authorization, the setting of pricing and terms, as well as the renewal, modification, or refinancing of existing credit, and the servicing and collection of debts.

Part A: Traditional Automated Credit Process and Its Alternatives

Most of today's automated decisions in the credit process use traditional modeling techniques that rely upon traditional data elements as inputs. When lenders make decisions about consumers relating to applications for credit, increases or reductions in credit lines, extensions of new offers of credit, or other decisions in the credit process, lenders typically evaluate consumers using a standard set of information that includes consumer-supplied data (such as income, assets and, if secured, any collateral) and other traditional data supplied by one or more of the nationwide consumer reporting agencies. Many lenders base their decisions, in whole or in part, on scores using traditional data as inputs and generated from commercially-available, third-party models such as one of the many developed by FICO or VantageScore Solutions. Other lenders may base their decisions, in whole or in part, on proprietary scoring algorithms that use traditional data, and perhaps scores from these third-party models, as well as consumer-supplied information, as inputs. In addition to using common inputs, there is similar consistency in the modeling techniques used to generate these automated decision engines. They have predominantly been developed using multivariate regression analysis to correlate past credit history and current credit usage attributes to consumer credit outcomes to determine whether, based on the performance of other previous consumers who had similar attributes at the time credit was extended, it is likely that the consumer being evaluated will default on or become seriously delinquent on the loan within a certain period of time (often 1–2 years). These traditional data and modeling techniques have facilitated the standardization and automation of the credit process, leading to efficiencies in the provision of credit over the past few decades.

Yet the use of traditional data and modeling techniques has left some important gaps in access to mainstream credit for certain consumer groups and segments. The Bureau estimates that 26 million Americans are ''credit invisible,'' meaning that they have no file with the major credit bureaus, while another 19 million are ''unscorable'' because their credit file is either too thin or too stale to generate a reliable score from one of the major credit scoring firms.[2] Most of these 45 million Americans are underserved by the mainstream credit system and they are disproportionately Black and Hispanic, low-income, or young adults. Some populations, like those recently widowed or divorced or recent immigrants, have difficulty accessing the mainstream credit system because they have not established a long enough credit history on their own or in this country. Some underserved consumers instead resort to high-cost products that may not help them build credit history.

Several commentators have suggested that alternative data and modeling techniques could address this problem and reach some of the millions of consumers currently shut out of the mainstream credit system and enable others to obtain more favorable pricing based on more refined assessments of their risks.[3] Discussions point to the wide array of other data sources beyond traditional credit files that could be used to assess the creditworthiness of borrowers, including so-called ''big data.''[4] In addition, increased computing power and the expanded use of machine learning to mine massive datasets could potentially identify insights not otherwise discoverable through traditional methods. The application of alternative data and modeling techniques might also improve decisions in the credit process by improving the predictiveness of credit-related models, by lowering the costs of sourcing and analyzing data, or through other process improvements such as faster decisions.

If these claimed benefits prove valid, the use of alternative data and modeling techniques could significantly reshape the consumer (and business) credit market. Potentially millions of consumers previously locked out of mainstream credit could become eligible for credit products that might help them buy a car or a home. An increasing ability for lenders to accurately assess risk could reduce the price of credit for those who are shown to be good risks (although it could *increase* the price of credit for those shown to be worse risks), and might even reduce the overall average price of credit for those who qualify for credit. The process of

[2] CFPB, *Data Point: Credit Invisibles* (May 2015), *available at http://files.consumerfinance.gov/f/201505_cfpb_data-point-credit-invisibles.pdf* (figures are from 2010 Census).

[3] *See, e.g.,* PERC, *Give Credit Where Credit Is Due: Increasing Access To Affordable Mainstream Credit Using Alternative Data* (Dec. 2006), *available at http://www.perc.net/publications/give-credit-where-credit-is-due/;* CFSI, *The Predictive Value of Alternative Credit Scores* (Nov. 2007), *available at http://www.cfsinnovation.com/Document-Library/The-Predictive-Value-of-Alternative-Credit-Scores;*

[4] ''Big data'' is a distinct concept from alternative data, though some alternative data may have the attributes generally ascribed to ''big data.'' In the FTC's words, ''A common framework for characterizing big data relies on the 'three Vs,' the volume, velocity, and variety of data, each of which is growing at a rapid rate as technological advances permit the analysis and use of this data in ways that were not possible previously.'' FTC, *Big Data: A Tool for Inclusion or Exclusion? Understanding the Issues* (Jan. 2016), *available at https://www.ftc.gov/system/files/documents/reports/big-data-tool-inclusion-or-exclusion-understanding-issues/160106big-data-rpt.pdf.*

applying for credit could become more streamlined and convenient.

At the same time, other commentators have pointed out that alternative data and modeling techniques could present risks for consumers. These risks include but are not limited to potential issues with the accuracy of alternative data and modeling techniques; the lack of transparency, control, and ability to correct data that might result from their use; potential infringements on consumer privacy; and the risk that certain data could dampen social mobility, result in discriminatory outcomes, or otherwise disadvantage certain groups, characteristics, or behaviors.

The Bureau seeks to learn more about these potential benefits and risks. In further educating ourselves and the public, the Bureau seeks to encourage responsible uses of alternative data and modeling techniques while mitigating the various risks.

Part B: Alternative Data and Modeling Techniques

Based on its research to date, the Bureau is aware of a broad range of alternative data and modeling techniques that firms are either using or contemplating. These innovations may be in different stages of development and market adoption. As set forth below, the Bureau seeks more information about the stages of development and extent of adoption of these innovations. In some cases they are broadly used by a wide range of market participants, while others are in earlier stages of development. Some may be used often in fraud detection or marketing, for example, but rarely in underwriting. Some have been developed by established data aggregators or model developers who license their technologies or ''platforms'' to lenders; others have been developed for proprietary use by established lenders; and still others are being used by early stage lenders as a basis for lending at lower cost or profitably in certain channels or to consumer segments that established lenders have not traditionally served or can only serve at higher cost. Among the numerous online or marketplace lenders that have formed over the past few years, many have identified use of proprietary alternative data or machine learning techniques as central to their business strategies and comparative advantage.

Just how ''alternative'' or ''traditional'' certain data or modeling techniques are depends on one's perspective. Labeling data or modeling techniques as ''alternative'' is not intended as a normative judgment, but to describe the fact that they have not customarily been used in decisions in the credit process. Any mention in this document of particular types of alternative data or modeling techniques should not be construed as endorsement or disapproval by the Bureau.

Data that some have labeled ''alternative'' include but are not limited to the following: [5]

- Data showing trends or patterns in traditional loan repayment data.
- Payment data relating to non-loan products requiring regular (typically monthly) payments, such as telecommunications, rent, insurance, or utilities.
- Checking account transaction and cashflow data and information about a consumer's assets, which could include the regularity of a consumer's cash inflows and outflows, or information about prior income or expense shocks.
- Data that some consider to be related to a consumer's stability, which might include information about the frequency of changes in residences, employment, phone numbers or email addresses.
- Data about a consumer's educational or occupational attainment, including information about schools attended, degrees obtained, and job positions held.
- Behavioral data about consumers, such as how consumers interact with a web interface or answer specific questions, or data about how they shop, browse, use devices, or move about their daily lives.
- Data about consumers' friends and associates, including data about connections on social media.

Modeling techniques that some have labeled ''alternative'' include but are not limited to the following:

- Decision trees (or sets of decision trees, such as ''random forests'').
- Artificial neural networks.
- Genetic programming.
- ''Boosting'' algorithms.
- K-nearest neighbors.

Given the rapidly evolving credit market landscape, the Bureau is eager to learn more about types of alternative data and modeling techniques, including but not limited to those listed above, and their uses and impacts.

[5] This list is purely descriptive, and nothing should be implied from the inclusion or exclusion of any data.

Part C: Potential Benefits and Risks Associated With Use of Alternative Data and Modeling Techniques in the Credit Process

Prior Research and Interest in Alternative Data and Modeling Techniques

The Bureau is aware that several market participants,[6] consumer advocates,[7] regulators, and other commentators have identified the use of alternative data and modeling techniques as a source of potential opportunities and risks. Without seeking to summarize the full range of prior work, we note here a few relevant recent publications by other Federal entities.[8] In September 2014, the Federal Trade Commission (FTC) held a public workshop on the topic of ''Big Data'' and subsequently published a report in January 2016 entitled ''Big Data: A Tool for Inclusion or Exclusion?'' [9] This report outlined potential consumer benefits and risks broadly, rather than those specific to credit decisions. The FTC found that big data ''is helping target educational, credit, healthcare, and employment opportunities to low-income and underserved populations'' but could also contain ''potential inaccuracies and biases [that] might lead to detrimental effects, including discrimination, for low-income and underserved populations.'' [10]

Similarly, the Department of the Treasury's May 2016 report on marketplace lending referenced the use

[6] *See, e.g.,* FICO, ''Can Alternative Data Expand Credit Access?'' (Dec. 2015), *available at http://subscribe.fico.com/can-alternative-data-expand-credit-access;* TransUnion, ''The State of Alternative Data,'' *available at https://www.transunion.com/resources/transunion/doc/insights/research-reports/research-report-state-of-alternative-data.pdf.*

[7] *See, e.g.,* National Consumer Law Center, *Big Data: A Big Disappointment for Scoring Consumer Creditworthiness* (Mar. 2014), *available at http://www.nclc.org/issues/big-data.html;* Leadership Conference on Civil and Human Rights, ''Civil Rights Principles for the Era of Big Data,'' February 27, 2014, *available at http://www.civilrights.org/press/2014/civil-rights-principles-big-data.html.*

[8] State policymakers and law enforcement officials have also looked into the potential risks and opportunities of alternative data, particularly on data privacy issues. For example, in March 2015 the National Association of Attorneys General held a meeting to discuss ''Big Data: Challenges and Opportunities,'' *available at http://www.naag.org/naag/media/naag-news/untitled-resource1.php.* In addition, the Massachusetts Attorney General hosted a March 2016 forum on data privacy in partnership with the MIT Computer Science and Artificial Intelligence Lab.

[9] FTC, *Big Data: A Tool for Inclusion or Exclusion?* (Jan. 2016), *available at https://www.ftc.gov/system/files/documents/reports/big-data-tool-inclusion-or-exclusion-understanding-issues/160106big-data-rpt.pdf.*

[10] *Id.* at 1.

of alternative data in underwriting by marketplace lenders as an area of both promise and risk: ''While data-driven algorithms may expedite credit assessments and reduce costs, they also carry the risk of disparate impact in credit outcomes and the potential for fair lending violations.'' [11]

The Obama Administration completed two reports on big data, each referencing both the promises and risks posed by alternative data in the credit process.[12] The latter report notes, among other things, the importance of mitigating ''algorithmic discrimination,'' designing the best algorithmic systems, and algorithmic auditing and testing.

Finally, the Office of the Comptroller of the Currency (OCC), the Federal Reserve Board of Governors (FRB), and the Federal Deposit Insurance Corporation (FDIC) recently issued joint guidance [13] referencing alternative data. The guidance identifies that banks' use of ''alternative credit histories'' as a means ''to evaluate low- or moderate-income individuals who lack sufficient conventional credit histories and who would be denied credit based on the institution's traditional underwriting standards'' could be considered an ''innovative and flexible practice . . . to address the credit needs of low- or moderate-income individuals or geographies'' that examiners would consider in evaluating banks' lending practices under the Community Reinvestment Act (CRA). The guidance lists a prospective borrower's rental and utility payments as examples of alternative credit history.

These agencies' attention to the use of alternative data and modeling techniques in the credit process reflects the growing importance of these methods and approaches in the marketplace. As a Federal agency designated by Congress to oversee compliance with the various consumer financial protection statutes and regulations as they apply to *both* banks and non-banks, and with its additional desire to foster consumer-friendly innovation in the marketplace, the Bureau is especially interested in increasing its understanding of the consumer benefits and risks that are likely to accompany these developments and how they relate to established consumer protections. Through this RFI, the Bureau seeks to build on the foundation of existing research by other Federal agencies and develop a deeper understanding of these potential benefits and risks. The Bureau seeks to encourage responsible and consumer-friendly uses of alternative data and modeling techniques that leverage such benefits while providing a clearer path whereby market participants can mitigate risks to consumers.

Potential Consumer Benefits

Alternative data and modeling techniques have the potential to benefit consumers in several ways listed below. These benefits, as well as others not identified here, could accrue differently in different product markets—what helps consumers in the credit card marketplace may not help consumers in the mortgage marketplace—or could provide different levels of benefits to different consumer segments—what helps consumers with no credit records may not help consumers with long traditional credit histories.

• *Greater credit access:* The Bureau estimates that approximately 45 million Americans lack access to mainstream credit because they have no credit history or because their credit history is insufficient or stale. The use of alternative data or modeling techniques could increase access to credit for that population by providing more information about them and enabling them to be reliably scored. For example, some consumers might not have traditional loan repayment history but might pay their mobile phone bills on a regular basis, a pattern that might be sufficient to reassure some lenders that they are viable credit risks. Of course, only some portion of that 45 million might be reliably scorable using alternative data and modeling techniques, and some of those scores might not qualify consumers for mainstream credit.

• *Enhanced creditworthiness predictions:* Alternative data and modeling techniques could allow lenders to better assess the creditworthiness of consumers who are already scored. For example, a lender might not currently lend below a credit score of 620, but might be willing to do so if, by adding some new data source, it could distinguish those sub-620 consumers who present greater or lesser risks of default. It is important to note that, to the extent alternative data or modeling techniques could help a creditor identify consumers who are *more and less* likely to default than their current credit score suggests, alternative data could in fact *decrease or increase* a given consumer's likelihood of receiving credit, or could *raise or lower* the price that any individual is offered for that credit. Though this could be seen as a detriment to consumers who are less likely to receive credit (or whose prices increase), it could also be seen as an improvement in risk assessment, which may provide greater certainty and allow a lender to increase credit availability for those who qualify. Indeed, in the longer term consumers whose credit scores understate their true risk may be better served if they do not obtain additional credit that they cannot repay.

• *More timely information:* The credit process could be improved by relying on more timely information about the consumer being assessed. While all risk assessments use data from the present or past to predict outcomes in the future (*e.g.,* likelihood of default), traditional data often lags actual events. For example, the opening of a new credit account might take months to show up on a consumer's credit report and in some cases it may not show up at all. Alternative data could provide more timely indicators, such as real-time access to a consumer's outstanding credit card balance. It could also help lenders recognize whether a particular consumer's finances are trending in a particular direction, such as through a job status change appearing on social media. Such information could help to distinguish those consumers whose low scores are a function of prior financial problems that they have surmounted from those consumers whose financial challenges have just begun and who may pose a greater risk than the score indicates. Alternative modeling techniques might also generate more timely feedback to the extent they dynamically change as new data are ingested, though such dynamism could also carry certain risks.

• *Lower costs:* The use of alternative data and modeling techniques may have the potential to lower lenders' costs—these cost savings might, in turn, be passed along to consumers in the form of lower prices or in lenders' ability to make smaller loans economically. For example, a lender might currently verify employment and income by calling the consumer's employer or manually reviewing tax returns. If, instead, the lender could automate such tasks by

[11] U.S. Treasury, *Opportunities and Challenges in Online Marketplace Lending* (May 2016), *available at https://www.treasury.gov/connect/blog/Documents/Opportunities_and_Challenges_in_Online_Marketplace_Lending_white_paper.pdf.*

[12] Executive Office of the President, *Big Data: A Report on Algorithmic Systems, Opportunity, and Civil Rights* (May 2016), *available at https://www.whitehouse.gov/sites/default/files/microsites/ostp/2016_0504_data_discrimination.pdf;* Executive Office of the President, *Big Data: Seizing Opportunities, Preserving Values* (May 2014), *available at https://www.whitehouse.gov/sites/default/files/docs/big_data_privacy_report_may_1_2014.pdf.*

[13] OCC, FRB, and FDIC, *Community Reinvestment Act; Interagency Questions and Answers Regarding Community Reinvestment; Guidance,* 81 FR 48506 (July 25, 2016), *available at https://www.gpo.gov/fdsys/pkg/FR-2016-07-25/pdf/2016-16693.pdf.*

processing data associated with the individual's employer, tax returns, or other methods, its processing costs might significantly decline.

• *Better service and convenience:* Alternative data and modeling techniques might also be able to drive operational improvements that enable better customer service outcomes for consumers or greater convenience. For example, to the extent more tasks can be automated, it might speed up application processes or reduce any discretionary judgments that may sometimes lead to discrimination.

Through this RFI, the Bureau seeks to understand how consumers might benefit from the use of alternative data and modeling techniques (including in the ways identified above), the degree to which those benefits impact different consumer segments or products, and any specific empirical evidence relevant to the likelihood and extent of those benefits.

Potential Consumer Risks

Use of alternative data and modeling techniques also carries several potential risks. The Bureau lists some such risks below not to dissuade the use of alternative data and modeling techniques but rather to highlight some of the challenges with such use, to encourage responsible use that takes consideration of and manages these risks, and to invite commenters to discuss their views about how these and other risks could be mitigated. As with the consumer benefits, this list of consumer risks may not encompass all of the perceived or potential consumer risks, and some risks may apply differently to different consumer or product segments.

• *Privacy:* Some types of alternative data could raise privacy concerns because the data are of a sensitive nature and consumers may not know the data were collected and shared nor expect or be aware it will be used in decisions in the credit process.

• *Data quality issues:* Some types of alternative data could raise accuracy concerns because the data are inconsistent, incomplete, or otherwise inaccurate. Though traditional data raises accuracy concerns,[14] it could be that certain types of alternative data have greater rates of error due to their nature or the fact that the quality standards for their original purpose are lesser than those associated with decisions in the credit process. Such concerns may arise in part because such data have not historically been used in credit or other eligibility decisions and, as a result, the sources of such data may not have been subject to the type of accuracy and quality obligations that would commonly be expected for data to be used in decisions in the credit process.

• *Lost transparency, control, and ability to correct:* Some sources of alternative data may not permit consumers to access or view data that is being used in decisions in the credit process, or to correct any inaccuracies in that data. In some cases, consumers might not be able to determine the sources of the data. These issues are compounded if creditors are not transparent about the type of data they are using and how those data figure into decisions in the credit process. Certain alternative modeling techniques could compound the transparency problem if they do not permit easy interpretation of how various data inputs impact a model's result.

• *Harder to change credit standing through behavior:* Traditional credit factors are heavily influenced by the consumer's own financial conduct, such as whether the person paid their loans on time or how much credit the person has obtained and utilized. Alternative data that cannot be changed by consumers or that are not specific to the individual, but relate instead to peers or broader consumer segments, do not enable consumers to improve their credit rating.

• *Harder to educate and explain:* The more factors that are integrated into a consumer's credit score or into decisions in the credit process, or the more complex the modeling process in which the data are used, the harder it may be to explain to a consumer what factors led to a particular decision. This may be true for lenders, who are required to provide adverse action notices to consumers in certain circumstances, as well as for financial educators, who wish to improve consumers' understanding of the factors that impact their credit standing. These complexities make it more difficult for consumers to exercise control in their financial lives, such as by learning how to improve their credit rating.

• *Unintended or undesirable side effects:* The use of alternative data and modeling techniques could penalize or reward certain groups or behaviors in ways that are difficult to predict. For example, members of the military may frequently move and the perceived lack of housing stability or continuity may give a false impression of overall instability. Or negative inferences could potentially be drawn about consumers who are not found in the alternative data source being used by the lender. Foreseeable or otherwise, using alternative data and modeling techniques could also cause potentially undesirable results. For example, using some alternative data, especially data about a trait or attribute that is beyond a consumer's control to change, even if not illegal to use, could harden barriers to economic and social mobility, particularly for those currently out of the financial mainstream.

• *Discrimination:* Alternative data and modeling techniques could also result in illegal discrimination. For example, using alternative data that involves categories protected under Federal, State, or local fair lending laws may be overt discrimination. In addition, certain alternative data variables might serve as proxies for certain groups protected by anti-discrimination laws, such as a variable indicating subscription to a magazine exclusively devoted to coverage of women's health issues. And the use of other alternative data might cause a disproportionately negative impact on a prohibited basis that does not meet a legitimate business need or that could be reasonably achieved by means that are less disparate in their impact. Machine learning algorithms that sift through vast amounts of data could unearth variables, or clusters of variables, that predict the consumer's likelihood of default (or other relevant outcome) but are also highly correlated with race, ethnicity, sex, or some other basis protected by law. Such correlations are not per se discriminatory but may raise fair lending risks. The use of alternative data and modeling techniques could potentially lead to disparate impact on the part of a well-intentioned lender as well as allow ill-meaning lenders to intentionally discriminate and hide it behind a curtain of programming code.

• *Other violations of law:* The use of alternative data and modeling techniques could potentially raise the risk of violating consumer financial laws, such as the Equal Credit Opportunity Act (ECOA) and Regulation B, the Fair Credit Reporting Act (FCRA) and Regulation V, and the prohibitions on unfair, deceptive, or abusive acts or practices (UDAAPs, collectively). The Bureau also recognizes that there may be uncertainty about how certain aspects of these laws apply to

[14] *See* FTC, *Report to Congress Under Section 319 of the Fair and Accurate Credit Transactions Act of 2003* (Jan. 2015), *available at https://www.ftc.gov/system/files/documents/reports/section-319-fair-accurate-credit-transactions-act-2003-sixth-interim-final-report-federal-trade/150121factareport.pdf* (26% of consumers found material errors on their credit reports, 13% experienced a change in their credit score as a result of modifying their reports, and 5% experienced a significant change that changed their risk tier).

alternative data and modeling techniques, and the Bureau seeks to understand specifically where greater certainty would be helpful.

Through this RFI, the Bureau seeks to understand risks to consumers from the use of alternative data and modeling techniques (including in the ways identified above), the degree to which those risks impact different product or consumer segments, and any specific empirical evidence relevant to the likelihood and extent of those risks. The Bureau also seeks to understand what steps market participants are taking to manage risks and realize benefits. The Bureau intends to use information gleaned from the questions below to help maximize the benefits and minimize the risks from these developments.

Part D: Questions Related to Alternative Data and Modeling Techniques Used in the Credit Process

This RFI is intended to cover past, current, and potential uses of alternative data and modeling techniques. The Bureau is interested in learning more about the specific types of alternative data and modeling techniques utilized for various decisions in the credit process, as well as the policies and procedures used to ensure the responsible use of these alternative data and methods. In addition, the Bureau seeks to learn how the use of alternative data and modeling techniques compares and contrasts with the use of traditional data and modeling techniques for those same decisions. Finally, of particular interest is a specific and empirical understanding of the current and potential consumer benefits and risks associated with the use of alternative data and modeling techniques, including risks related to specific statutes and regulations.

While the Bureau recognizes that some commenters may feel that answering the questions below raises concerns about revealing proprietary information, we encourage commenters to share as much detail as possible in this public forum.[15] We also welcome comments from representatives, such as attorneys, consultants, or trade associations, which need not identify their clients or members by name.

The questions below are divided into four sections: (1) Alternative Data; (2) Alternative Modeling Techniques; (3) Potential Benefits and Risks to Consumers and Market Participants; and (4) Specific Statutes and Regulations. Each question speaks generally about all decisions in the credit process, but answers can differentiate, as appropriate, between uses in marketing, fraud detection and prevention, underwriting, setting or changes in terms (including pricing), servicing, collections, or other relevant aspects of the credit process. The questions are phrased in the present tense, but the Bureau is equally interested in information about any past but discontinued uses or in any potential future uses that commenters are considering or are aware of. The Bureau welcomes any relevant empirical research or studies on these topics.

Alternative Data

This section asks questions about the types, sources, and purposes of alternative data. Comments referencing specific practices, firms, or data are especially helpful.

1. What types of alternative data are used in decisions in the credit process? Please describe not only the broad categories (*e.g.,* cashflow data) but also the specific data element or variables used (*e.g.,* rent or telephone expense). The questions below refer back to each type of alternative data listed in response to this question.

2. For each type of alternative data identified above:

a. Please describe the specific decisions in which this type of alternative data is used, the specific purpose for using it, and the product(s) and consumer segment(s) for which it is used. For example, are certain data used to create a proprietary score for underwriting mortgage loans for non-prime applicants while other data are used to determine whether credit line increases or decreases are appropriate for existing credit card users?

b. Please describe any goals, objectives, or challenges that the use of this type of alternative data is designed to accomplish or address. For example, a certain type of data might be used in order to provide a more timely assessment of the consumer's current income while another type of data might be used to more accurately predict the stability of future income streams. Please describe the extent to which use of alternative data has in fact advanced or addressed these goals, objectives, or challenges.

c. Please describe the source of the data, being as specific as possible, including if the data are provided by the consumer or obtained from or through a third party. If obtained from a third party, please indicate if that third party considers itself to be a consumer reporting agency subject to the FCRA.

d. Please describe the format in which the data are received or generated, being as specific as possible.

e. Please describe the breadth or coverage of the data. Are there certain consumer segments for whom the data are unavailable?

f. Please describe whether the data include both positive and negative observations. For example, do records of rental payments include instances where consumers paid on time as well as when they were late?

g. Please describe if the data are specific to the individual consumer (*e.g.,* the consumer's actual income) or attributed to the consumer based upon a perceived peer group (*e.g.,* average income of consumers obtaining the same educational degree).

h. Please describe the quality of the data, in terms of apparent errors, missing information, and consistency over time.

i. Please describe the methods or procedures used to assess the coverage, quality, completeness, consistency, accuracy, and reliability of the data, as well as who is responsible for overseeing those methods or procedures.

j. Please describe the original purpose for which the data were initially generated, assembled, or collected, and the standard for coverage, quality, completeness, consistency, accuracy, and reliability that the original data provider applied. Was the consumer able to see, dispute, or correct the data at the time they were originally collected or with the original collector of the data or with the subsequent user?

k. Could this particular type of alternative data feasibly be furnished to one or more of the nationwide consumer reporting agencies? What would be the investment(s) required to do so? What prevents such furnishing today?

l. Please describe whether and how the data are used in identifying and constructing target lists for marketing credit online, by mail, or in person (*i.e.,* firm offers of credit or invitations to apply).

m. Please describe whether and how the data are used to screen for potential fraud prior to assessing creditworthiness.

3. For each type of alternative data identified above, please describe the process for deciding whether to use that type of data, including the criteria used for evaluating the data and its potential use. If applicable, please describe the basis for determining the relationship between the data and the outcome they are designed to predict. If the

[15] We do not seek, nor should commenters provide, actual alternative data about consumers. Rather we seek information about different types of alternative data.

relationship is empirically derived, describe the type(s) of data used to derive the relationship (*e.g.,* internal loan performance data, third-party reject inference data, etc.).

4. For each type of alternative data identified above, please describe whether the data are used alongside other traditional or alternative data. How much impact does the alternative data have on the relevant decision? Is this data used only after a preliminary decision based on the exclusive use of traditional data, for example, to re-evaluate consumers who failed a model that used only traditional data? Or is it used at the same time? Are there particular decisions or particular products or consumer segments where firms rely exclusively or predominantly on the use of alternative data?

5. Are there types of alternative data that have been evaluated but are not being used in decisions in the credit process? If so, please describe and explain the evaluation process and outcomes and the reason(s) why the alternative data are not being used for the particular credit-related decision.

6. For questions 1 through 5 above, please describe any differences in your answers as they pertain to lending to businesses (especially small businesses) rather than consumers.

Alternative Modeling Techniques

This section asks questions about alternative modeling techniques. Comments referencing specific practices, firms, or data are especially helpful.

What types of alternative modeling techniques are used in decisions in the credit process? Please describe these modeling techniques in as much detail as possible, including but not limited to:

a. A detailed explanation of the modeling technique, and how it transforms inputs into outputs.

b. The product or consumer segment(s) it is used for.

c. The outcome(s) the modeling technique aims to predict.

d. The final output that the modeling technique generates, such as a score within a defined range or a pass/fail decision, including any identification of the main factors impacting the final output.

e. A detailed explanation of the specific data types used as inputs, including both traditional and alternative data.

f. Whether the modeling technique is used concurrently with, subsequent to, or in conjunction with other traditional or alternative modeling techniques. How much impact does the alternative modeling technique have on the decision it informs?

7. For each type of alternative modeling technique identified above, please describe the model development and governance process (*e.g.,* initial development, training, testing, validation, beta, broader use, redevelopment, etc.) in as much detail as possible, including but not limited to:

a. Whether the process differs based upon the type of outcome being predicted.

b. Whether the process differs for alternative versus traditional modeling techniques.

c. Whether the process differs when alternative versus traditional data are used.

d. Whether specific tests or validations are performed to assess compliance with fair lending or other regulatory requirements. Are these similar to or different from those used for traditional modeling techniques?

e. A description of any judgmental, subjective, or discretionary decisions made in the development phase. For example, for machine learning techniques, what are decisions the developer must make in supervising the training phase, or providing parameters or limits on its operation?

f. A description of how, if at all, the process handles:

i. Sample selection for model testing/validation.

ii. Potential measurement error.

iii. Overfitting.

iv. Correlations with characteristics prohibited under fair lending laws.

v. Direction of the relationship between features and outcomes (*e.g.,* monotonicity).

vi. Any other noteworthy considerations.

8. For questions 7 and 8 above, please describe any differences in your answers as they pertain to lending to businesses (especially small businesses) rather than consumers.

Potential Benefits and Risks to Consumers and Market Participants

This section asks questions about the potential benefits and risks related to the use of alternative data and modeling techniques. The Bureau encourages commenters to be as specific as possible when describing the potential benefits and risks, including but not limited to which consumer segments or groups (*e.g.,* no traditional credit file, different demographic groups), which products (*e.g.,* auto loans, credit cards), and which channels (*e.g.,* online, storefront) are most affected.

9. What does available evidence suggest about the potential benefits for *consumers* of using *alternative data* present to:

a. Improved risk assessment so that consumers are more accurately paired with appropriate credit products.

b. Increases in access to affordable credit.

c. Lower prices.

d. Quicker or more convenient decisioning process.

10. What does available evidence suggest about the potential benefits for *consumers* of using *alternative modeling techniques*? Such benefits could include, but are not limited to:

a. Improved risk assessment so that consumers are more accurately paired with appropriate credit products.

b. Increases in access to credit.

c. Lower prices.

d. Quicker or more convenient decisioning process.

11. What does available evidence suggest about the potential benefits for *market participants* of using *alternative data*? Such benefits could include, but are not limited to:

a. An increased ability to accurately predict the likelihood of a certain outcome (*e.g.,* a 90 day delinquency within 24 months).

b. Risk assessment that is more reactive to real-time information.

c. Ability to assess and grant credit to more consumers.

d. Lower operational costs.

e. Quicker or more convenient decisioning process.

f. Competitive advantage, including the ability to compete with traditional methods.

12. What does available evidence suggest about the potential benefits for *market participants* of using *alternative modeling techniques*? Such benefits could include, but are not limited to:

a. An increased ability to accurately predict the likelihood of a certain outcome (*e.g.,* a 90 day delinquency within 24 months).

b. Risk assessment that is more reactive to real-time information.

c. Ability to assess and grant credit to more consumers.

d. Lower operational costs.

e. Quicker or more convenient decisioning process.

f. Competitive advantage, including the ability to compete with traditional methods.

13. What does available evidence suggest about the potential risks for *consumers* of using *alternative data*? In addition, what steps are being taken to mitigate these risks? Such risks could include, but are not limited to:

a. Impacts on consumer privacy.

b. Decreased transparency about the use of one's data and about how decisions in the credit process are made.

c. Decreased ability to dispute inaccurate information or correct errors.

d. Decreased ability of consumers to improve their credit standing.

e. Decreased completeness, consistency, accuracy, or reliability of data that affects decisions in the credit process.

f. Illegal discrimination.

g. The hardening of barriers to social and economic mobility.

h. Decreased access to affordable credit.

i. Decreased ability to inform and educate consumers about the factors affecting their credit standing.

14. What does available evidence suggest about the potential risks for *consumers* of using *alternative modeling techniques*? In addition, what steps are being taken to mitigate these risks? Such risks could include, but are not limited to:

a. Decreased transparency about the use of one's data and about how decisions in the credit process are made.

b. Decreased ability to dispute inaccurate information or correct errors.

c. Decreased ability of consumers to improve their credit standing.

d. Illegal discrimination.

e. Decreased ability to inform and educate consumers about the factors affecting their credit standing.

15. What does available evidence suggest about the potential risks for *market participants* of using *alternative data*? In addition, what specific steps are being taken to mitigate these risks? Such risks could include, but are not limited to:

a. Decreased transparency about how decisions in the credit process are made.

b. Lack of historical performance data related to certain alternative data.

c. Decreased completeness, consistency, accuracy, or reliability of data.

d. Decreased ability to inform and educate consumers about the factors affecting their credit standing.

e. Decreased consumer trust or acceptance of lender decisions.

16. What does available evidence suggest about the potential risks for *market participants* of using *alternative modeling techniques*? In addition, what specific steps are being taken to mitigate these risks? Such risks could include, but are not limited to:

a. Decreased transparency about how decisions in the credit process are made.

b. Lack of historical performance data related to certain modeling techniques.

c. Decreased ability to inform and educate consumers about the factors affecting their credit standing.

d. Decreased consumer trust or acceptance of lender decisions.

17. For questions 10 through 17 above, please describe any differences in your answers as they pertain to lending to businesses (especially small businesses) rather than consumers.

Specific Statutes and Regulations

This section asks questions about specific statutes and regulations as they pertain to alternative data and modeling techniques. Nothing below should be interpreted as a legal conclusion or interpretation by the Bureau. While the questions below are focused on the activities of market participants, the Bureau is equally interested in information from researchers, consultants, and other third parties about the issues raised below. The Bureau also recognizes that market participants may be reluctant to comment publicly on potential legal uncertainties and invite such parties to submit comments through anonymized channels such as law firms, trade associations, and the like.

18. The ECOA and Regulation B prohibit discrimination on the basis of race, color, religion, national origin, sex, marital status, age, the fact that all or part of the applicant's income derives from any public assistance program, or the good faith exercise of any right under the Consumer Credit Protection Act. Evidence of disparate treatment and evidence of disparate impact can be used to show discrimination under ECOA and Regulation B.

a. Are there specific challenges or uncertainties that market participants face in complying with ECOA and Regulation B with respect to the use of alternative data or modeling techniques?

b. In the absence of data on applicants' ethnicity, race, sex, or other prohibited basis group membership, how prevalent is the practice of proxying for those characteristics in order to test for potential fair lending risks in the use of alternative data or modeling techniques?

c. How, if at all, are market participants using demographically conscious model development techniques to ensure that models or modeling techniques do not result in illegal discrimination?

d. For respondents (such as market participants or consultants, attorneys, or other professionals who advise market participants) that evaluate models for potential fair lending risk, please answer the following questions. For each activity described in your answers, please specify the point(s) in time (*e.g.,* model development, validation, implementation, or use) at which the activity is conducted; the function(s) within the company responsible for conducting the activity; the type(s) of models reviewed (*e.g.,* underwriting, pricing, fraud, marketing); how those models are prioritized for review; the level (*e.g.,* attribute, model, or decisioning process) at which the activity is conducted; and which prohibited bases (*e.g.,* age, sex, race, ethnicity) are evaluated.

i. In general, what methods do market participants use to evaluate alternative data and modeling techniques for fair lending risk?

ii. What steps, if any, do market participants take to determine whether alternative data may be serving as a proxy for a prohibited basis? What thresholds, standards, or baselines are used to make this determination?

iii. What steps, if any, do market participants take to determine whether use of alternative data has a disproportionately negative impact on a prohibited basis? What thresholds, standards, or baselines are used to make this determination? To what extent, if any, do market participants use traditional data (or scores generated therefrom) as a baseline for making this determination?

iv. What steps, if any, do market participants take to determine if the use of alternative data meets a legitimate business need notwithstanding any disproportionately negative impact that use may have on a prohibited basis?

v. What steps, if any, do market participants take to ensure that a legitimate business need met by the use of alternative data cannot reasonably be achieved as well by means that are less disparate in their impact?

vi. What other steps, besides those already discussed in response to questions 19(d)(i)–(v) above, do market participants take to evaluate or manage potential fair lending risk arising from the use of alternative data or modeling techniques?

vii. When a lender identifies disparities affecting a prohibited basis group or other fair lending risks that arise from the use of a particular variable or model, what steps does the lender take as a result? To what extent do these steps mitigate that risk?

viii. How do the activities described in response to questions 19(d)(i)–(v) compare with the activities conducted when using traditional data or modeling techniques?

e. Many entities subject to the Bureau's supervisory or enforcement jurisdiction have risk management programs in place pursuant to guidance on model risk management issued by

prudential regulators.[16] To what extent do market participants use principles or processes discussed in that guidance in connection with their management of fair lending risk?

f. Are market participants using alternative data or modeling techniques as a ''second look'' for those who do not meet initial eligibility requirements based on traditional data or modeling techniques? If so, what issues and challenges, if any, arise in that context? Have data that were first used in ''second looks'' eventually become included in initial screening processes?

g. When using alternative data or modeling techniques, or using multiple models, are there challenges in determining and disclosing to applicants the principal reasons for taking adverse action or describing the reasons for taking adverse action in a manner that relates to and accurately describes the factors actually considered or scored?

19. The FCRA and Regulation V regulate the collection, dissemination, and use of consumer information, including consumer credit information.

a. Are there specific challenges or uncertainties that market participants face in complying with the FCRA with respect to the use of alternative data or modeling techniques?

b. What challenges do companies generating, selling, and brokering alternative data face in determining whether they are a consumer reporting agency subject to the FCRA?

c. What challenges do consumer reporting agencies assembling or evaluating alternative data face in implementing accuracy and dispute procedures and disclosing file information to consumers?

d. What challenges do lenders face when they obtain alternative data? Is it typically clear whether the data provider is a consumer reporting agency subject to the FCRA?

e. How, if at all, do market participants treat alternative data differently when they receive it from data providers or other sources that do not appear to be subject to the FCRA?

f. When using alternative data or modeling techniques, or using multiple credit scores, are there challenges in providing adverse action notices or risk-based pricing notices? For example, when using alternative modeling techniques, are there challenges in determining the key factors that adversely affected the consumer's score? Are there challenges in providing the source of the information? Do you have information showing whether consumers understand the information on these notices or take appropriate follow-up actions?

g. When using alternative data or modeling techniques, are there challenges in disclosing, pursuant to Section 615(b) of the FCRA, the nature of the information used in credit-related decisions when such information comes from a third party that is not a consumer reporting agency?

h. The FCRA permits consumer reports to be obtained for some non-credit decisions, such as employment and tenant screening. What potential impacts could alternative data and modeling techniques have on these non-credit decisions?

20. The Dodd-Frank Act prohibits unfair, deceptive, or abusive acts or practices in connection with consumer financial products or services. Section 5 of the FTC Act similarly prohibits unfair or deceptive acts or practices in connection with a broader set of transactions.

a. Are there specific challenges or uncertainties that market participants face in complying with the prohibitions on UDAAPs with respect to alternative data or modeling techniques?

b. What steps, if any, do users of alternative data or modeling techniques take to avoid engaging in UDAAPs?

c. What steps, if any, can the Bureau take to help minimize the risk of UDAAPs from the use of alternative data and modeling techniques?

Dated: February 14, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

[FR Doc. 2017–03361 Filed 2–17–17; 8:45 am]

BILLING CODE 4810–AM–P

[16] *See* Federal Reserve Board SR Letter 11–7 (''Guidance on Model Risk Management'') (April 4, 2011); Office of the Comptroller of the Currency (OCC) Bulletin 1997–24 (''Credit Scoring Models'') (May 20, 1997); OCC Bulletin 2000–16 (''Risk Modeling'') (May 30, 2000); OCC Bulletin 2011–12 (''Sound Practices for Model Risk Management'') (April 4, 2011); Federal Deposit Insurance Corporation (FDIC) Supervisory Insights (''Model Governance'') (last updated December 5, 2005); FDIC Supervisory Insights (''Fair Lending Implications of Credit Scoring Systems'') (last updated April 11, 2013).

DEPARTMENT OF DEFENSE

Department of the Army

Advisory Committee on Arlington National Cemetery; Request for Nominations

AGENCY: Department of the Army, DoD.

ACTION: Notice; Request for Nominations.

SUMMARY: The Advisory Committee on Arlington National Cemetery is an independent Federal advisory committee chartered to provide the Secretary of Defense, through the Secretary of the Army, independent advice and recommendations on Arlington National Cemetery, including, but not limited to cemetery administration, the erection of memorials at the cemetery, and master planning for the cemetery. The Secretary of the Army may act on the Committee's advice and recommendations. The Committee is comprised of no more than nine (9) members. Subject to the approval of the Secretary of Defense, the Secretary of the Army appoints no more than seven (7) of these members. The purpose of this notice is to solicit nominations from a wide range of highly qualified persons to be considered for appointment to the Committee. Nominees may be appointed as members of the Committee and its sub-committees for terms of service ranging from one to four years. This notice solicits nominations to fill Committee membership vacancies that may occur through July 31, 2017. Nominees must be preeminent authorities in their respective fields of interest or expertise.

DATES: All nominations must be received (see **ADDRESSES**) no later than May 1, 2017.

ADDRESSES: Interested persons may submit a resume for consideration by the Department of the Army to the Committee's Designated Federal Officer at the following address: Advisory Committee on Arlington National Cemetery, ATTN: Designated Federal Officer (DFO) (Ms. Yates), Arlington National Cemetery, Arlington, VA 22211.

FOR FURTHER INFORMATION CONTACT: Ms. Renea C. Yates, Designated Federal Officer, by email at *renea.c.yates.civ@mail.mil* or by telephone 877–907–8585.

SUPPLEMENTARY INFORMATION: The Advisory Committee on Arlington National Cemetery was established pursuant to Title 10, United States Code Section 4723. The selection, service and appointment of members of the Committee are publicized in the Committee Charter, available on the Arlington National Cemetery Web site *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/Charter.* The substance of the provisions of the Charter is as follows:

a. Selection. The Committee Charter provides that the Committee shall be comprised of no more than nine members, all of whom are preeminent

authorities in their respective fields of interest or expertise. Of these, no more than seven members are nominated by the Secretary of the Army.

By direction of the Secretary of the Army, all resumes submitted in response to this notice will be presented to and reviewed by a panel of three senior Army leaders. Potential nominees shall be prioritized after review and consideration of their resumes for: Demonstrated technical/professional expertise; preeminence in a field(s) of interest or expertise; potential contribution to membership balance in terms of the points of view represented and the functions to be performed; potential organizational and financial conflicts of interest; commitment to our Nation's veterans and their families; and published points of view relevant to the objectives of the Committee. The panel will provide the DFO with a prioritized list of potential nominees for consideration by the Executive Director, Army National Military Cemeteries, in making an initial recommendation to the Secretary of the Army. The Executive Director, Army National Military Cemeteries; the Secretary of the Army; and the Secretary of Defense are not limited or bound by the recommendations of the Army senior leader panel. Sources in addition to this **Federal Register** notice may be utilized in the solicitation and selection of nominations.

b. Service. The Secretary of Defense may approve the appointment of a Committee member for a one-to-four year term of service; however, no member, unless authorized by the Secretary of Defense, may serve on the Committee or authorized subcommittee for more than two consecutive terms of service. The Secretary of the Army shall designate the Committee Chair from the total Advisory Committee membership. The Committee meets at the call of the DFO, in consultation with the Committee Chair. It is estimated that the Committee meets four times per year.

c. Appointment. The operations of the Committee and the appointment of members are subject to the Federal Advisory Committee Act (Pub. L. 92–463, as amended) and departmental implementing regulations, including Department of Defense Instruction 5105.04, Department of Defense Federal Advisory Committee Management Program, available at *http://www.dtic.mil/whs/directives/corres/pdf/510504p.pdf.* Appointed members who are not full-time or permanent part-time Federal officers or employees shall be appointed as experts and consultants under the authority of Title 5, United States Code Section 3109 and shall serve as special government employees. Committee members appointed as special government employees shall serve without compensation except that travel and per diem expenses associated with official Committee activities are reimbursable.

Additional information about the Committee is available on the Internet at: *http://www.arlingtoncemetery.mil/About/Advisory-Committee-on-Arlington-National-Cemetery/Charter.*

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–03320 Filed 2–17–17; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2016–OS–0043]

Submission for OMB Review; Comment Request

ACTION: Notice.

SUMMARY: The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

DATES: Consideration will be given to all comments received by March 23, 2017.

FOR FURTHER INFORMATION CONTACT: Fred Licari, 571–372–0493.

SUPPLEMENTARY INFORMATION:

Title, Associated Form and OMB Number: Application for Former Spouse Payments from Retired Pay, DD Form 2293; OMB Number 0730–0008.

Type of Request: Reinstatement with change.

Number of Respondents: 2,500.

Responses per Respondent: 1.

Annual Responses: 2,500.

Average Burden per Response: 30 minutes.

Annual Burden Hours: 12,500 hours.

Needs and Uses: The information collection requirement is necessary to provide DFAS with the basic data needed to process court orders for division of military retired pay as property or order alimony and child support payment from that retired pay per Title 10 U.S.C. 1408, ''Payment of retired or retainer pay in compliance with court orders.'' The former spouse may apply to the DFAS for direct payment of these monies by using DD Form 2293.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

Instructions: All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: February 14, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–03289 Filed 2–17–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Reserve Forces Policy Board; Notice of Federal Advisory Committee Meeting

AGENCY: Office of the Secretary of Defense, Reserve Forces Policy Board, Department of Defense.

ACTION: Notice of Federal Advisory Committee Meeting.

SUMMARY: The Department of Defense (DoD) is publishing this notice to announce that the following Federal Advisory Committee meeting of the Reserve Forces Policy Board (RFPB) will take place.

DATES: Wednesday, March 8, 2017 from 8:15 a.m. to 3:50 p.m.

ADDRESSES: The address is the Pentagon, Room 3E863, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Mr. Alex Sabol, Designated Federal Officer, (703) 681–0577 (Voice), (703) 681–0002 (Facsimile), Email—*Alexander.J.Sabol.Civ@Mail.Mil.* Mailing address is Reserve Forces Policy Board, 5113 Leesburg Pike, Suite 601, Falls Church, VA 22041. Web site: *http://rfpb.defense.gov/.* The most up-to-date changes to the meeting agenda can be found on the RFPB's Web site.

SUPPLEMENTARY INFORMATION: This meeting notice is being published under the provisions of the Federal Advisory Committee Act of 1972 (FACA) (5 U.S.C., Appendix, as amended), the Government in the Sunshine Act of 1976 (5 U.S.C. 552b, as amended), and 41 CFR 102–3.150.

Purpose of the Meeting: The purpose of the meeting is to obtain, review, and evaluate information related to strategies, policies, and practices designed to improve and enhance the capabilities, efficiency, and effectiveness of the Reserve Components.

Agenda: The RFPB will hold a meeting from 8:15 a.m. to 3:50 p.m. The portion of the meeting from 8:15 a.m. to 11:45 a.m. will be closed to the public and will consist of remarks to the RFPB from following invited speakers: Major General Sheila Zuehlke, USAFR, Subcommittee on Enhancing DoD's Role in the Homeland Board Member, will provide an update on the progress of the recommendations made in the RFPB's 2014 report to SECDEF: ''Department of Defense Cyber Approach: Use of the National Guard and Reserve in the Cyber Mission Force.'' The Air Force Total Force Continuum Office will provide updates on the implementation of recommendations from the National Commission on the Structure of the Air Force report of January 2014 as they apply to the Air Guard & Air Force Reserve. The National Commission on the Future of the Army Tri-Chair Office will provide updates on the implementation of recommendations from the National Commission on the Future of the Army report of January 2016 as they apply to the Army National Guard and Army Reserve. The Institute for Defense Analysis will provide an update on their findings in Phase II of their operational effectiveness study on the Reserve Components during Operation Enduring Freedom. The portion of the meeting from 12:25 p.m. to 3:50 p.m. will be open to the public and will consist of briefings from: The Chief of the Navy Reserve, Chief of the Army Reserve, and Commander, United States Marine Forces Reserve to discuss their priorities and views regarding the readiness of their respective component's challenges for the ''Operational Reserve'' as part of the Total Force. The Chair of the Subcommittee on Supporting and Sustaining Reserve Component Personnel will discuss the subcommittee's review of the Department of Defense's (DoD's) Duty Status reform proposals and discuss some of the specific policies impacting the Reserve Components for a proposed RFPB Duty Status reform recommendation report to the Secretary of Defense. The Chair of the Subcommittee on Ensuring a Ready, Capable, Available, and Sustainable Operational Reserve will discuss the subcommittee's review of the reorganization of the Office of the Secretary of Defense for Personnel and Readiness and discuss its impacts on the Reserve Components for a proposed RFPB recommendation report to the Secretary of Defense.

Meeting Accessibility: Pursuant to section 10(a)(1) of the FACA and 41 CFR 102–3.140 through 102–3.165, and subject to the availability of space, the meeting is open to the public from 12:25 p.m. to 3:50 p.m. Seating is on a first-come, first-served basis. All members of the public who wish to attend the public meeting must contact Mr. Alex Sabol, the Designated Federal Officer, not later than 12:00 p.m. on Tuesday, March 7, 2017, as listed in the **FOR FURTHER INFORMATION CONTACT** section to make arrangements for a Pentagon escort, if necessary.

Public attendees requiring escort should arrive at the Pentagon Metro Entrance with sufficient time to complete security screening no later than 11:50 a.m. on March 8. To complete the security screening, please be prepared to present two forms of identification. One must be a picture identification card. In accordance with section 10(d) of the FACA, 5 U.S.C. 552b(c), and 41 CFR 102–3.155, the DoD has determined that the portion of this meeting scheduled to occur from 8:15 a.m. to 11:45 a.m. will be closed to the public. Specifically, the Under Secretary of Defense (Personnel and Readiness), in coordination with the Department of Defense FACA Attorney, has determined in writing that this portion of the meeting will be closed to the public because it is likely to disclose classified matters covered by 5 U.S.C. 552b(c)(1).

Written Statements: Pursuant to section 10(a)(3) of the FACA and 41 CFR 102–3.105(j) and 102–3.140, interested persons may submit written statements to the RFPB about its approved agenda or at any time on the RFPB's mission. Written statements should be submitted to the RFPB's Designated Federal Officer at the address, email, or facsimile number listed in the **FOR FURTHER INFORMATION CONTACT** section. If statements pertain to a specific topic being discussed at the planned meeting, then these statements must be submitted no later than five (5) business days prior to the meeting in question. Written statements received after this date may not be provided to or considered by the RFPB until its next meeting. The Designated Federal Officer will review all timely submitted written statements and provide copies to all the RFPB members before the meeting that is the subject of this notice. Please note that since the RFPB operates under the provisions of the FACA, all submitted comments and public presentations will be treated as public documents and will be made available for public inspection, including, but not limited to, being posted on the RFPB's Web site.

Dated: February 15, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 2017–03327 Filed 2–17–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID: DOD–2017–OS–0007]

Privacy Act of 1974; System of Records

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Notice of a Modified System of Records.

SUMMARY: The Office of the Secretary of Defense is modifying a system of records, entitled, ''Defense User Registration System (DURS) Records, DTIC 01'' to be compliant with the OMB Circular A–108 and make other administrative changes. This system of records registers and certifies users of Defense Technical Information Center (DTIC) products and services. It ensures that Department of Defense scientific and technological information is appropriately managed to enable scientific knowledge and technological innovations to be fully accessible to authorized recipients while applying appropriate safeguards to assure that the information is protected according to national security requirements.

DATES: Comments will be accepted on or before March 23, 2017. This proposed action will be effective the day following the end of the comment period unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

* *Mail:* Department of Defense, Office of the Deputy Chief Management Officer, Directorate of Oversight and Compliance, 4800 Mark Center Drive, Mailbox #24, Suite 08D09B, Alexandria, VA 22350–1700.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Mrs. Luz D. Ortiz, Chief, Records, Privacy and Declassification Division (RPDD), 1155 Defense Pentagon, Washington, DC 20301–1155, or by phone at (571) 372–0478.

SUPPLEMENTARY INFORMATION: In addition to the formatting changes required by OMB Circular A–108, this modification reflects a change to the system location, categories of individuals, categories of records, authorities for maintenance of the system, purpose, routine uses, retrievability, safeguards, system manager and address, notification procedure, record access procedures, contesting record procedures, and record source categories.

The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT** or at the Defense Privacy, Civil Liberties and Transparency Division Web site at *http://defense.gov/privacy.*

The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on December 8, 2016, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to OMB Circular No. A–108, ''Federal Agency Responsibilities for Review, Reporting, and Publication Under the Privacy Act,'' revised December 23, 2016 (December 23, 2016 81 FR 94424).

Dated: February 15, 2017.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

SYSTEM NAME AND NUMBER:

Defense User Registration System (DURS) Records, DTIC 01

SYSTEM CLASSIFICATION:

Unclassified

SYSTEM LOCATION:

Defense Technical Information Center (DTIC), Directorate of User Services, Communications and Customer Access Division, Attn: DTIC–UC, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6218.

SYSTEM MANAGER(S):

Chief, Customer Access and Communications Division, DTIC–UC, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6218.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

E.O. 13526, Classified National Security Information; DoD Directive (DoDD) 5105.73 Defense Technical Information Center (DTIC); DoD Instruction (DoDI) 3200.12 DoD Scientific and Technical Information Program (STIP); and DoD Manual (DoDM) 3200.14, Volume 1, Principles and Operational Parameters of the DoD Scientific and Technical Information Program (STIP): General Processes.

PURPOSE(S) OF THE SYSTEM:

To collect registration requests, validate eligibility, and maintain an official registry that identifies individuals who apply for, and are granted access privileges to DTIC owned or controlled computers, databases, products, services, and electronic information systems.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Department of Defense (DoD) military and civilian personnel and other U.S. Federal Government personnel, their contractors and grantees, and other government officials according to agreements with DoD who request access privileges to DTIC products, services, and electronic information systems.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name; DoD Identification (ID) Number; citizenship; service type; personnel category; civilian pay grade; military rank; organization/company name; office mailing address/physical location; office email address; userid and password/reset questions; office telephone number(s); access eligibility; dissemination/distribution group codes; and personal and facility security clearance level(s).

Records also contain the government approving official's name, office phone number and email address; date of registration activation; and the projected date of expiration. Where applicable, the records contain contract number(s), contract expiration date(s), and the Militarily Critical Technical Data Agreement (MCTDA) Certification Number.

RECORD SOURCE CATEGORIES:

Individuals, security personnel, the Defense Manpower Data Center Department of Defense Person Search (DMDC DPS), and the electronic Official Personnel Folder (eOPF).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act of 1974, as amended, the records contained herein may specifically be disclosed outside the DoD as a routine use pursuant to 552a(b)(3) as follows:

1. *Law Enforcement Routine Use:* If a system of records maintained by a DoD Component to carry out its functions indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or by regulation, rule, or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the agency concerned, whether federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto.

2. *Congressional Inquiries Disclosure Routine Use:* Disclosure from a system of records maintained by a DoD Component may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

3. *Disclosure to the Department of Justice for Litigation Routine Use:* A record from a system of records maintained by a DoD Component may be disclosed as a routine use to any component of the Department of Justice for the purpose of representing the

Department of Defense, or any officer, employee or member of the Department in pending or potential litigation to which the record is pertinent.

4. *Disclosure of Information to the National Archives and Records Administration Routine Use:* A record from a system of records maintained by a DoD Component may be disclosed as a routine use to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

5. *Data Breach Remediation Purposes Routine Use:* A record from a system of records maintained by a Component may be disclosed to appropriate agencies, entities, and persons when (1) The Component suspects or has confirmed that the security or confidentiality of the information in the system of records has been compromised; (2) the Component has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Component or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Components efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Electronic storage media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Individual name; DoD ID number; office email address.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Electronic records are to be deleted when DTIC determines they are no longer needed for administrative, audit, legal, or operational purposes.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are maintained in secure, limited access, and monitored areas. Database is monitored, access is password protected, and common access card (CAC) enabled. Firewalls and intrusion detection system are used. Physical entry by unauthorized persons is restricted through the use of locks, guards, passwords, and/or other security measures. Archived data is stored on compact discs, or magnetic tapes, which are kept in a locked, controlled access area. Access to personal information is limited to those individuals who require a need to know to perform their official assigned duties.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system of records should address written requests to the Office of the Secretary of Defense/Joint Staff Freedom of Information Act Requester Service Center, 1155 Defense Pentagon, Washington, DC 20701–1155.

Signed, written requests should include the individual's full name, telephone number, street address, email address, and name and number of this system of records notice. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

CONTESTING RECORD PROCEDURES:

The Office of the Secretary of Defense (OSD) rules for accessing records, contesting contents, and appealing initial agency determinations are contained in OSD Administrative Instruction 81; 32 CFR part 311; or may be obtained from the system manager.

NOTIFICATION PROCEDURES:

Individuals seeking to determine if information about themselves is contained in this system should address written inquiries to Defense Technical Information Center; Attn: DTIC–UC, 8725 John J. Kingman Road, Fort Belvoir, VA 22060–6218.

Signed, written requests should contain the individual's full name, telephone number, street address, email address, and name and number of this system of records notice. In addition, the requester must provide a notarized statement or an unsworn declaration made in accordance with 28 U.S.C. 1746, in the following format:

If executed outside the United States: ''I declare (or certify, verify, or state) under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on (date). (Signature).''

If executed within the United States, its territories, possessions, or commonwealths: ''I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct. Executed on (date). (Signature).''

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

October 4, 2010, 75 FR 61135; November 12, 2008, 73 FR 66852; April 25, 2005, 70 FR 21181.

[FR Doc. 2017–03355 Filed 2–17–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Department of the Army, U.S. Army Corps of Engineers

Cancellation of Notice of Availability of a Draft Detailed Project Report With Integrated Environmental Assessment and Draft Finding of No Significant Impact for the Pier 70 Central Basin Continuing Authorities Program Section 107 Navigation Improvement Project at the Port of San Francisco, San Francisco, CA

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DoD.

ACTION: Notice; cancellation.

SUMMARY: The United States Army Corps of Engineers (USACE) San Francisco District is canceling the notice of availability issued on February 10, 2017 (82 FR 10346) for the Draft Detailed Project Report with Integrated Environmental Assessment (DPR/EA) and draft Finding of No Significant Impact (FONSI) for the proposed Pier 70 Central Basin Continuing Authorities Program (CAP) Section 107 Navigation Improvement Project in San Francisco, CA. The USACE is postponing the public review and comment period.

FOR FURTHER INFORMATION CONTACT: Questions concerning this notice should be addressed to Roxanne Grillo, U.S. Army Corps of Engineers, San Francisco District, 1455 Market Street, San Francisco, CA 94103–1398. Telephone: (415) 503–6859. Email: *CESPN-ET-PA@usace.army.mil.*

SUPPLEMENTARY INFORMATION: None.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. 2017–03321 Filed 2–17–17; 8:45 am]

BILLING CODE 3720–58–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; JFD Limited

AGENCY: Department of the Navy: DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to JFD Limited a revocable, non-assignable, exclusive license to practice in the United States, the Government-owned invention described in U.S. Patent No. 6,868,360, entitled ''SMALL HEAD-MOUNTED COMPASS SYSTEM WITH OPTICAL DISPLAY'', issued March 15, 2005, Navy Case No. 84,835.

DATES: Anyone wishing to object to the grant of this license has fifteen (15) days from the date of this notice to file written objections along with supporting evidence, if any.

ADDRESSES: Written objections are to be filed with Naval Surface Warfare Center Panama City, 110 Vernon Ave., Code 00L, Panama City, FL 32407–7001.

FOR FURTHER INFORMATION CONTACT: Mr. James Shepherd, Patent Counsel, Naval Surface Warfare Center Panama City, 110 Vernon Ave., Panama City, FL 32407–7001, telephone 850–234–4646, fax 850–235–5497, or *james.t.shepherd@navy.mil.*

(Authority: 35 U.S.C. 207, 37 CFR Part 404)

Dated: February 13, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–03266 Filed 2–17–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant an Exclusive License; PhareTech

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to PhareTech located at 4720 Chevy Chase Drive, Apartment 406, Chevy Chase, Maryland 20815, a revocable, nonassignable, exclusive license throughout the United States (U.S.) in all the fields of use in the Government-Owned invention described in U.S. Patent Application number 14/734,186 filed on June 9, 2015 entitled ''Low Latency Fiber Optic Local Area Network'' inventors Beranek et al.

ADDRESSES: Written objections are to be filed with the Naval Air Warfare Center Aircraft Division, Technology Transfer Office, Attention Michelle Miedzinski, Code 5.0H, 22347 Cedar Point Road, Building 2185, Box 62, Room 2160, Patuxent River, Maryland 20670.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, within fifteen (15) days of the date of this published notice.

FOR FURTHER INFORMATION CONTACT: Michelle Miedzinski, 301–342–1133, Naval Air Warfare Center Aircraft Division, 22347 Cedar Point Road, Building 2185, Box 62, Room 2160, Patuxent River, Maryland 20670.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: February 13, 2017.

A.M. Nichols,

Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 2017–03264 Filed 2–17–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Applications for New Awards; Ronald E. McNair Postbaccalaureate Achievement Program

AGENCY: Office of Postsecondary Education, Department of Education.

ACTION: Notice.

Overview Information:

Ronald E. McNair Postbaccalaureate Achievement Program.

Notice inviting applications for new awards for fiscal year (FY) 2017.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.217A.

DATES:

Applications Available: February 21, 2017.

Deadline for Transmittal of Applications: April 7, 2017.

Deadline for Intergovernmental Review: June 6, 2017.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The Ronald E. McNair Postbaccalaureate Achievement (McNair) Program is one of the eight programs known as the Federal TRIO Programs, which provides postsecondary educational support for qualified individuals from disadvantaged backgrounds. The McNair Program awards discretionary grants to institutions of higher education for projects designed to provide disadvantaged college students with effective preparation for doctoral study.

Background

The Federal TRIO programs, including the McNair Program, represent a national commitment to education for all students regardless of race, ethnic background, disability status, or economic circumstances. The Department of Education (Department) has a strong interest in ensuring that groups traditionally underrepresented in postsecondary education, such as low-income students, first-generation college students, students who are English learners, students with disabilities, homeless students, students who are in foster care, and other disconnected students, receive the support necessary to assist them in successfully pursuing doctoral degrees.

The Department views the McNair Program as a critical component of its efforts to improve postsecondary outcomes for students who have been traditionally underrepresented in postsecondary education and graduate school by providing disadvantaged college students with effective preparation for doctoral study, and improving the quality of student outcomes so that more students are well prepared for graduate school and careers.

To strategically align the McNair Program with overarching national strategies for increasing the number of students pursuing and completing degrees in the Science, Technology, Engineering, and Mathematics (STEM) fields, this notice includes a competitive preference priority intended to encourage applicants to propose activities that support this comprehensive goal, consistent with a logic model (as defined in this notice).

The inclusion of this competitive preference priority will encourage applicants to increase the number of individuals in the McNair Program's target population that have access to STEM programs at the postsecondary level and are prepared for graduate study in STEM. The McNair Program's target population includes groups underrepresented in graduate education, as defined in the McNair Program regulations; low-income individuals who are first generation college students; and groups underrepresented in STEM as documented by standard statistical references or other national survey data submitted to and accepted by the Secretary.

Consistent with 34 CFR 75.210, the Secretary will use the selection criteria outlined in 34 CFR 647.21 to evaluate the applications submitted for new

grants under this program. In addition, consistent with the Department's increasing emphasis on promoting evidence-based practices through our grant competitions, the Secretary will evaluate applications on the extent to which the components and anticipated outcomes of the proposed project are supported by a logic model that meets the evidence standard of ''strong theory'' (as defined in this notice). We encourage applicants to read carefully the selection criteria for this program in 34 CFR 647.21 and listed in the application package. Resources to assist applicants in creating a logic model can be found here: *http://ies.ed.gov/ncee/edlabs/regions/pacific/pdf/REL_2014007.pdf.*

Priority: This notice contains one competitive preference priority. The competitive preference priority is from the notice of final supplemental priorities and definitions for discretionary grant programs, published in the **Federal Register** on December 10, 2014 (79 FR 73425) (Supplemental Priorities). Applicants must include in the one-page abstract submitted with the application a statement indicating whether they addressed the competitive preference priority. The priority must also be listed on the McNair Program Profile Sheet.

Competitive Preference Priority: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applications from this competition, this priority is a competitive preference priority. Under 34 CFR 75.105(c)(2)(i), we will award up to five additional points to an application depending on the extent to which the application meets this priority.

This priority is:

Competitive Preference Priority—Promoting Science, Technology, Engineering, and Mathematics (STEM) Education (up to 5 points).

Projects that are designed to improve student achievement or other related outcomes by increasing the number of individuals from groups that have been historically underrepresented in STEM, including minorities, individuals with disabilities, and women, who are provided with access to rigorous and engaging coursework in STEM or who are prepared for postsecondary study and careers in STEM. (up to 5 points)

Note: The definition of ''student achievement'' from the Secretary's Supplemental Priorities does not apply here because that definition applies only to elementary and secondary grades and subjects that are covered by the Elementary and Secondary Education Act of 1965, as amended. For the purposes of this program, ''other related outcomes'' could include end-of-course grades, or improvement in research or laboratory skills, among other outcomes.

Definitions

The definition of the term ''groups underrepresented in graduate education'' is from the McNair Program regulations, 34 CFR 647.7(b). The definitions of the terms ''logic model'' and ''strong theory'' are from 34 CFR 77.1.

Groups underrepresented in graduate education include Black (non-Hispanic), Hispanic, American Indian, Alaskan Native (as defined in section 7306 of the Elementary and Secondary Education Act of 1965, as amended (ESEA)), Native Hawaiians (as defined in section 7207 of the ESEA), and Native American Pacific Islanders (as defined in section 320 of the Higher Education Act of 1965, as amended).

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally.

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

Program Authority: 20 U.S.C. 1070a–11 and 20 U.S.C. 1070a–15.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75 (except for 75.215 through 75.221), 77, 79, 82, 84, 86, 97, 98 and 99. (b) The Office of Management and Budget Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement) in 2 CFR part 180, as adopted and amended as regulations of the Department in 2 CFR part 3485. (c) The Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards in 2 CFR part 200, as adopted and amended as regulations of the Department in 2 CFR part 3474. (d) The regulations for this program in 34 CFR part 645.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Administration has requested $900,000,000 for the Federal TRIO Programs for FY 2017, of which we intend to use an estimated $40,000,000 for McNair awards. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriates funds for this program.

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

Estimated Range of Awards: $226,600 to $378,783.

Estimated Average Size of Awards: $243,589.

Maximum Award:

Pursuant to 34 CFR 647.32(a), we will reject any application that proposes a budget exceeding the applicable maximum amount listed here for a single budget period of 12 months. We will also reject any application from a new applicant that proposes a budget to serve fewer than 25 participants or, for applicants that are current grantees, any application with a proposed budget to serve fewer than the number of participants the applicant was approved to serve in FY 2016.

For an applicant not currently receiving a McNair Program grant, the maximum award is $226,600 to serve a minimum of 25 eligible participants, based upon a per participant cost of no more than $9,064.

For an applicant currently receiving a McNair Program grant and applying to serve a different campus, the maximum award is $226,600 to serve a minimum of 25 eligible participants, based upon a per participant cost of no more than $9,064.

For an applicant currently receiving a McNair Program grant and not applying to serve a different campus, the maximum award is the amount equal to the applicant's grant award amount for FY 2016 (*i.e.,* 2016–17). This funding will serve at least the same number of participants that was approved for the current project in FY 2016 (*i.e.,* 2016–17).

Estimated Number of Awards: 164.

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

Project Period: Up to 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Institutions of higher education and combinations of those institutions.

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

3. *Other:* An applicant may submit more than one application for a McNair grant as long as each application describes a project that serves a different

campus or a designated different population (34 CFR 647.10(a)). The McNair Program regulations define ''different campus'' as ''a site of an institution of higher education that—(1) Is geographically apart from the main campus of the institution; (2) Is permanent in nature; and (3) Offers courses in educational programs leading to a degree, certificate, or other recognized educational credential.'' 34 CFR 647.7(b). The Secretary is not designating any additional populations for which an applicant may submit a separate application under this competition (34 CFR 647.10(b)).

IV. Application and Submission Information

1. *Address to Request Application Package:* You may request a copy of the application package from: Carmen Gordon, McNair Program, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C111, Washington, DC 20202. Telephone: (202) 453–7311 or by email: *Carmen.Gordon@ed.gov.*

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

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

2. *Content and Form of Application Submission:* Requirements concerning the content and form of an application, together with the forms you must submit, are in the application package for this program.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers will use to evaluate your application. You must limit the application narrative, which includes the budget narrative, to no more than 60 pages using the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides. Page numbers and an identifier may be within the 1″ margin.
- Each page on which there is text or graphics will be counted as one full page.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including charts, tables, figures, and graphs. Titles, headings, footnotes, quotations, references, and captions may be single spaced.
- Use a font size that is either 12 point or larger, or no smaller than 10 pitch (character per inch).
- Use one of the following fonts: Times New Roman, Courier, Courier New, or Arial. An application submitted in any other font (including Times Roman and Arial Narrow) will not be accepted.

The page limit does not apply to Part I, the Application for Federal Assistance Face Sheet (SF 424); Part II, the Budget Information Summary form (ED Form 524); Part III, the McNair Program Profile; Part III, the one-page Project Abstract narrative; and Part IV, the Assurances and Certifications. The page limit also does not apply to a table of contents, which you should include in the application narrative. If you include any attachments or appendices, these items will be counted as part of Part III, the application narrative, for purposes of the page-limit requirement. You must include your complete response to the selection criteria, which also includes the budget narrative.

Any application addressing the competitive preference priority may include up to four additional pages for the priority. These additional pages must be used to discuss how the application meets the competitive preference priority. The additional pages allotted to address the competitive preference priority cannot be used for or transferred to the project narrative or any other section of the application.

Partial pages will count as a full page toward the page limit. For the purpose of determining compliance with the page limit, each page containing text will be counted as one full page.

We will reject your application if you exceed the page limit.

3. *Submission Dates and Times:*

Applications Available: February 21, 2017.

Deadline for Transmittal of Applications: April 7, 2017.

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

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

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the program contact person listed under *For Further Information Contact* in section VII in this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 6, 2017.

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

5. *Funding Restrictions:* We specify unallowable costs in 34 CFR 647.31. We reference additional regulations outlining funding restrictions in the *Applicable Regulations* section of this notice.

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

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

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

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

and

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

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

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

The SAM registration process can take approximately seven business days, but may take upwards of several weeks, depending on the completeness and accuracy of the data you enter into the SAM database. Therefore, if you think

you want to apply for Federal financial assistance under a program administered by the Department, please allow sufficient time to obtain and register your DUNS number and TIN. We strongly recommend that you register early.

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

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

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

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

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

a. *Electronic Submission of Applications.*

Applications for grants under the McNair Program, CFDA number 84.217A, must be submitted electronically using the Governmentwide *Grants.gov* Apply site at www.*Grants.gov*. Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

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

You may access the electronic grant application for the McNair Program at www.*Grants.gov*. You must search for the downloadable application package for this program by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.217, not 84.217A).

Please note the following:

- When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.
- Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.
- The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.
- You should review and follow the Education Submission Procedures for submitting an application through *Grants.gov* that are included in the application package for this program to ensure that you submit your application in a timely manner to the *Grants.gov* system. You can also find the Education Submission Procedures pertaining to *Grants.gov* under News and Events on the Department's G5 system home page at *www.G5.gov.* In addition, for specific guidance and procedures for submitting an application through *Grants.gov*, please refer to the *Grants.gov* Web site at: *www.grants.gov/web/grants/applicants/apply-for-grants.html.*
- You will not receive additional point value because you submit your application in electronic format, nor will we penalize you if you qualify for an exception to the electronic submission requirement, as described elsewhere in this section, and submit your application in paper format.
- You must submit all documents electronically, including all information you typically provide on the following forms: Application for Federal Assistance (SF 424), the Department of Education Supplemental Information for SF 424, Budget Information—Non-Construction Programs (ED 524), and all necessary assurances and certifications.
- You must upload any narrative sections and all other attachments to your application as files in a read-only, non-modifiable Portable Document Format (PDF). Do not upload an interactive or fillable PDF file. If you upload a file type other than a read-only, non-modifiable PDF (*e.g.,* Word, Excel, WordPerfect, etc.) or submit a password-protected file, we will not review that material. Please note that this could result in your application not being considered for funding because the material in question—for example, the application narrative—is critical to a meaningful review of your proposal. For that reason it is important to allow yourself adequate time to upload all material as PDF files. The Department will not convert material from other formats to PDF.
- Your electronic application must comply with any page-limit requirements described in this notice.
- After you electronically submit your application, you will receive from *Grants.gov* an automatic notification of receipt that contains a *Grants.gov* tracking number. This notification indicates receipt by *Grants.gov* only, not receipt by the Department. *Grants.gov* will also notify you automatically by email if your application met all the *Grants.gov* validation requirements or if there were any errors (such as submission of your application by someone other than a registered Authorized Organization Representative, or inclusion of an attachment with a file name that contains special characters). You will be given an opportunity to correct any errors and resubmit, but you must still meet the deadline for submission of applications.

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

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

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

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

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

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

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

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

- You do not have access to the Internet; or
- You do not have the capacity to upload large documents to the *Grants.gov* system; *and*
- No later than two weeks before the application deadline date (14 calendar days or, if the fourteenth calendar day before the application deadline date falls on a Federal holiday, the next business day following the Federal holiday), you mail or fax a written statement to the Department, explaining which of the two grounds for an exception prevents you from using the Internet to submit your application.

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

Address and mail or fax your statement to: Katie Blanding, U.S. Department of Education, 400 Maryland Avenue SW., Room 5E105, Washington, DC 20202. FAX: (202) 260–7464.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.217A), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

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

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

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

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

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

(1) A private metered postmark.

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

Note: The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, you should check with your local post office. We will not consider applications postmarked after the deadline date.

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

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.217A), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

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

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

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

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

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition total 110 points and are from 34 CFR 647.21 and 34.CFR 75.210:

(a) Need (16 Points). The Secretary reviews each application to determine the extent to which the applicant can clearly and definitively demonstrate the need for a McNair project to serve the target population. In particular, the Secretary looks for information that clearly defines the target population; describes the academic, financial and other problems that prevent potentially

eligible project participants in the target population from completing baccalaureate programs and continuing to postbaccalaureate programs; and demonstrates that the project's target population is underrepresented in graduate education, doctorate degrees conferred and careers where a doctorate is a prerequisite.

(b) Objectives (9 points). The Secretary evaluates the quality of the applicant's objectives and proposed targets (percentages) in the following areas on the basis of the extent to which they are both ambitious, as related to the need data provided under paragraph (a) of this section, and attainable, given the project's plan of operation, budget, and other resources—

(1) (2 points) Research or scholarly activity.

(2) (3 points) Enrollment in a graduate program.

(3) (2 points) Continued enrollment in graduate study.

(4) (2 points) Doctoral degree attainment.

(c) Plan of Operation (44 points). The Secretary reviews each application to determine the quality of the applicant's plans of operation, including—

(1) (4 points) The plan for identifying, recruiting and selecting participants to be served by the project, including students enrolled in the Student Support Services program;

(2) (4 points) The plan for assessing individual participant needs and for monitoring the academic growth of participants during the period in which the student is a McNair participant;

(3) (5 points) The plan for providing high quality research and scholarly activities in which participants will be involved;

(4) (5 points) The plan for involving faculty members in the design of research activities in which students will be involved;

(5) (5 points) The plan for providing internships, seminars, and other educational activities designed to prepare undergraduate students for doctoral study;

(6) (5 points) The plan for providing individual or group services designed to enhance a student's successful entry into postbaccalaureate education;

(7) (3 points) The plan to inform the institutional community of the goals and objectives of the project;

(8) (8 points) The plan to ensure proper and efficient administration of the project, including, but not limited to, matters such as financial management, student records management, personnel management, the organizational structure, and the plan for coordinating the McNair project with other programs for disadvantaged students; and

(9) (5 points) The follow-up plan that will be used to track the academic and career accomplishments of participants after they are no longer participating in the McNair project.

(d) Quality of key personnel (9 points). The Secretary evaluates the quality of key personnel the applicant plans to use on the project on the basis of the following:

(1)(i) The job qualifications of the project director.

(ii) The job qualifications of each of the project's other key personnel.

(iii) The quality of the project's plan for employing highly qualified persons, including the procedures to be used to employ members of groups underrepresented in higher education, including Blacks, Hispanics, American Indians, Alaska Natives, Asian Americans and Pacific Islanders (including Native Hawaiians).

(2) In evaluating the qualifications of a person, the Secretary considers his or her experience and training in fields related to the objectives of the project.

(e) Adequacy of the resources and budget (15 points). The Secretary evaluates the extent to which—

(1) The applicant's proposed allocation of resources in the budget is clearly related to the objectives of the project;

(2) Project costs and resources, including facilities, equipment, and supplies, are reasonable in relation to the objectives and scope of the project; and

(3) The applicant's proposed commitment of institutional resources to the McNair participants, as for example, the commitment of time from institutional research faculty and the waiver of tuition and fees for McNair participants engaged in summer research projects.

(f) Evaluation plan (7 points). The Secretary evaluates the quality of the evaluation plan for the project on the basis of the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project's objectives;

(2) Provide for the applicant to determine, in specific and measurable ways, the success of the project in—

(i) Making progress toward achieving its objectives (a formative evaluation); and

(ii) Achieving its objectives at the end of the project period (a) summative evaluation); and

(3) Provide for a description of other project outcomes, including the use of quantifiable measures, if appropriate.

(g) Quality of project design (5 points). The Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the extent to which the proposed project is supported by strong theory (as defined in this notice).

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

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

For this competition, a panel of non-Federal reviewers will review each application in accordance with the selection criteria in 34 CFR 647.21 and the competitive preference priority. The individual scores of the reviewers will be added and the sum divided by the number of reviewers to determine the peer review score received in the review process. Additionally, in accordance with 34 CFR 647.22, the Secretary will award prior experience points to applicants that conducted a McNair Program project during budget periods 2013–14, 2014–15, and 2015–16, based on their documented experience. Prior experience points, if any, will be added to the application's average reader score to determine the total score for each application.

If there are insufficient funds for all applications with the same total scores, the Secretary will choose among the tied applications so as to serve geographic areas and eligible populations that have been underserved by the McNair Program.

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this competition the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a

financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

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

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

VI. Award Administration Information

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

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

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

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

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

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

(c) Under 34 CFR 75.250(b), the Secretary may provide a grantee with additional funding for data collection analysis and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* The success of the McNair Program will be measured by the McNair Program participants' success in completing research and participation in scholarly activities, enrollment in a graduate program, continued enrollment in graduate study, and the attainment of a doctoral degree. All McNair Program grantees will be required to submit an annual performance report.

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

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

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Carmen Gordon, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C111, Washington, DC 20202. Telephone: (202) 453–7311 or by email: *Carmen.Gordon@ed.gov.*

If you use a TDD or a TTY, call the FRS, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or computer disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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

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

Dated: February 15, 2017.

Linda Byrd-Johnson,

Acting Deputy Assistant Secretary, Higher Education Programs, and Senior Director, Student Service.

[FR Doc. 2017–03366 Filed 2–17–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Application for New Awards; National Professional Development Program

AGENCY: Office of English Language Acquisition, Department of Education.

ACTION: Notice.

Overview Information:

National Professional Development Program.

Notice inviting applications for new awards for fiscal year (FY) 2017.

Catalog of Federal Domestic Assistance (CFDA) Number: 84.365Z.

DATES:

Applications Available: February 21, 2017.

Deadline for Notice of Intent to Apply: March 13, 2017.

Deadline for Transmittal of Applications: April 24, 2017.

Deadline for Intergovernmental Review: June 21, 2017.

Full Text of Announcement

I. Funding Opportunity Description

Purpose of Program: The National Professional Development (NPD) program, authorized by section 3131(c)(1)(C) of the Elementary and Secondary Education Act of 1965 as amended by the Every Student Succeeds Act (hereafter in this notice referred to as the ESEA), awards grants on a competitive basis, for a period of not more than five years, to institutions of higher education (IHEs) or public or private entities with relevant experience and capacity, in consortia with State educational agencies (SEAs) or local educational agencies (LEAs). The purpose of these grants is to provide professional development activities that will improve classroom instruction for English learners (ELs) and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve ELs.

Grants awarded under this program may be used—

(1) For effective pre-service or inservice professional development programs that will improve the qualifications and skills of educational personnel involved in the education of ELs, including personnel who are not certified or licensed and educational paraprofessionals, and for other activities to increase teacher and school leader effectiveness in meeting the needs of ELs;

(2) For the development of program curricula appropriate to the needs of the consortia participants involved;

(3) To support strategies that strengthen and increase parent, family, and community member engagement in the education of ELs;

(4) To develop, share, and disseminate effective practices in the instruction of ELs and in increasing the student academic achievement of ELs, including the use of technology-based programs;

(5) In conjunction with other Federal need-based student financial assistance programs, for financial assistance, including costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language instruction educational programs or serve ELs; and

(6) As appropriate, to support strategies that promote school readiness of ELs and their transition from early childhood education programs, such as Head Start or State-run preschool programs, to elementary school programs.

Background:

Educator effectiveness is the most important in-school factor affecting student achievement and success.[1] The NPD program is a Federal grant program that offers professional development specifically for educators of ELs. Through its competitions, the NPD program intends to improve the academic achievement of ELs by supporting pre-service and inservice practices for teachers and other staff, including school leaders, working with ELs.

Through previous competitions, the NPD program has funded a range of grantees that are currently implementing 121 projects across the country. As the EL population continues to grow, it has become increasingly important to identify and support practices implemented by educators of ELs that effectively improve student learning outcomes.

However, there are limited studies that provide evidence about how to best prepare and support educators of ELs in ways that will ultimately improve student learning and outcomes. The existing studies that the Department has identified typically do not meet the highest standards for rigor, and largely focus on professional development for in-service teachers; few focused on preparation for pre-service teachers.

Nonetheless, the body of evidence on effective language, literacy, and content instruction for ELs, including specific instructional practices for English language acquisition, is growing steadily, as documented by the 2014 What Works Clearinghouse (WWC) Practice Guide for teaching ELs, available at: *http://ies.ed.gov/ncee/wwc/PracticeGuide.aspx?sid=19.* To encourage the use of evidence to increase the effectiveness of projects funded by NPD, the Department has included a competitive preference priority for projects designed to improve academic outcomes for ELs using strategies supported by moderate evidence of effectiveness (as defined in this document).

In addition, in order to increase the body of evidence available to inform improved instruction for ELs, we encourage NPD applicants to propose projects that include a rigorous evaluation of proposed activities that, if well-implemented, would meet the WWC Evidence Standards with reservations. We believe that such evaluations will help ensure that projects funded under the NPD program are part of a learning agenda that expands the knowledge base on effective EL practices to ultimately enable all ELs to achieve postsecondary and career success.

For the FY 2017 NPD competition, the Department is particularly interested in supporting projects that improve parental, family, and community engagement. Literature suggests that educators who involve families in their children's education can strengthen their instructional effectiveness with ELs.[2] [3] Providing professional development that enhances educators' abilities to build meaningful relationships with students' families may also support students' learning at home. Accordingly, this notice includes a competitive preference priority related to improving parent, family, and community engagement.

The Department is also interested in supporting dual language acquisition approaches that are effective in developing biliteracy skills. Evidence suggests that students who are biliterate have certain cognitive and social benefits compared to their monolingual peers. Further, recent research[4] suggests that despite initial lags, students in well-implemented dual language programs eventually perform equal to or better than their counterparts in English-only programs.

In addition, we recognize that linguistic and cultural diversity is an asset, and that dual language approaches may also enhance the preservation of heritage languages and cultures. These approaches may be particularly impactful for diverse populations of ELs, such as immigrant children and youth and Native American students.

Finally, we are interested in the development of the early learning workforce. In this competition, we encourage pre-service preparation for early learning educators so that they can successfully support ELs. Because the foundational knowledge of developmental learning and language

[1] Calderón, M., Slavin, R., and Sánchez, M. (2011). Effective instruction for English learners. *Future of Children,* 21(1), 103–127.

[2] Chen, C., Kyle, D.W., and McIntyre, M. (2008). Helping teachers work effectively with English language learners and their families. *The School Community Journal,* 18 (1), 7–20.

[3] Waterman, R. and Harry, B. (2008). *Building Collaboration Between Schools and Parents of English Language Learners: Transcending Barriers, Creating Opportunities.* Tempe, AZ: National Center for Culturally Responsive Educational Systems.

[4] Valentino, R.A., and Reardon, S.F. (2015). Effectiveness of four instructional programs designed to serve English language learners: Variation by ethnicity and initial English proficiency. Educational Evaluation and Policy Analysis, doi: 10.3102/0162373715573310.

acquisition skills applies across all levels of teaching ELs, including at the secondary level, we also encourage projects that will include this knowledge building for educators at all levels.

Priorities: This notice includes one absolute priority, two competitive preference priorities, and two invitational priorities. The absolute priority is from section 3131 of the ESEA (20 U.S.C. 6861). Competitive Preference Priority 1 is from 34 CFR 75.226. Competitive Preference Priority 2 is from the Department's notice of final supplemental priorities and definitions (Supplemental Priorities), published in the **Federal Register** on December 10, 2014 (79 FR 73425).

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

This priority is:

Providing Professional Development to Improve Instruction for English Learners.

Under this priority we provide funding to projects that provide professional development activities that will improve classroom instruction for ELs and assist educational personnel working with ELs to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve ELs.

Competitive Preference Priorities: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applications from this competition, these priorities are competitive preference priorities. Under 34 CFR 75.105(c)(2)(i), we award an additional five points to an application that meets competitive preference priority 1, and we award up to an additional five points to an application depending on how well the application meets competitive preference priority 2. An application may be awarded up to a maximum of 10 additional points under these competitive preference priorities. Applicants may address none, one, or both of the competitive preference priorities. An applicant must clearly identify in the project abstract and the project narrative section of its application the competitive preference priority or priorities it wishes the Department to consider for purposes of earning competitive preference priority points.

These priorities are:

Competitive Preference Priority 1—Moderate Evidence of Effectiveness (0 or 5 points).

Projects that are supported by moderate evidence of effectiveness (as defined in this notice).

Competitive Preference Priority 2—Improving Parent, Family, and Community Engagement (up to 5 points).

Projects that are designed to improve student outcomes through one or more of the following:

(a) Developing and implementing systemic initiatives (as defined in this notice) to improve parent and family engagement (as defined in this notice) by expanding and enhancing the skills, strategies, and knowledge (including techniques or use of technological tools needed to effectively communicate, advocate, support, and make informed decisions about the student's education) of parents and families.

(b) Providing professional development that enhances the skills and competencies of school or program leaders, principals, teachers, practitioners, or other administrative and support staff to build meaningful relationships with students' parents or families through systemic initiatives (as defined in this notice) that may also support students' learning at home.

(c) Implementing initiatives that improve community engagement (as defined in this notice), the relationships between parents or families and school or program staff by cultivating sustained partnerships (as defined in this notice).

Invitational Priorities: For FY 2017 and any subsequent year in which we make awards from the list of unfunded applicants from this competition, these priorities are invitational priorities. Under 34 CFR 75.105(c)(1) we do not give an application that meets these invitational priorities a competitive or absolute preference over other applications.

Invitational Priority 1—Dual Language Approaches.

We encourage applicants to propose projects to improve educator preparation and professional learning for dual language implementation models to support effective instruction for ELs. In particular, we encourage such approaches to take into account the unique needs of recently arrived limited English proficient students, immigrant children and youth, and Native American students, who are members of Federally recognized Indian tribes.

Invitational Priority 2—Supporting the Early Learning Workforce to Serve ELs and Apply the Same Developmental Learning Content to All Levels of Teacher Preparation.

We encourage applicants to propose projects that improve the quality and effectiveness of the early learning workforce, including administrators, so that they have the necessary knowledge, skills, and abilities to improve ELs' cognitive, health, social-emotional, and dual language development. Early learning programs are designed to improve early learning and development outcomes across one or more of the essential domains of school readiness (as defined in this notice) for children from birth through third grade (or for any age group within this range). Further, we encourage applicants to include in such projects these foundational professional learning domains for educators at all levels of teaching, including secondary preparation.

Definitions: The following definitions are from 34 CFR 77.1, 34 CFR 200.6, the Supplemental Priorities, sections 3201 and 8101 of the ESEA (20 U.S.C. 7011 and 7801), and section 101(a) of the Higher Education Act of 1965 (HEA) (20 U.S.C. 1001), and apply to the priorities and selection criteria in this notice. The source of each definition is noted in parentheses following the text of the definition.

Ambitious means promoting continued, meaningful improvement for program participants or for other individuals or entities affected by the grant, or representing a significant advancement in the field of education research, practices, or methodologies. When used to describe a performance target, whether a performance target is ambitious depends upon the context of the relevant performance measure and the baseline for that measure. (34 CFR 77.1)

Baseline means the starting point from which performance is measured and targets are set. (34 CFR 77.1)

Community engagement means the systematic inclusion of community organizations as partners with State educational agencies, local educational agencies, or other educational institutions, or their school or program staff to accomplish activities that may include developing a shared community vision, establishing a shared accountability agreement, participating in shared data-collection and analysis, or establishing community networks that are focused on shared community-level outcomes. These organizations may include faith- and community-based organizations, institutions of higher education (including minority-serving institutions eligible to receive aid under Title III or Title V of the

Higher Education Act of 1965), businesses and industries, labor organizations, State and local government entities, or Federal entities other than the Department. (Supplemental Priorities)

English learner means an individual who is limited English proficient (LEP), which, by statute, means an individual—

(A) Who is aged 3 through 21;

(B) Who is enrolled or preparing to enroll in an elementary school or secondary school;

(C)(i) Who was not born in the United States or whose native language is a language other than English;

(ii)(I) Who is a Native American or Alaska Native, or a Native resident of the outlying areas; and

(II) Who comes from an environment where a language other than English has had a significant impact on the individual's level of English language proficiency; or

(iii) Who is migratory, whose native language is a language other than English, and who comes from an environment where a language other than English is dominant; and

(D) Whose difficulties in speaking, reading, writing, or understanding the English language may be sufficient to deny the individual—

(i) The ability to meet challenging State academic standards;

(ii) The ability to successfully achieve in classrooms where the language of instruction is English; or

(iii) The opportunity to participate fully in society. (Section 8101 of the ESEA)

Essential domains of school readiness means the domains of language and literacy development, cognition and general knowledge (including early mathematics and early scientific development), approaches toward learning (including the utilization of the arts), physical well-being and motor development (including adaptive skills), and social and emotional development. (Supplemental Priorities)

Immigrant children and youth means individuals who

(A) Are aged 3 through 21;

(B) Were not born in any State; and

(C) Have not been attending one or more schools in any one or more States for more than 3 full academic years. (Section 3201 of the ESEA)

Institution of higher education has the meaning given that term in Section 101(a) of the Higher Education Act of 1965.

Language instruction educational program means an instruction course—

(A) In which an English learner is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic standards; and,

(B) That may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language. (Section 3201 of the ESEA)

Large sample means an analytic sample of 350 or more students (or other single analysis units), or 50 or more groups (such as classrooms or schools) that contain 10 or more students (or other single analysis units). (34 CFR 77.1)

Logic model (also referred to as theory of action) means a well-specified conceptual framework that identifies key components of the proposed process, product, strategy, or practice (*i.e.,* the active ''ingredients'' that are hypothesized to be critical to achieving the relevant outcomes) and describes the relationships among the key components and outcomes, theoretically and operationally. (34 CFR 77.1.)

Moderate evidence of effectiveness means one of the following conditions is met:

(A) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards without reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), and includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice.

(B) There is at least one study of the effectiveness of the process, product, strategy, or practice being proposed that meets the What Works Clearinghouse Evidence Standards with reservations, found a statistically significant favorable impact on a relevant outcome (with no statistically significant and overriding unfavorable impacts on that outcome for relevant populations in the study or in other studies of the intervention reviewed by and reported on by the What Works Clearinghouse), includes a sample that overlaps with the populations or settings proposed to receive the process, product, strategy, or practice, and includes a large sample and a multi-site sample. (34 CFR 77.1)

Note: Multiple studies can cumulatively meet the large and multi-site sample requirements as long as each study meets the other requirements in this paragraph.

Multi-site sample means more than one site, where site can be defined as an LEA, locality, or State. (34 CFR 77.1)

Parent and family engagement means the systematic inclusion of parents and families, working in partnership with SEAs, State lead agencies (under Part C of the Individuals with Disabilities Education Act (IDEA) or the State's Race to the Top-Early Learning Challenge grant), LEAs, or other educational institutions, or their staff, in their child's education, which may include strengthening the ability of (A) parents and families to support their child's education; and (B) school or program staff to work with parents and families. (Supplemental Priorities)

Recently arrived limited English proficient student is a student with limited English proficiency who has attended schools in the United States for less than twelve months. The phrase ''schools in the United States'' includes only schools in the 50 States and the District of Columbia. (34 CFR 200.6(b)(4)(iv))

Relevant outcome means the student outcome(s) (or the ultimate outcome if not related to students) the proposed process, product, strategy, or practice is designed to improve; consistent with the specific goals of a program. (34 CFR 77.1)

Strong theory means a rationale for the proposed process, product, strategy, or practice that includes a logic model (as defined in this notice). (34 CFR 77.1)

Note: Applicants may use resources such as the Pacific Education Laboratory's Education Logic Model Application (*http://relpacific.mcrel.org/resources/elm-app*) to help design their logic models.

Student achievement means—For grades and subjects in which assessments are required under section 1111(b)(3) of the ESEA: (1) A student's score on such assessments; and, as appropriate (2) other measures of student learning, such as those described in the subsequent paragraph, provided that they are rigorous and comparable across schools within an LEA.

For grades and subjects in which assessments are not required under section 1111(b)(3) of the ESEA: (1) Alternative measures of student learning and performance, such as student results on pre-tests, end-of-course tests, and objective performance-based assessments; (2) student learning objectives; (3) student performance on

English language proficiency assessments; and (4) other measures of student achievement that are rigorous and comparable across schools within an LEA (Supplemental Priorities). *Note:* The ESEA's provisions on required academic assessment are, as a result of the ESEA's amendment by the Every Student Succeeds Act, found at section 1111(b)(2) rather than 1111(b)(3).

Sustained partnership means a relationship that has demonstrably adequate resources and other support to continue beyond the funding period and that consist of community organizations as partners with an LEA and one or more of its schools. These organizations may include faith- and community-based organizations, IHEs (including minority-serving institutions eligible to receive aid under title III or title V of the Higher Education Act of 1965), businesses and industries, labor organizations, State and local government entities, or Federal entities other than the Department. (Supplemental Priorities)

Systemic initiative means a policy, program, or activity that includes parent and family engagement as a core component and is designed to meet critical educational goals, such as school readiness, student achievement, and school turnaround. (Supplemental Priorities)

What Works Clearinghouse Evidence Standards means the standards set forth in the What Works Clearinghouse Procedures and Standards Handbook (Version 3.0, March 2014), which can be found at the following link: *http://ies.ed.gov/ncee/wwc/DocumentSum.aspx?sid=19.* (34 CFR 77.1)

Program Authority: 20 U.S.C. 6861.

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

Note: The regulations in 34 CFR part 86 apply to IHEs only.

II. Award Information

Type of Award: Discretionary grants.

Estimated Available Funds: The Further Continuing and Security Assistance Appropriations Act, 2017, would provide, on an annualized basis, $735,998,203, of which we intend to use an estimated $20,000,000 for this competition. The actual level of funding, if any, depends on final congressional action. However, we are inviting applications to allow enough time to complete the grant process if Congress appropriated funds for this program. Contingent upon the availability of funds and the quality of applications, we may make additional awards in FY 2018 or later years from the list of unfunded applicants from this competition.

Estimated Range of Awards: $350,000–550,000.

Estimated Average Size of Awards: $450,000.

Maximum Award: $550,000 per year.

Estimated Number of Awards: 44.

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

Project Period: 60 months.

III. Eligibility Information

1. *Eligible Applicants:* Entities eligible to apply for NPD grants are IHEs, or public or private entities with relevant experience and capacity, in consortia with LEAs or SEAs.

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

IV. Application and Submission Information

1. *Address to Request Application Package:* You can obtain an application package via the Internet or from the Education Publications Center (ED Pubs). To obtain a copy via the Internet, use the following address: *www.ed.gov/fund/grant/apply/grantapps/index.html.* To obtain a copy from ED Pubs, write, fax, or call: ED Pubs, U.S. Department of Education, P.O. Box 22207, Alexandria, VA 22304. Telephone, toll free: 1–877–433–7827. FAX: (703) 605–6794. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call, toll free: 1–877–576–7734.

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

If you request an application package from ED Pubs, be sure to identify this program or competition as follows: CFDA 84.365Z.

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

2. a. *Content and Form of Application Submission:* Requirements concerning the content of an application, together with the forms you must submit, are in the application package for this competition.

Notice of Intent to Apply: March 13, 2017.

We will be able to develop a more efficient process for reviewing grant applications if we know the approximate number of applicants that intend to apply for funding under this competition. Therefore, the Secretary strongly encourages each potential applicant to notify us of the applicant's intent to submit an application by emailing *NPD2017@ed.gov* with the subject line ''Intent to Apply'' and include in the content of the email the following information: (1) The applicant organization's name and address, and (2) any competitive preference priority or priorities and invitational priority or priorities the applicant is addressing in the application. Applicants that do not provide notice of their intent to apply may still submit an application.

Page Limit: The application narrative (Part III of the application) is where you, the applicant, address the selection criteria that reviewers use to evaluate your application. We recommend that you limit the application narrative to no more than 35 pages. Applicants are also strongly encouraged not to include lengthy appendices that contain information that they were unable to include within the page limits for the narrative.

Applicants must use the following standards:

- A ''page'' is 8.5″ x 11″, on one side only, with 1″ margins at the top, bottom, and both sides.
- Double space (no more than three lines per vertical inch) all text in the application narrative, including titles, headings, footnotes, quotations, references, and captions.
- Use a font that is either 12 point or larger or no smaller than 10 pitch (characters per inch).
- *Use one of the following fonts:* Times New Roman, Courier, Courier New, or Arial.

The page limit for the application does not apply to Part I, the cover sheet; Part II, the budget section, including the narrative budget justification; Part IV, the assurances and certifications; or the one-page abstract, the bibliography, or the letters of support of the application. However, the page limit does apply to all of the application narrative section [Part III] of the application.

b. *Submission of Proprietary Information:* Given the types of projects that may be proposed in applications for the NPD program, your application may include business information that you consider proprietary. In 34 CFR 5.11 we define ''business information'' and describe the process we use in determining whether any of that information is proprietary and, thus, protected from disclosure under Exemption 4 of the Freedom of Information Act (5 U.S.C. 552, as amended).

Consistent with the process followed in the prior NPD competitions, we may post the project narrative section of funded NPD applications on the Department's Web site so you may wish to request confidentiality of business information. Identifying proprietary information in the submitted application will help facilitate this public disclosure process.

Consistent with Executive Order 12600, please designate in your application any information that you believe is exempt from disclosure under Exemption 4. In the appropriate Appendix section of your application, under ''Other Attachments Form,'' please list the page number or numbers on which we can find this information. For additional information please see 34 CFR 5.11(c).

3. *Submission Dates and Times:*

Notice of Intent to Apply: March 13, 2017.

Informational Meetings: The NPD program intends to hold Webinars designed to provide technical assistance to interested applicants. Detailed information regarding these meetings will be provided on the NPD Web site at *http://www2.ed.gov/programs/nfdp/applicant.html.*

Deadline for Transmittal of Applications: April 24, 2017.

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

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

Individuals with disabilities who need an accommodation or auxiliary aid in connection with the application process should contact the person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice. If the Department provides an accommodation or auxiliary aid to an individual with a disability in connection with the application process, the individual's application remains subject to all other requirements and limitations in this notice.

Deadline for Intergovernmental Review: June 21, 2017.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7. *Other Submission Requirements:*

Applications for grants for the NPD program must be submitted electronically unless you qualify for an exception to this requirement in accordance with the instructions in this section.

a. *Electronic Submission of Applications.*

Applications for grants under the NPD program, CFDA number 84.365Z, must be submitted electronically using the *Grants.gov* Apply site (*Grants.gov*). Through this site, you will be able to download a copy of the application package, complete it offline, and then upload and submit your application. You may not email an electronic copy of a grant application to us.

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

You may access the electronic grant application for the NPD program at *www.Grants.gov.* You must search for

the downloadable application package for this competition by the CFDA number. Do not include the CFDA number's alpha suffix in your search (*e.g.,* search for 84.365, not 84.365Z).

Please note the following:

• When you enter the *Grants.gov* site, you will find information about submitting an application electronically through the site, as well as the hours of operation.

• Applications received by *Grants.gov* are date and time stamped. Your application must be fully uploaded and submitted and must be date and time stamped by the *Grants.gov* system no later than 4:30:00 p.m., Washington, DC time, on the application deadline date. Except as otherwise noted in this section, we will not accept your application if it is received—that is, date and time stamped by the *Grants.gov* system—after 4:30:00 p.m., Washington, DC time, on the application deadline date. We do not consider an application that does not comply with the deadline requirements. When we retrieve your application from *Grants.gov*, we will notify you if we are rejecting your application because it was date and time stamped by the *Grants.gov* system after 4:30:00 p.m., Washington, DC time, on the application deadline date.

• The amount of time it can take to upload an application will vary depending on a variety of factors, including the size of the application and the speed of your Internet connection. Therefore, we strongly recommend that you do not wait until the application deadline date to begin the submission process through *Grants.gov*.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

• You do not have access to the Internet; or

• You do not have the capacity to upload large documents to the *Grants.gov* system;

and

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

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

Address and mail or fax your statement to: Patrice Swann, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C144, Washington, DC 20202–6510. FAX: (202) 260–5496.

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

b. *Submission of Paper Applications by Mail.*

If you qualify for an exception to the electronic submission requirement, you may mail (through the U.S. Postal Service or a commercial carrier) your application to the Department. You must mail the original and two copies of your application, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.365Z), LBJ Basement Level 1, 400 Maryland Avenue SW., Washington, DC 20202–4260.

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

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

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

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

(4) Any other proof of mailing acceptable to the Secretary of the U.S. Department of Education.

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

(1) A private metered postmark.

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

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

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

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

If you qualify for an exception to the electronic submission requirement, you (or a courier service) may deliver your paper application to the Department by hand. You must deliver the original and two copies of your application by hand, on or before the application deadline date, to the Department at the following address: U.S. Department of Education, Application Control Center, Attention: (CFDA Number 84.365Z), 550 12th Street SW., Room 7039, Potomac Center Plaza, Washington, DC 20202–4260.

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

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

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

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

V. Application Review Information

1. *Selection Criteria:* The selection criteria for this competition are from section 34 CFR 75.210. The maximum score for all of these criteria is 100 points (not including competitive preference priority points). The maximum score for each criterion is indicated in parentheses.

(a) *Quality of the project design.* (up to 45 points).

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

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

(2) The extent to which the design for implementing and evaluating the proposed project will result in information to guide possible replications of project activities or strategies including information about the effectiveness of the approach or strategies employed by the project.

(3) The extent to which the proposed project is supported by strong theory (as defined in this notice).

(b) *Quality of project personnel.* (up to 10 points).

The Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the following factors:

(1) The extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability

(2) The qualifications, including relevant training and experience, of the project director or principal investigator.

(3) The qualifications, including relevant training and experience, of key project personnel.

(c) *Quality of the management plan.* (up to 25 points).

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

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

(2) The extent to which the time commitment of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(d) *Quality of the project evaluation.* (up to 20 points).

The Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

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

(2) The extent to which the methods of evaluation will, if well implemented, produce evidence about the project's effectiveness that would meet the What Works Clearinghouse Evidence Standards with reservations.

(3) The extent to which the methods of evaluation will provide performance feedback and permit periodic

assessment of progress toward achieving intended outcomes.

(4) The extent to which the methods of evaluation will provide valid and reliable performance data on relevant outcomes.

Note: The following are technical assistance resources on evaluation: (1) WWC Procedures and Standards Handbook: *http://ies.ed.gov/ncee/wwc/references/idocviewer/doc.aspx?docid=19&tocid=1;* and (2) IES/NCEE Technical Methods papers: *http://ies.ed.gov/ncee/tech_methods.*

In addition, we invite applicants to view two Webinar recordings that were hosted by the Institute of Education Sciences. The first Webinar addresses strategies for designing and executing well-designed quasi-experimental design studies. This Webinar is available at: *http://ies.ed.gov/ncee/wwc/Multimedia.aspx?sid=23.* The second Webinar focuses on more rigorous evaluation designees, including strategies for designing and executing randomized controlled trials. This Webinar is available at: *http://ies.ed.gov/ncee/wwc/Multimedia.aspx?sid=18.*

2. *Review and Selection Process:* The Department will screen applications that are submitted for NPD grants in accordance with the requirements in this notice and determine which applications meet the eligibility and other requirements. Peer reviewers will review all eligible applications for NPD grants that are submitted by the established deadline.

Applicants should note, however, that we may screen for eligibility at multiple points during the competition process, including before and after peer review; applicants that are determined to be ineligible will not receive a grant award regardless of peer reviewer scores or comments. If we determine that an NPD grant application does not meet an NPD requirement, the application will not be considered for funding.

For NPD grant applications, the Department intends to conduct a two-part review process to review and score all eligible applications. Content reviewers will review and score all eligible applications on the following three selection criteria: (a) Quality of the project design; (b) Quality of project personnel; and (c) Quality of the management plan. These reviewers will also review and score the second competitive preference priority. Peer reviewers with evaluation expertise will review and score selection criterion (d) Quality of the project evaluation.

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

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

3. *Risk Assessment and Special Conditions:* Consistent with 2 CFR 200.205, before awarding grants under this program the Department conducts a review of the risks posed by applicants. Under 2 CFR 3474.10, the Secretary may impose special conditions and, in appropriate circumstances, high-risk conditions on a grant if the applicant or grantee is not financially stable; has a history of unsatisfactory performance; has a financial or other management system that does not meet the standards in 2 CFR part 200, subpart D; has not fulfilled the conditions of a prior grant; or is otherwise not responsible.

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

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

VI. Award Administration Information

1. *Award Notices:* If your application is successful, we notify your U.S. Representative and U.S. Senators and send you a Grant Award Notification (GAN). We may notify you informally, also.

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

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

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

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

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

(c) The Secretary may provide a grantee with additional funding for data collection, analysis, and reporting. In this case the Secretary establishes a data collection period.

4. *Performance Measures:* Under the Government Performance and Results Act (GPRA), Federal departments and agencies must clearly describe the goals and objectives of programs, identify resources and actions needed to accomplish goals and objectives, develop a means of measuring progress made, and regularly report on achievement.

(a) *Measures.* The Department has developed the following GPRA performance measures for evaluating the overall effectiveness of the NPD program:

Measure 1: The number and percentage of program participants who complete the preservice program. Completion is defined by the applicant in the submitted application.

Measure 2: The number and percentage of program participants who complete the inservice program. Completion is defined by the applicant in the submitted application.

Measure 3: The number and percentage of program completers, as defined by the applicant under measures 1 and 2, who are State certified, licensed, or endorsed in EL instruction.

Measure 4: The percentage of program completers who rate the program as effective in preparing them to serve EL students.

Measure 5: The percentage of school leaders, other educators, and employers of program completers who rated the program as effective in preparing their teachers, or other educators, to serve ELs or improve their abilities to serve ELs effectively.

Measure 6: For projects that received competitive preference points for Competitive Priority 2, the percentage of program completers who rated the program as effective, as defined by the grantees, in increasing their knowledge and skills related to parent, family, and community engagement.

(b) *Baseline data.* Applicants must provide baseline (as defined in this notice) data for each of the project performance measures listed in (a) and explain how each proposed baseline data is related to program outcomes; or, if the applicant has determined that there are no established baseline data for a particular performance measure, explain why there is no established baseline and explain how and when, during the project period, the applicant will establish a baseline for the performance measure.

(c) *Performance measure targets.* In addition, the applicant must propose in its application annual targets for the measures listed in paragraph (a). Applications must also include the following information as directed under 34 CFR 75.110(b):

(1) Why each proposed performance target is ambitious (as defined in this notice) yet achievable compared to the baseline for the performance measure.

(2) The data collection and reporting methods the applicant would use and why those methods are likely to yield reliable, valid, and meaningful performance data; and

(3) The applicant's capacity to collect and report reliable, valid, and meaningful performance data, as evidenced by high-quality data collection, analysis, and reporting in other projects or research.

Note: If the applicant does not have experience with collection and reporting of performance data through other projects or research, the applicant should provide other evidence of capacity to successfully carry out data collection and reporting for its proposed project.

(d) *Performance Reports.* All grantees must submit an annual performance report and final performance report with information that is responsive to these performance measures. The Department will consider this data in making annual continuation awards.

(e) *Department Evaluations.* Consistent with 34 CFR 75.591, grantees funded under this program shall comply with the requirements of any evaluation of the program conducted by the Department or an evaluator selected by the Department.

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

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

VII. Agency Contact

FOR FURTHER INFORMATION CONTACT: Samuel Lopez, U.S. Department of Education, 400 Maryland Avenue SW., Room 5C152, Washington, DC 20202. Telephone: (202) 401–4300. FAX: (202) 205–1229 or by email at *NPD2017@ed.gov.*

If you use a TDD or a TTY, call the Federal Relay Service, toll free, at 1–800–877–8339.

VIII. Other Information

Accessible Format: Individuals with disabilities can obtain this document and a copy of the application package in an accessible format (*e.g.,* braille, large print, audiotape, or compact disc) on request to the program contact person listed under **FOR FURTHER INFORMATION CONTACT** in section VII of this notice.

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

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

Dated: February 15, 2017.

Supreet Anand,

Deputy Director Office of English Language Acquisition.

[FR Doc. 2017–03367 Filed 2–17–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

National Coal Council

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of open meetings.

SUMMARY: This notice announces a meeting of the National Coal Council (NCC). The Federal Advisory Committee Act requires that public notice of these meetings be announced in the **Federal Register**.

DATES: Wednesday, March 15, 2017, 8:15 a.m. to 12:15 p.m.

ADDRESSES: Sheraton Suites, Old Town Alexandria; 801 N. Saint Asaph St.; Alexandria, VA 22314.

FOR FURTHER INFORMATION CONTACT: Daniel Matuszak, U.S. Department of Energy, 4G–036/Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585–0001; Telephone: 202–287–6915

SUPPLEMENTARY INFORMATION:

Purpose of the Council: The National Coal Council provides advice and recommendations to the Secretary of Energy on general policy matters relating to coal and the coal industry.

Purpose of Meeting: The 2017 Spring Meeting of the National Coal Council.

Tentative Agenda:

1. Call to order and opening remarks by Mike Durham, Chair, National Coal Council

2. Remarks by U.S. Department of Energy Representative—TBD
3. Presentation by Andy Roberts. Research Director-Global Thermal Markets, Wood Mackenzie on ''Opportunities for Coal in the Trump Administration''
4. Presentation by Jeff Keffer, CEO/Steve Nelson, COO, Longview Power LLC on Longview Power's State-of-the-Art Clean Coal Technology Plant
5. Presentation by Chip Bottone, President & CEO, FuelCell Energy on the ExxonMobil-FuelCell Energy Fuel Cell Carbon Capture Pilot Plant at Plant Barry
6. Presentation by David Denton, Senior Director Business Development, RTI International on ''Advanced Technologies for CO_2 Capture & Utilization: Power & Industrial Applications''
7. Council Business:
   a. Finance report by Finance Committee Chair Greg Workman
   b. Coal Policy Committee report by Coal Policy Committee Chair Deck Slone
   c. Communications Committee report by Communications Committee Chair Lisa Bradley
   d. NCC Business Report by NCC CEO Janet Gellici
8. Other Business
9. Adjourn

Attendees are requested to register in advance for the meeting at: http://www.nationalcoalcouncil.org/page-NCC-Events.html.

Public Participation: The meeting is open to the public. If you would like to file a written statement with the Council, you may do so either before or after the meeting. If you would like to make oral statements regarding any item on the agenda, you should contact Daniel Matuszak, 202–287–6915 or *daniel.matuszak@hq.doe.gov* (email). You must make your request for an oral statement at least 5 business days before the meeting. Reasonable provision will be made to include oral statements on the scheduled agenda. The Chairperson of the Council will lead the meeting in a manner that facilitates the orderly conduct of business. Oral statements are limited to 10-minutes per organization and per person.

Minutes: A link to the transcript of the meeting will be posted on the NCC Web site at: *http://www.nationalcoalcouncil.org/.*

Issued at Washington, DC, on February 14, 2017.

LaTanya R. Butler,

Deputy Committee Management Officer.

[FR Doc. 2017–03312 Filed 2–17–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 233–227]

Pacific Gas and Electric Company; Notice of Application Accepted for Filing, and Soliciting Comments, Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Amendment of License.

b. *Project No.:* 233–227.

c. *Date filed:* January 6, 2017.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* Pit 3, 4 & 5 Hydroelectric Project.

f. *Location:* The project is located on the Pit River in Shasta County, California. The project occupies federal lands administered by the U.S. Forest Service.

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

h. *Applicant Contact:* Jim Gill, Director, Hydro Licensing, Pacific Gas and Electric Company, P.O. Box 770000, San Francisco, CA 94177–0001, Telephone: (415) 973–8114, Facsimile: (415) 973–2713, E-Mail: *CJGg@.pge.com.*

i. *FERC Contact:* Mo Fayyad, Telephone (202) 502–8759, and email *mo.fayyad@FERC.gov.*

j. Deadline for filing comments, motions to intervene and protests is 30 days from the issuance of this notice by the Commission. The Commission strongly encourages electronic filing. Please file comments, motions to intervene, and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/doc-sfiling/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–233–227.

k. *Description of Request:* Due to economic considerations, the applicant proposes to delete from the license for Pit 3, 4 & 5 Hydroelectric Project the unconstructed Britton Powerhouse. The 2.8-megawatt powerhouse was to be constructed at the Pit 3 Dam.

l. *Locations of the Applications:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. The filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Motions to Intervene, or Protests:* Anyone may submit comments, a motion to intervene, or a protest in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, motions to intervene, or protests must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''MOTION TO INTERVENE'', or ''PROTEST'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to project works which are the subject of this application. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the

applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: February 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–03326 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 190–105]

Moon Lake Electric Association, Inc.; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests and Establishing Procedural Schedule for Relicensing and a Deadline for Submission of Final Amendments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Minor, new license.

b. *Project No.:* P–190–105.

c. *Date Filed:* January 31, 2017.

d. *Applicant:* Moon Lake Electric Association, Inc.

e. *Name of Project:* Uintah Hydroelectric Project.

f. *Location:* The project is located near the Town of Neola, Duchesne County, Utah and diverts water from primarily the Uintah River as well as Big Springs Creek and Pole Creek. The project is located almost entirely on federal lands managed by Ashley National Forest and Ute Indian Reservation.

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

h. *Applicant Contact:* M. Jared Griffiths, Engineering Manager, Moon Lake Electric Association, Inc., 800 West U.S. Hwy 40, Roosevelt, Utah 84066.

i. *FERC Contact:* Quinn Emmering, (202) 502–6382, *quinn.emmering@ferc.gov.*

j. *Cooperating Agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* April 3, 2017.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–190–105.

m. The application is not ready for environmental analysis at this time.

n. *The Uintah Hydroelectric project operates as a run-of-river facility delivering water to the project facilities from three sources:* the Uintah River, Big Springs Creek, and Pole Creek. The existing project facilities include: (1) An 8-foot-wide, 4-foot-deep, 1,100-foot-long canal that delivers water from Big Springs Creek; (2) a concrete diversion structure on the Big Springs Creek canal which conveys flow through a 916-foot-long, 28-inch diameter, steel pipeline that connects to the point of diversion on the Uintah River; (3) an 80-foot-long, 4-foot-wide, 3-foot-high overflow-type concrete diversion structure with a 10-foot-high, 6.5-foot-wide steel slide gate on the Uintah River; (4) a 16-foot-wide, 8-foot-deep, 25,614-foot-long, main supply canal which conveys water from Big Springs Creek and the Uintah River; (5) a stop-log diversion structure which diverts water from Pole Creek; (6) a 6-foot-wide, 4-foot-deep, 6,200-foot-long supply canal which collects water from the Pole Creek diversion; (7) an 86-inch-wide, 80-inch-long, 43-inch-high transition bay and a 140-foot-long, 14-inch diameter steel penstock collects water from the Pole Creek supply canal; (8) a 23-foot by 13-foot concrete forebay structure containing trashracks, an overflow channel, and a headgate that is located at the termination of the main supply canal and the Pole Creek penstock; (9) a single 5,238-foot-long, 36-inch diameter polyurethane and steel penstock which delivers water to a concrete powerhouse with two Pelton turbines driving two 600-kilowatt generators; (10) a 600-foot-long tailrace; (11) a 4.75-mile-long, 24.9-kilovolt single wood pole distribution line; and (12) appurtenant facilities. The estimated average annual generation is about 6,073 megawatt-hours. The licensee proposes to modify the project boundary to account for an update to the project transmission line that reduced its total length from 8.5 miles to 4.75 miles. The licensee proposes no operational changes or new project facilities at this time.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

q. *Procedural schedule and final amendments:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Notice of Acceptance—April 2017
Request Additional Information (if necessary)—April 2017
Issue Acceptance Letter—July 2017
Issue Scoping Document 1 for comments—August 2017
Request Additional Information (if necessary)—October 2017
Issue Scoping Document 2—November 2017
Issue notice of ready for environmental analysis—November 2017
Commission issues EA, draft EA, or draft EIS—May 2018

Comments on EA or draft EA or draft EIS—June 2018

Commission issues final EA of final EIS—August 2018

Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of the notice of ready for environmental analysis.

Dated: February 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–03325 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

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

Docket Numbers: ER17–753–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Errata to Correct RTEP Approved by Board in Dec 2016 submitted in ER17–753–000 to be effective 4/6/2017.
Filed Date: 2/14/17.
Accession Number: 20170214–5073.
Comments Due: 5 p.m. ET 3/16/17.

Docket Numbers: ER17–969–000.
Applicants: Southwest Power Pool, Inc.
Description: § 205(d) Rate Filing: 3165 Otter Tail Power Company NITSA and NOA Notice of Cancellation to be effective 2/1/2017.
Filed Date: 2/14/17.
Accession Number: 20170214–5070.
Comments Due: 5 p.m. ET 3/7/17.

Docket Numbers: ER17–970–000.
Applicants: Northern States Power Company, a Minnesota corporation.
Description: § 205(d) Rate Filing: CAPX-Multi-Hawks Nest Const-647–0.0.0 to be effective 1/25/2017.
Filed Date: 2/14/17.
Accession Number: 20170214–5124.
Comments Due: 5 p.m. ET 3/7/17.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF17–676–000.
Applicants: City of Charlotte, North Carolina.
Description: Form 556 of City of Charlotte.
Filed Date: 2/9/17.
Accession Number: 20170209–5306.
Comments Due: None Applicable.

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

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

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

Dated: February 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–03318 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Part 284 Natural Gas Pipeline Rate filings:

Filings Instituting Proceedings

Docket Number: PR17–22–000.
Applicants: New Mexico Gas Company, Inc.
Description: Tariff filing per 284.123(b), (e)+(g): NGPA Section 311 Periodic Rate Review Certification to be effective 2/1/2012; Filing Type: 1300.
Filed Date: 2/1/17.
Accession Number: 201702015214.
Comments Due: 5 p.m. ET 2/22/17.
284.123(g) Protests Due: 5 p.m. ET 4/3/17.

Docket Number: PR17–23–000.
Applicants: Regency DeSoto Pipeline LLC.
Description: Tariff filing per 284.123(e)+(g): Cancellation of GT&C Eff. 4.1.2017 to be effective 4/1/2017; Filing Type: 1290.
Filed Date: 2/1/17.
Accession Number: 201702015265.
Comments Due: 5 p.m. ET 2/22/17.
284.123(g) Protests Due: 5 p.m. ET 4/3/17.

Docket Number: PR17–24–000.
Applicants: Atmos Energy Corporation.
Description: Tariff filing per 284.123(b),(e)+(g): Request for Change in Rates Based on State Rate Election to be effective 3/1/2017; Filing Type: 1300.
Filed Date: 2/2/17.
Accession Number: 201702025130.
Comments Due: 5 p.m. ET 2/23/17.
284.123(g) Protests Due: 5 p.m. ET 4/3/17.

Docket Number: PR17–25–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b),(e)/: COH SOC Effective 1–31–2017; Filing Type: 980.
Filed Date: 2/3/17.
Accession Number: 201702035078.
Comments/Protests Due: 5 p.m. ET 2/24/17.

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

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

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

Dated: February 7, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–03349 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14809–000]

Merchant Hydro Developers, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 19, 2016, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Shenandoah Pumped Storage Hydroelectric Project to be located near Shenandoah Borough in Schuylkill County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application

during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) As many as two new upper reservoirs with a combined surface area of 470 acres and a combined storage capacity of 7,050 acre-feet at a surface elevation of approximately 1,750 feet above mean sea level (msl) created through construction of new roller-compacted concrete or rock-filled dams and/or dikes; (2) a new lower reservoir, including an existing abandoned mine pit, with a surface area of 105 acres and a total storage capacity of 7,200 acre-feet at a surface elevation of 1,210 feet msl; (3) as many as three new 3,387-foot-long, 48-inch-diameter penstocks connecting the upper and lower reservoirs; (4) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 405 megawatts; (5) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (6) appurtenant facilities. Possible initial fill water and make-up water would come from local inflow to the abandoned mine pit, including groundwater. The proposed project would have an annual generation of 1,181,385 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: 267–254–6107.

FERC Contact: Monir Chowdhury; phone: (202) 502–6736.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14809–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14809) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–03324 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

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

Filings Instituting Proceedings

Docket Numbers: RP17–376–000.
Applicants: Equitrans, L.P.
Description: Tariff Cancellation: Terminate Negotiated Rate Service Agreement—Range Resources Appalachia LLC to be effective 2/1/2017.
Filed Date: 1/31/17.
Accession Number: 20170131–5484.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–350–001.
Applicants: Eastern Shore Natural Gas Company.
Description: Compliance filing Errata to Filing to Comply with Order in Docket Nos. CP15–18–000, 001 to be effective 3/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5137.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–383–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20170201 Miscellaneous Filing to be effective 3/4/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5104.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–384–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—Nicor to be effective 2/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5128.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–385–000.
Applicants: Northern Natural Gas Company.
Description: § 4(d) Rate Filing: 20170201 Annual PRA Fuel Rates to be effective 4/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5148.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–386–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—February 2017 Spire 1005896 to be effective 2/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5201.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–387–000.
Applicants: Dauphin Island Gathering Partners.
Description: § 4(d) Rate Filing: Negotiated Rate Filing 2–1–2017 to be effective 2/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5221.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–388–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: James Valley Ethanol Neg Rate Agmt Revision to be effective 2/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5235.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–389–000.
Applicants: Cimarron River Pipeline, LLC.
Description: § 4(d) Rate Filing: Fuel Tracker 2017—Summer Season Rates to be effective 4/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5254.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–390–000.
Applicants: Questar Overthrust Pipeline, LLC.
Description: § 4(d) Rate Filing: Statement of Negotiated Rates Version 7.0.0, Simplot Phosphates to be effective 3/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5259.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–391–000.
Applicants: Cimarron River Pipeline, LLC.
Description: § 4(d) Rate Filing: Negotiated Rates 2017–02–01 to be effective 2/1/2017.
Filed Date: 2/1/17.
Accession Number: 20170201–5264.
Comments Due: 5 p.m. ET 2/13/17.

Docket Numbers: RP17–395–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Capacity Release Agreements 2/8/17 to be effective 2/8/2017.
Filed Date: 2/8/17.
Accession Number: 20170208–5027.
Comments Due: 5 p.m. ET 2/21/17.

Docket Numbers: RP17–396–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Service Agreement—EQT Energy LPS to be effective 4/1/2017.
Filed Date: 2/10/17.
Accession Number: 20170210–5003.
Comments Due: 5 p.m. ET 2/22/17.

Docket Numbers: RP17–397–000.
Applicants: Dominion Transmission, Inc.
Description: § 4(d) Rate Filing: DTI—February 10, 2017 Nonconforming Service Agreement to be effective 4/1/2017.
Filed Date: 2/10/17.
Accession Number: 20170210–5039.
Comments Due: 5 p.m. ET 2/22/17.

Docket Numbers: RP17–398–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 02/10/17 Negotiated Rates—Consolidated Edison Energy Inc. (HUB) 2275–89 to be effective 2/9/2017.
Filed Date: 2/10/17.
Accession Number: 20170210–5139.
Comments Due: 5 p.m. ET 2/22/17.

Docket Numbers: RP17–313–001.
Applicants: Texas Eastern Transmission, LP.
Description: Compliance filing EQT 910900–RP17.–313 Compliance Filing to be effective 1/1/2017.
Filed Date: 2/13/17.
Accession Number: 20170213–5191.
Comments Due: 5 p.m. ET 2/27/17.

Docket Numbers: RP17–399–000.
Applicants: Iroquois Gas Transmission System, L.P.
Description: § 4(d) Rate Filing: 02/13/17 Negotiated Rates—Mercuria Energy America, Inc. (HUB) 7540–89 to be effective 2/12/2017.
Filed Date: 2/13/17.
Accession Number: 20170213–5198.
Comments Due: 5 p.m. ET 2/27/17.

Docket Numbers: RP17–400–000.
Applicants: Columbia Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Agmts—Core to be effective 2/1/2017.
Filed Date: 2/13/17.
Accession Number: 20170213–5258.
Comments Due: 5 p.m. ET 2/27/17.

Docket Numbers: RP17–401–000.
Applicants: Rockies Express Pipeline LLC.
Description: § 4(d) Rate Filing: FL&U Electric Power Periodic Rate Adjustment 2017 to be effective 4/1/2017.
Filed Date: 2/13/17.
Accession Number: 20170213–5261.
Comments Due: 5 p.m. ET 2/27/17.

Docket Numbers: RP17–402–000.
Applicants: Northern Natural Gas Company.
Description: Northern Natural Gas submits report of the penalty and daily delivery variance charge (DDVC) revenues that have been credited to shippers under RP17–402.
Filed Date: 2/13/17.
Accession Number: 20170213–5333.
Comments Due: 5 p.m. ET 2/27/17.

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

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

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

Dated: February 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–03350 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

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

Docket Numbers: EC17–78–000.
Applicants: MS Solar 2, LLC.
Description: Application for Authorization of Transaction under Section 203 of the FPA of MS Solar 2, LLC.
Filed Date: 2/13/17.
Accession Number: 20170213–5336.
Comments Due: 5 p.m. ET 3/6/17.

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

Docket Numbers: ER17–114–002.
Applicants: California Independent System Operator Corporation.
Description: Compliance filing: 2017–02–13 Compliance Order No. 827 Response FERC Request Additional Information to be effective 9/21/2016.
Filed Date: 2/13/17.
Accession Number: 20170213–5264.
Comments Due: 5 p.m. ET 3/6/17.

Docket Numbers: ER17–387–001.
Applicants: Midcontinent Independent System Operator, Inc.
Description: Tariff Amendment: 2017–02–13_Deficiency response—Att FF–6 filing to address cost allocation gap to be effective 1/18/2017.
Filed Date: 2/13/17.
Accession Number: 20170213–5222.
Comments Due: 5 p.m. ET 3/6/17.

Docket Numbers: ER17–950–001.
Applicants: PJM Interconnection, L.L.C.
Description: Tariff Amendment: Errata to ConEd Wheeling Termination filing in ER17–950–000 to be effective 5/1/2017.
Filed Date: 2/13/17.
Accession Number: 20170213–5201.
Comments Due: 5 p.m. ET 3/6/17.

Docket Numbers: ER17–968–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–02–13_SA 2527 ITC-Consumers 3rd Amended GIA (J161) to be effective 2/14/2017.
Filed Date: 2/13/17.
Accession Number: 20170213–5204.
Comments Due: 5 p.m. ET 3/6/17.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF17–673–000.
Applicants: Beaver Creek Wind II, LLC.
Description: Application for Certification of Beaver Creek Wind II, LLC.
Filed Date: 2/9/17.
Accession Number: 20170209–5303.
Comments Due: 5 p.m. ET 3/2/17.

Docket Numbers: QF17–674–000.
Applicants: Beaver Creek Wind III, LLC.
Description: Application for Certification of Beaver Creek Wind III, LLC.
Filed Date: 2/9/17.
Accession Number: 20170209–5304.
Comments Due: 5 p.m. ET 3/2/17.

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

Any person desiring to intervene or protest in any of the above proceedings

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

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

Dated: February 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–03317 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14751–002]

Alpine Pacific Utilities Hydro, LLC; Notice of Application Tendered for Filing With the Commission and Soliciting Additional Study Requests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original Minor License.

b. *Project No.:* 14751–002.

c. *Date filed:* February 1, 2017.

d. *Applicant:* Alpine Pacific Utilities Hydro, LLC.

e. *Name of Project:* Fresno Dam Site Water Power Project.

f. *Location:* On the Milk River, in Hill County, Montana, near the town of Kremlin. The project would be located at the Bureau of Reclamation's Fresno Dam.

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

h. *Applicant Contact:* Justin Ahmann, Alpine Pacific Utilities Hydro, LLC, 75 Somers Road, Somers, Montana, 59932, (406) 755–1333.

i. *FERC Contact:* John Matkowski at (202) 502–8576; or email at *john.matkowski@ferc.gov.*

j. *Cooperating agencies:* Federal, state, local, and tribal agencies with jurisdiction and/or special expertise with respect to environmental issues that wish to cooperate in the preparation of the environmental document should follow the instructions for filing such requests described in item l below. Cooperating agencies should note the Commission's policy that agencies that cooperate in the preparation of the environmental document cannot also intervene. *See,* 94 FERC 61,076 (2001).

k. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the date of filing of the application, and serve a copy of the request on the applicant.

l. *Deadline for filing additional study requests and requests for cooperating agency status:* April 3, 2017.

The Commission strongly encourages electronic filing. Please file additional study requests and requests for cooperating agency status using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14751–002.

m. The application is not ready for environmental analysis at this time.

n. The proposed project would utilize head from the existing Fresno Dam, intake with trashrack, and outlet structure owned and operated by the Bureau of Reclamation and consist of the following new facilities: (1) Two 150-foot-long penstocks consisting of (i) two 72-inch-diameter steel penstocks bifurcating into (ii) two 60-inch-diameter steel penstocks; (2) an underground powerhouse containing four 375-kilowatt Natel Energy turbines with a total rated capacity of 1.5 megawatts; (3) four discharge pipes diverting flows into the existing dam spillway; (4) a 25-square-foot switchyard; (5) an approximately 3.35-mile-long, 12.74-kilovolt partially underground transmission line; and (6) appurtenant facilities. The proposed project would have an average annual generation of 5,590 megawatt-hours.

o. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

p. *Procedural schedule:* The application will be processed according to the following preliminary Hydro Licensing Schedule. Revisions to the schedule will be made as appropriate.

Issue Deficiency and/or Additional Information Letter—March 2017
Issue Notice of Acceptance—May 2017
Issue Scoping Document—June 2017
Issue Notice of Ready for Environmental Analysis—August 2017
Commission Issues EA—January 2018

Dated: February 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–03322 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No., 14807–000]

Merchant Hydro Developers LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On December 19, 2016, Merchant Hydro Developers, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Rattlin Run Pumped Storage Hydroelectric Project to be located near Shenandoah Borough in Schuylkill County, Pennsylvania. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) As many as two new upper reservoirs with a combined surface area of 280 acres and a combined storage capacity of 5,040 acre-feet at a surface elevation of

approximately 1,760 feet above mean sea level (msl) created through construction of new roller-compacted concrete or rock-filled dams and/or dikes; (2) excavating a new lower reservoir with a surface area of 131 acres and a total storage capacity of 5,040 acre-feet at a surface elevation of 1,099 feet msl; (3) a new 900-foot-long, 48-inch-diameter penstock connecting the upper reservoirs; (4) a new 3,387-foot-long, 48-inch-diameter penstock connecting the upper and lower reservoirs; (5) a new 150-foot-long, 50-foot-wide powerhouse containing two turbine-generator units with a total rated capacity of 300 megawatts; (6) a new transmission line connecting the powerhouse to a nearby electric grid interconnection point with options to evaluate multiple grid interconnection locations; and (7) appurtenant facilities. Possible initial fill water and make-up water would come from Catawissa Creek. The proposed project would have an annual generation of 867,187 megawatt-hours.

Applicant Contact: Adam Rousselle, Merchant Hydro Developers, LLC, 5710 Oak Crest Drive, Doylestown, PA 18902; phone: (267) 254–6107.

FERC Contact: Tim Looney; phone: (202) 502–6096.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR 4.36.

The Commission strongly encourages electronic filing. Please file comments, motions to intervene, notices of intent, and competing applications using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–14807–000.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of the Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14807) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: February 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–03323 Filed 2–17–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0026; FRL–9959–39]

Statutory Requirements for Substantiation of Confidential Business Information (CBI) Claims Under the Toxic Substances Control Act (TSCA); Delay of Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Delay of effective date.

SUMMARY: In accordance with the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review'', this action delays until March 21, 2017, the effective date of the **Federal Register** Notice entitled ''Statutory Requirements for Substantiation of Confidential Business Information (CBI) Claims Under the Toxic Substances Control Act (TSCA)'', published in the **Federal Register** on January 19, 2017 (82 FR 6522, FRL–9958–34).

DATES: This action is effective February 21, 2017. The effective date of the **Federal Register** Notice entitled ''Statutory Requirements for Substantiation of Confidential Business Information (CBI) Claims Under the Toxic Substances Control Act (TSCA)'', published in the **Federal Register** on January 19, 2017 (82 FR 6522, FRL–9958–34), is delayed from March 20, 2017 to a new effective date of March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Scott M. Sherlock, Attorney Advisor, Environmental Assistance Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460–0001; telephone number: (202) 564–8257; email address: *sherlock.scott@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA bases this action on the Presidential directive as expressed in the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review''. That 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 (defined in the January 20, 2017 memorandum to include ''an interpretation of a statutory or regulatory issue'') that had been published in the **Federal Register** but had not yet taken effect. The **Federal Register** Notice entitled ''Statutory Requirements for Substantiation of Confidential Business Information (CBI) Claims Under the Toxic Substances Control Act (TSCA)'' is subject to the effective date delay. The new effective date for this action is March 21, 2017.

If deemed appropriate, EPA may consider delaying the effective date of this action beyond March 21, 2017.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: February 13, 2017.

Wendy Cleland-Hamnett,

Acting Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–03352 Filed 2–17–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9959–09–Region 10]

Washington State Department of Ecology Prohibition of Discharges of Vessel Sewage; Final Affirmative Determination

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of determination.

SUMMARY: The Regional Administrator of the Environmental Protection Agency, Region 10, has determined that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for all marine waters of Washington State inward from the line between New Dungeness Lighthouse and the Discovery Island Lighthouse to the Canadian border, and fresh waters of Lake Washington, Lake Union, and connecting waters between and to Puget Sound. This notice constitutes EPA's final determination on the petition submitted by the Washington State Department of Ecology on July 21, 2016, pursuant to Section 312(f)(3) of the Clean Water Act, 33 U.S.C. 1322, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound. This determination does not itself constitute the designation of a no-discharge zone, rather, the State of Washington may now in its discretion

finalize its proposed designation in accordance with state law and take the steps it deems appropriate to implement and enforce the discharge prohibition.

EPA Response to Public Comments on the November 7, 2016 Preliminary Affirmative Determination

On November 7, 2016, EPA published notice of its preliminary affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters subject to Washington's proposed no-discharge zone [FR Number 2016–26877; 81 FR 78141, November 7, 2016] with a 30-day public comment period. At the request of stakeholders, EPA extended the 30-day public comment period from December 7, 2016 to December 23, 2016.

EPA received a total of 40,462 comments via letter, email, online using the Federal eRulemaking Portal, and in person. All forms of input were considered equally. Of the comments received, 328 were individual letters and 40,134 were form letters, mass mailers and/or petitions, a few with minor additions. Of the individual letters, approximately two-thirds supported and one-third opposed EPA's preliminary affirmative determination. Two mass mailers totaling 72 signatures opposed EPA's tentative affirmative determination and 40,062 supported it. Comments were submitted by individuals, environmental organizations, vessel associations, boating and yacht clubs, industry representatives, port authorities, county, federal, local and tribal governmental entities, and other interested groups.

In addition to comments expressing support or opposition to a Puget Sound no-discharge zone, many commenters specifically addressed the adequacy and availability of pumpout facilities, while others focused on broader issues beyond the scope of EPA's review and determination. All of the relevant comments received have been considered. EPA has prepared a response to comments that supports this determination. The response to comments document can be found at this Web site: *https://www.epa.gov/puget-sound/epas-final-determination-no-discharge-zone-puget-sound*.

FOR FURTHER INFORMATION, CONTACT: Catherine Gockel, U.S. EPA Region 10, Office of Water and Watersheds, 1200 Sixth Ave., Seattle, Washington 98101; telephone number (206) 553–0325; fax number (206) 553–1280; email address *gockel.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION: The Department of Ecology has petitioned the United States Environmental Protection Agency (EPA), Region 10, pursuant to section 312(f)(3) of the Clean Water Act, 33 U.S.C. 1322, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound. As described in the State's petition, submitted to EPA on July 21, 2016, the Washington State Department of Ecology has determined that the protection and enhancement of the quality of the waters of Puget Sound requires greater environmental protection, and petitioned the United States Environmental Protection Agency, Region 10, for a determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for those waters, so that the State may completely prohibit the discharge from all vessels of any sewage, whether treated or not, into such waters.

According to the Ecology's petition, the western boundary of the NDZ would be the exit of the Strait of Juan de Fuca near the entrance of Admiralty Inlet. This boundary is known and visible to vessel operators as it is the line between New Dungeness Lighthouse and Discovery Island Lighthouse. The northern boundary would be the border with Canada and heading south including all marine waters down to the south end of the south Sound and Hood Canal. The fresh waters of Lake Washington, Union Bay, Montlake Cut, Portage Bay, Lake Union, Fremont Cut, the Lake Washington Ship Canal, and Salmon Bay (the connecting waters from Lake Washington to Puget Sound) would be included. For more information regarding the State's planned no-discharge zone, please go to: *http://www.ecy.wa.gov/programs/wq/nonpoint/CleanBoating/nodischargezone.html*.

Washington State Department of Ecology's Certificate of Need

The Washington State Department of Ecology developed its petition in order to establish a vessel sewage no-discharge zone for all marine waters of Washington State inward from the line between New Dungeness Lighthouse and the Discovery Island Lighthouse to the Canadian border, and fresh waters of Lake Washington, Lake Union, and connecting waters between and to Puget Sound, and has submitted a certificate that the protection and enhancement of the waters described in the petition require greater environmental protection than the applicable Federal standard.

Adequacy and Availability of Sewage Pumpout Facilities

EPA's determination is based on the information provided in Ecology's July 21, 2016 petition as well as supplemental information that Ecology submitted to EPA on October 14, 2016, regarding commercial vessel pumpout availability in Puget Sound. In reaching this final determination, EPA has conducted additional outreach to verify and confirm the information provided in Ecology's submittals and follow up on comments received. The information obtained further supports EPA's determination that adequate pumpout out facilities for the safe and sanitary removal of sewage are reasonably available for both commercial and recreational vessels. Additional detail is provided below and in EPA's response to comments document.

Guidelines issued pursuant to the Clean Vessel Act for recreational vessels recommend one pumpout station for every 300–600 boats [Clean Vessel Act: Pumpout Station and Dump Station Technical Guidelines, **Federal Register**, Vol. 59, No. 47, March 10, 1994]. In its petition, the State described the recreational vessel population in Puget Sound as well as the stationary pumpout facilities and mobile pumpout services that are available for use.

The State used two methods to develop a reasonable estimate of the recreational vessel population in Puget Sound. The first method was based on boater registration records obtained from the Washington State Department of Licensing (DOL). Using data from the DOL, the maximum estimated number of recreational vessels in each of the Washington State counties bordering Puget Sound that might require access to pumpout facilities or services under NDZ regulations (*i.e.,* boats larger than 21 feet) is 43,677. Vessels under 21 feet were not included in the estimate because they typically do not have an installed toilet. Because boater registration data may include a number of small, locally registered, commercial vessels such as fishing boats or tug boats, the total may be an overestimate.

The second method was based on the number of moorages and slips available to boaters, using Google Earth imagery captured during the summers of 2011 and 2012 to count vacant and occupied marina slips and moored vessels. Using this method, the State estimates a recreational vessel population of 23,555. The State believes that this also may be an overestimate, albeit less of an overestimate than the number

calculated using the DOL boater registration data.

The State's petition also provided information about 173 pumpout units at 102 locations, and 21 mobile pumpout boats available for recreational vessels in Puget Sound. EPA's review of Ecology's petition and the comments received has confirmed that the total number, location and availability of these pumpout facilities and services track the overall distribution of the recreational vessel population. The ongoing costs for recreational vessels to pumpout is minimal, with most pumpouts being free or $5 per pumpout. The majority of pumped sewage is sent to wastewater treatment plants; however, some is sent to onsite septic tanks that meet federal requirements.

The most conservative estimate of the ratio of pumpout facilities to recreational vessels is 1:171 boats for each pumpout facility, not including the mobile services. Based on DOL vessel registration data, there is a maximum of 43,677 recreation vessels in Puget Sound that could require access to pumpout facilities. As noted above, this is the State's most conservative (high) estimate. Using a 40 percent peak occupancy rate recommended by the Clean Vessel Act Technical Guidelines cited above, EPA has calculated that 17,471 of the 43,677 boats recreational vessels would require access to a pumpout facility during peak boating season. The State identified 102 recreational pumpout locations, which results in a ratio of 171 recreational vessels for each pumpout location, not including the mobile services. Applying the same 40% occupancy rate to the lower recreational vessel estimate of 23,555 obtained from the moorage count results in a ratio of 92 recreational vessels for each pumpout location, not including the mobile services.

Accordingly, even using the more conservative vessel count, the resulting ratio well exceeds the recommended minimum ratio of 1:600. In addition, EPA has confirmed that numerous mobile pumpout trucks and vessels are available to provide service for recreational vessels throughout Puget Sound. As set forth in Table 8 of Ecology's supplement information, there are 194 mobile pumpout companies; of these, at least 52 vacuum trucks and two mobile pumpout vessels are available for pumping out larger recreational vessels. Mobile pumpout services are available seven days a week, with extended hours during the busy summer months. These mobile services provide additional pumpout options to address concerns raised regarding location or access issues. Additional information is provided in EPA's response to comments document.

Based on this information, EPA determines that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for recreational vessels are reasonably available for the waters of Puget Sound.

Puget Sound is also used by many different sizes and types of commercial vessels. The State used a study conducted by the Puget Sound Maritime Air Forum (Starcrest, 2007) to develop a reasonable estimate of commercial vessel use of Puget Sound. The study concluded that there were 2,937 entries of large oceangoing vessels into Puget Sound in 2005, and an estimated 678 other commercial vessels that operate mostly within Puget Sound (*e.g.,* escort tugs) or have Puget Sound as their home port (*e.g.,* the fleet of fishing vessels that travels to Alaska each year). According to the State, current commercial vessel statistics are estimated to be similar to the data from 2005. Based on information provided by a commenter, updated information in 2013 may raise this number to 709. As discussed below, this difference of 31 vessels does not make a measurable difference in terms of EPA's conclusions regarding the ratio of commercial vessels to available pumpout facilities.

The large, oceangoing transient commercial vessels that are only in Puget Sound for a short period of time (*e.g.,* large cruise ships, freighters and tankers) have large enough holding tanks to hold their waste during the time they are in Puget Sound, with some exceptions. Although included in the initial overall vessel estimate, these vessels do not have a need to pumpout and were not included when assessing the adequacy of pumpout facilities. Washington State Ferries (WSDOT ferries) and U.S. military vessels have holding tanks and use large-scale, dedicated pumpout facilities where they are moored. Smaller commercial vessels, such as ferries, tugboats, excursion vessels, and fishing vessels with installed toilets can use the stationary pumpouts, mobile pumpout service vessels, some of the recreational pumpouts, or shore-based pumper trucks, described in more detail below.

The State identified eight stationary pumpouts dedicated to WSDOT ferries, three dedicated to U.S. Navy vessels, one dedicated to the Victoria Clipper vessels and one for the McNeil Island Department of Corrections vessels. The Port of Bellingham cruise terminal area also has three stationary pumpouts, one of which is used for Alaska Marine Highway vessels and two other pumpouts that can serve other commercial vessels. Although not included in this analysis, EPA notes that two more commercial pumpouts are being installed, one in Seattle for all commercial vessels and another at the Port of Bellingham mostly for fishing vessels. Estimated dates for completion are March and September 2017, respectively.

The State's supplemental information identified five companies that specialize in commercial marine work and that are capable of removing sewage from commercial vessel holding tanks. These five companies have a combined total of approximately 52 trucks (capacity ranging from 2,200–7,000 gallons each) and two mobile barges (capacity of 3,000 gallons each). These companies serve all of Puget Sound and can provide pumpout services at a variety of docks and ports for all types of commercial vessels, including tugs, fishing vessels, USCG vessels, smaller cruise ships, tankers, and other vessels. EPA contacted four of the commercial marine work companies identified in Ecology's supplemental information document and confirmed that the information provided was accurate.

The State's petition and supplemental information also identified 21–23 mobile pumpout vessels. These mobile pumpouts primarily service recreational boats, but several have serviced commercial vessels such as charter boats, fishing vessels, U.S. Coast Guard vessels, and passenger vessels. The mobile pumpout boats have a capacity between 40 and 450 gallons and cover vast areas geographically as they are able to move to vessels, although some stay within their own marina or harbor area. In addition to the pumpouts described above, there are approximately 140 licensed or certified pumper truck companies in Puget Sound that primarily pump out septic tanks, but that can also pump out vessel sewage. The number of trucks in each company ranges from 1–13, and approximately half of these companies contacted by the State are currently, or are willing to, pump out commercial vessel sewage.

The State indicates that the number of commercial vessels that are likely to be in regular need of pumpout facilities within a no-discharge zone would include the non-ocean going vessels that include tugboats, commercial fishing vessels, small passenger vessels, NOAA research and survey vessels, WSDOT Ferries, military and other government vessels, excursion and other commercial vessels. Given that the WSDOT Ferries, military vessels, and Victoria Clipper vessels all have dedicated stationary pumpouts, they have been removed

from the count and EPA has not included their 14 dedicated pumpout facilities in the analysis below. Using the starting number of 678 from the 2005 Starcrest survey, this leaves an approximate 600 vessels that would be in need of other pumpout facilities. Using the starting number of 709 from the 2013 Starcrest survey would leave 631 vessels in need of pumpout facilities.

With the two stationary commercial pumpouts, at least 52 Sound-wide commercial pumper trucks, and the two Sound-wide mobile commercial pumpout barges described above, this amounts to at least 56 pumpouts available for commercial vessels which results in an approximate ratio of 11:1, using either the 600 or 631 vessel estimates cited above. In addition to this ratio, EPA has considered the fact that these mobile pumpouts provide service throughout Puget Sound, provide sufficient capacity for commercial vessels, and generally do not experience dock access issues. Moreover, these pumpout services can be scheduled by appointment to accommodate vessel needs and itineraries, and are sufficiently diversified such that they do not experience seasonal fluctuations. Given the widespread availability and flexibility of these services and the overall ratio of 11:1, EPA determines that adequate pumpout facilities for the safe and sanitary removal and treatment of sewage for commercial vessels are reasonably available for the waters of Puget Sound.

EPA further notes that the estimated ratio may be conservative, given that a number of the mobile pumpout boats and pumper trucks described above may also provide commercial pumpout services.

Table of Facilities

A list of pumpout facilities, phone numbers, locations, hours of operation, water depth, and fees is provided at this link to the Washington Department of Ecology Web site: *http://www.ecy.wa.gov/programs/wq/nonpoint/CleanBoating/VesselPumpoutTables.pdf.*

Based on the information above, the EPA hereby makes a final affirmative determination that adequate facilities for the safe and sanitary removal and treatment of sewage from all vessels are reasonably available for the waters of Puget Sound.

Dated: February 13, 2017.

Michelle L. Pirzadeh,

Acting Regional Administrator, Region 10.

[FR Doc. 2017–03353 Filed 2–17–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Thursday, February 23, 2017 at 10:00 a.m.

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

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Draft Advisory Opinion 2016–23: Socialist Workers Party

Management and Administrative Matters

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

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

Signed:

Dayna C. Brown,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2017–03456 Filed 2–16–17; 4:15 pm]

BILLING CODE 6715–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 17, 2017.

A. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Stearns Financial Services, Inc. Employee Stock Ownership Plan,* Saint Cloud, Minnesota; to retain and acquire additional stock and increase its ownership interest up to 23.594 percent of Stearns Financial Services, Inc., Saint Cloud, Minnesota, and thereby indirectly increase its control of Stearns Bank National Association, Saint Cloud, Minnesota; Stearns Bank of Upsala, National Association, Upsala, Minnesota; and Stearns Bank of Holdingford, National Association, Holdingford, Minnesota.

Board of Governors of the Federal Reserve System, February 14, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–03257 Filed 2–17–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 7, 2017.

A. Federal Reserve Bank of Philadelphia (William Spaniel, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105–1521. Comments can also be sent electronically to *Comments.applications@phil.frb.org:*

1. *The Toronto-Dominion Bank,* Toronto, Ontario, Canada, *and its wholly owned subsidiaries, TD Group US Holdings, LLC,* Wilmington, Delaware; *TD Bank US Holding Company,* Cherry Hill, New Jersey; and *TD Bank N.A.,* Wilmington, Delaware; to acquire Scottrade Financial Services, Inc., St. Louis, Missouri, a savings and loan holding company, and to merge Scottrade Bank, St. Louis, Missouri, a federal savings association, into TD Bank N.A.

Board of Governors of the Federal Reserve System, February 14, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–03258 Filed 2–17–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifiers: CMS–10487, CMS–R–71, CMS–10171, CMS–10260, CMS–10275, CMS–10396, and CMS–R–266]

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 the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments on the collection(s) of information must be received by the OMB desk officer by March 23, 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:* Extension of a previously approved collection; *Title of Information Collection:* Medicaid Emergency Psychiatric Demonstration (MEPD) Evaluation; *Use:* Since the inception of Medicaid, inpatient care provided to adults ages 21 to 64 in institutions for mental disease (IMDs) has been excluded from federal matching funds. The Emergency Medical Treatment and Active Labor Act (EMTALA), however, requires IMDs that participate in Medicare to provide treatment for psychiatric emergency medical conditions (EMCs), even for Medicaid patients for whose services cannot be reimbursed. Section 2707 of the Affordable Care Act (ACA) directs the Secretary of Health and Human Services to conduct and evaluate a demonstration project to determine the impact of providing payment under Medicaid for inpatient services provided by private IMDs to individuals with emergency psychiatric conditions between the ages of 21 and 64. We will use the data to evaluate the Medicaid Emergency Psychiatric Demonstration (MEPD) in accordance with the ACA mandates. This evaluation in turn will be used by Congress to determine whether to continue or expand the demonstration. If the decision is made to expand the demonstration, the data collected will help to inform both CMS and its stakeholders about possible effects of contextual factors and important procedural issues to consider in the expansion, as well as the likelihood of various outcomes. *Form Number:* CMS–10487 (OMB control number: 0938–NEW); *Frequency:* Annually; *Affected Public:* Individuals and households; State, Local and Tribal governments; Business and other for-profits and Not-for-profits; *Number of Respondents:* 93; *Total Annual Responses:* 1,944; *Total Annual Hours:* 2,046. (For policy questions regarding this collection contact Vetisha McClair at 410–786–4923.)

2. *Type of Information Collection Request:* Extension of a previously approved collection; *Title of Information Collection:* Quality Improvement Organization (QIO) Assumption of Responsibilities and Supporting Regulations; *Use:* The Peer Review Improvement Act of 1982 amended Title XI of the Social Security Act to create the Utilization and Quality Control Peer Review Organization (PRO) program which replaces the Professional Standards Review Organization (PSRO) program and streamlines peer review activities. The term PRO has been renamed Quality Improvement

Organization (QIO). This information collection describes the review functions to be performed by the QIO. It outlines relationships among QIOs, providers, practitioners, beneficiaries, intermediaries, and carriers. *Form Number:* CMS–R–71 (OMB Control Number: 0938–0445); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 6,939; *Total Annual Responses:* 489,750; *Total Annual Hours:* 1,479,346. (For policy questions regarding this collection contact Tennille Coombs at 410–786–3472.)

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Collecting Benefit Coordination Data; *Use:* This collection of information request coordinates Part D plan prescription drug coverage with other prescription drug coverage. The collected information will assist CMS, Part D plans and other payers with coordination of prescription drug benefits at the point-of-sale and tracking of the beneficiary's True out-of-pocket (TrOOP) expenditures using the Part D Transaction Facilitator (PDTF). *Form Number:* CMS–10171 (OMB control number: 0938–0978); *Frequency:* Yearly and occasionally; *Affected Public:* Business or other for-profits; *Number of Respondents:* 62,438; *Total Annual Responses:* 891,777,634; *Total Annual Hours:* 5,201,718. (For policy questions regarding this collection contact Shelly Winston at 410–786–3694.)

4. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Advantage and Prescription Drug Program: Final Marketing Provisions in 42 CFR 422.111(a)(3) and 423.128(a)(3); *Use:* We require that Medicare Advantage (MA) organizations and Part D sponsors use standardized documents to satisfy disclosure requirements mandated by section 1851(d)(3)(A) of the Social Security Act (Act) and 42 CFR 422.111(b) for MA organizations, and section 1860D–1(c) of the Act and 42 CFR 423.128(a)(3) for Part D sponsors. The regulatory provisions require that MA organizations and Part D sponsors disclose plan information, including: Service area, benefits, access, grievance and appeals procedures, and quality improvement and quality assurance requirements by September 30th of each year. The MA organizations and Part D sponsors use the information to comply with the disclosure requirements. We will use the approved standardized documents to ensure that correct information is disclosed to current and potential enrollees.

For 2017, CMS has a total of nine standardized ANOC/EOC documents: Health Maintenance Organization, Cost, Dual Eligible Special Needs, Medicare Medical Savings Account, Private-Fee-For-Service, Preferred Provider Organizations, Preferred Provider Organization with Prescription Drugs, Health Maintenance Organization with Prescription Drug, and Prescription Drug. These standardized documents will be used by MA organizations and Part D sponsors for the 2018 contract year.

In revising the standardized ANOC/EOCs for contract year 2018, we did not add to or remove any section from the prior contract year ANOC/EOC models. MA organizations and Part D sponsors are still required to use the standardized language in the ANOC/EOC models and to send this document to current members at least 15 days prior to the start of the annual enrollment period or by September 30, 2017 for the 2018 enrollment season, based on 42 CFR 422.111(a) (3) and 423.128(a)(3). *Form Number:* CMS–10260 (OMB control number: 0938–1051); *Frequency:* Yearly; *Affected Public:* Private sector (Business or other for-profits); *Number of Respondents:* 805; *Total Annual Responses:* 805; *Total Annual Hours:* 9,660. (For policy questions regarding this collection contact Gladys Valentin at 410–786–1620.)

5. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* CAHPS Home Health Care Survey; *Use:* The national implementation of the Home Health Care Consumer Assessment of Healthcare Providers and Systems (CAHPS®) Survey is designed to collect ongoing data from samples of home health care patients who receive skilled services from Medicare-certified home health agencies. The data collected from the national implementation of the Home Health Care CAHPS Survey will be used for the following purposes: (1) To produce comparable data on the patients' perspectives of the care they receive from home health agencies, (2) to create incentives for agencies to improve the quality of care they provide through public reporting of survey results, and (3) to enhance public accountability in health care by increasing the transparency of the quality of care provided in return for the public investment. Sampling and data collection will be conducted on a monthly basis. Survey results will be analyzed and reported on a quarterly basis, with publicly reported results based on one year's worth of data.

As part of this information collection request for the national implementation of Home Health Care CAHPS, CMS is also requesting approval to conduct a randomized mode experiment with a sample of home health agencies. The mode experiment compared the responses to the survey across the three proposed modes to determine whether adjustments are needed to ensure that the data collection mode does not influence the survey results. In addition, data from the mode experiment will be used to determine which, if any, patient characteristics may affect the patients' rating of the care they receive and, if so, develop an adjustment model of those data based on those factors. CMS worked with RTI, the federal contractor to recruit approximately 100 home health agencies to participate in the mode experiment. The mode experiment included approximately 23,000 home health care patients. *Form Number:* CMS–10275 (OMB control number: 0938–1066); *Frequency:* Quarterly; *Affected Public:* Individuals and households, Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 2,715,890; *Total Annual Responses:* 2,715,890; *Total Annual Hours:* 699,440. (For policy questions regarding this collection contact Lori Teichman at 410–786–6684.)

6. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medication Therapy Management Program Improvements; *Use:* Information collected by Part D medication therapy management programs (as required by the standardized format for the comprehensive medication review summary) will be used by beneficiaries or their authorized representatives, caregivers, and their healthcare providers to improve medication use and achieve better healthcare outcomes. *Form Number:* CMS–10396 (OMB control number 0938–1154); *Frequency:* Occasionally; *Affected Public:* Business or other for-profits; *Number of Respondents:* 599; *Total Annual Responses:* 1,211,661; *Total Annual Hours:* 807,451. (For policy questions regarding this collection contact Victoria Dang at 410–786–3991.)

7. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicaid Disproportionate Share Hospital (DSH) Annual Reporting Requirements; *Use:* States are required to submit an annual report that identifies each

disproportionate share hospital (DSH) that received a DSH payment under the state's Medicaid program in the preceding fiscal year and the amount of DSH payments paid to that hospital in the same year along with other information that the Secretary determines necessary to ensure the appropriateness of DSH payments; *Form Number:* CMS–R–266 (OMB control number: 0938–0746); *Frequency:* Yearly; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 51; *Total Annual Responses:* 51; *Total Annual Hours:* 2,142. (For policy questions regarding this collection contact Robert Lane at 410–786–2015.)

Dated: February 15, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–03369 Filed 2–17–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10398]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, Department of Health and Human Services.

ACTION: Notice.

SUMMARY: The Centers for Medicare & Medicaid Services (CMS) is announcing an opportunity for the public to comment on CMS' intention to collect information from the public. Under the Paperwork Reduction Act of 1995 (the PRA), federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information (including each proposed extension or reinstatement of an existing collection of information) and to allow 60 days for public comment on the proposed action. Interested persons are invited to send comments regarding our burden estimates or any other aspect of this collection of information, including the necessity and utility of the proposed information collection for the proper performance of the agency's functions, the accuracy of the estimated burden, ways to enhance the quality, utility, and clarity of the information to be collected, and the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

DATES: Comments must be received by April 24, 2017.

ADDRESSES: When commenting, please reference the document identifier or OMB control number. To be assured consideration, comments and recommendations must be submitted in any one of the following ways:

1. *Electronically.* You may send your comments electronically to *http://www.regulations.gov.* Follow the instructions for ''Comment or Submission'' or ''More Search Options'' to find the information collection document(s) that are accepting comments.

2. *By regular mail.* You may mail written comments to the following address: CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development, Attention: Document Identifier/OMB Control Number _____, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

To obtain copies of a supporting statement and any related forms for the proposed collection(s) summarized in this notice, you may make your request using one of following:

1. Access CMS' Web site address at *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:

Contents

This notice sets out a summary of the use and burden associated with the following information collections. More detailed information can be found in each collection's supporting statement and associated materials (see **ADDRESSES**).

CMS–10398 Reconciliation of State Invoice and Prior Quarter Adjustment Statement

Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. The term ''collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA requires federal agencies to publish a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension or reinstatement of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, CMS is publishing this notice.

Information Collection

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Generic Clearance for Medicaid and CHIP State Plan, Waiver, and Program Submissions; *Use:* State Medicaid and CHIP agencies are responsible for developing submissions to CMS, including state plan amendments and requests for waivers and program demonstrations. States use templates when they are available and submit the forms to review for consistency with statutory and regulatory requirements (or in the case of waivers and demonstrations whether the proposal is likely to promote the objectives of the Medicaid program). If the requirements are met, we approve the states' submissions giving them the authority to implement the flexibilities. For a state to receive Medicaid Title XIX funding, there must be an approved Title XIX state plan.

The development of streamlined submissions forms enhances the collaboration and partnership between states and CMS by documenting our policy for states to use as they are developing program changes. Streamlined forms improve efficiency of administration by creating a common and user-friendly understanding of the information we need to quickly process requests for state plan amendments, waivers, and demonstration, as well as ongoing reporting.

Form Number: CMS–10398 (OMB control number: 0938–1148); *Frequency:* Collection-specific, but generally the frequency is yearly, once, and occasionally; *Affected Public:* State, Local, or Tribal Governments; *Number of Respondents:* 56; *Total Responses:* 1,540 (3-year total); *Total Hours:* 214,584 (3-year total). (For policy questions regarding this collection contact Annette Pearson at 410–786–6858.)

Dated: February 15, 2017.

William N. Parham, III,

Director, Paperwork Reduction Staff, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 2017–03370 Filed 2–17–17; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–0155]

Q11 Development and Manufacture of Drug Substances—Questions and Answers (Regarding the Selection and Justification of Starting Materials); International Council for Harmonisation; Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance entitled ''Q11 Development and Manufacture of Drug Substances—Questions and Answers (regarding the selection and justification of starting materials).'' The draft guidance was prepared under the auspices of the International Council for Harmonisation (ICH), formerly the International Conference on Harmonisation. The draft guidance consists of questions and answers that were developed to clarify the principles for selecting starting materials described in the ICH guidance ''Q11 Development and Manufacture of Drug Substances''. The draft guidance is intended to provide additional clarification and to promote convergence on the considerations for the selection and justification of starting materials. The question-and-answer (Q&A) draft guidance focuses on chemical entity drug substances, and provides recommendation on the information that should be provided in marketing authorization applications and/or Master Files to justify the starting materials.

DATES: Although you can comment on any guidance at any time (see 21 CFR 10.115(g)(5)), to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance, submit either electronic or written comments on the draft guidance by March 23, 2017.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

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

• For written/paper comments submitted to the Division of Dockets Management, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–0155 for ''Q11 Development and Manufacture of Drug Substances—Questions and Answers (regarding the selection and justification of starting materials).'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

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

Submit written requests for single copies of this draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research (CDER), Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002, or the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research (CBER), Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. The guidance may also be obtained by mail by calling CBER at 1–800–835–4709 or 240–402–8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the guidance document.

FOR FURTHER INFORMATION CONTACT: *Regarding the guidance:* Stephen Miller, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 1446, Silver Spring, MD 20993–0002, 301–796–1418.

Regarding the ICH: Amanda Roache, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 1176, Silver Spring, MD 20993–0002, 301–796–4548.

SUPPLEMENTARY INFORMATION:

I. Background

In recent years, many important initiatives have been undertaken by regulatory authorities and industry associations to promote international harmonization of regulatory requirements. FDA has participated in many meetings designed to enhance harmonization, and is committed to seeking scientifically based harmonized technical procedures for pharmaceutical development. One of the goals of harmonization is to identify and then reduce differences in technical requirements for drug development among regulatory agencies.

ICH was organized to provide an opportunity for harmonization initiatives to be developed with input from both regulatory and industry representatives. FDA also seeks input from consumer representatives and others. ICH is concerned with harmonization of technical requirements for the registration of pharmaceutical products for human use among regulators around the world. The six founding members of the ICH are the European Commission; the European Federation of Pharmaceutical Industries Associations; the Japanese Ministry of Health, Labour, and Welfare; the Japanese Pharmaceutical Manufacturers Association; CDER and CBER, FDA; and the Pharmaceutical Research and Manufacturers of America. The Standing Members of the ICH Association include Health Canada and Swissmedic. Any party eligible as a Member in accordance with the ICH Articles of Association can apply for membership in writing to the ICH Secretariat. The ICH Secretariat, which coordinates the preparation of documentation, operates as an international nonprofit organization and is funded by the Members of the ICH Association.

The ICH Assembly is the overarching body of the Association and includes representatives from each of the ICH members and observers.

In November 2016, the ICH Assembly endorsed the draft guidance entitled ''Q11 Development and Manufacture of Drug Substances—Questions and Answers (regarding the selection and justification of starting materials)'' and agreed that the guidance should be made available for public comment. The draft guidance is the product of the Q11 Quality Implementation Working Group of the ICH. The guidance consists of questions and answers that were developed to clarify the principles for selecting starting materials described in the ICH guidance ''Q11 Development and Manufacture of Drug Substances'' published November 20, 2012 (77 FR 69634), and available online at *http://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM261078.pdf*. The draft guidance provides guidance on selecting and justifying starting materials, in particular for the synthesis of chemical entity drug substances. Comments about this draft will be considered by FDA and the Quality Implementation Working Group.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on this topic. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations.

II. Electronic Access

Persons with access to the Internet may obtain the document at *https://www.regulations.gov, http://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *http://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm.*

Dated: February 14, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–03309 Filed 2–17–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0001]

Tobacco Products Scientific Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Tobacco Products Scientific Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on April 6, 2017, from 8:30 a.m. to 4:30 p.m.

ADDRESSES: Tommy Douglas Conference Center, 10000 New Hampshire Ave., Silver Spring, Maryland 20903. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Caryn Cohen, Office of Science, Center for Tobacco Products, Food and Drug Administration, Document Control Center, Bldg. 71, Rm. G335, 10903 New Hampshire Ave., Silver Spring, MD 20993–0002, 1–877–287–1373, email: *TPSAC@fda.hhs.gov.* A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's Web site at *http://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: Under section 910(b)(2) (21 U.S.C. 387j(b)(2)) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act), FDA may refer applications for premarket review of new tobacco products (PMTA) to the Tobacco Products Scientific Advisory Committee (Committee). The FD&C Act also provides for mandatory referral of modified risk tobacco product applications (MRTPA) to the Committee under section 911(f)(1) (21 U.S.C. 387k (f)(1)). On April 6, 2017, FDA will present information to the Committee on the processes used in review of tobacco product applications, including premarket tobacco, substantial equivalence, and modified risk tobacco product applications. Topics will include the statutory standards applicable to the different types of applications, the scientific basis for review decisions, with a focus on PMTA and MRTPA, and the role of the Committee in the review process.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material

will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 23, 2017. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 15, 2017. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 16, 2017.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact Caryn Cohen at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: February 15, 2017.

Janice M. Soreth,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2017–03364 Filed 2–17–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0595]

Pediatric Postmarketing Pharmacovigilance and Drug Utilization Reviews; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; request for comments.

SUMMARY: The Food and Drug Administration (FDA or Agency) is establishing a public docket to collect comments related to the pediatric postmarketing pharmacovigilance and drug utilization reviews of products posted between September 17, 2016, and February 24, 2017, on the FDA Web site, but will not be presented at the March 6–7, 2017, Pediatric Advisory Committee (PAC) meeting. These reviews are intended to be available for review and comment by members of the PAC, interested parties (such as academic researchers, regulated industries, consortia, and patient groups), and the general public.

DATES: Submit either electronic or written comments by March 10, 2017. The docket will open on February 27, 2017, and remain open until March 10, 2017.

ADDRESSES: You may submit your 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, you 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 submission as follows:

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

Instructions: All submissions received must include the Docket No. FDA–2017–N–0595 for ''Pediatric Postmarketing Pharmacovigilance and Drug Utilization Reviews'' that have been posted on the FDA Web site at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/PediatricAdvisoryCommittee/ucm510701.htm* between September 17, 2016, and February 24, 2017, but will not be presented at the March 6–7, 2017 PAC meeting (82 FR 1345, January 5, 2017). Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Division of Dockets Management between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Division of Dockets Management. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential''

will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *http://www.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 *http://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Division of Dockets Management, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Kenneth Quinto, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5145, Silver Spring, MD 20993, 240–402–2221, email: *kenneth.quinto@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: FDA is responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our Nation's food supply, cosmetics, and products that emit radiation.

FDA is establishing a public docket FDA–2017–N–0595 to receive input on pediatric postmarketing pharmacovigilance and drug utilization reviews posted between September 17, 2016, and February 24, 2017, on the FDA Web site at *http://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/PediatricAdvisoryCommittee/ucm510701.htm,* but will not be presented at the March 6–7, 2017, PAC meeting (82 FR 1345, January 5, 2017). FDA welcomes comments by members of the PAC, as mandated by the Best Pharmaceuticals for Children Act (Pub. L. 107–109) and the Pediatric Research Equity Act (Pub. L. 108–155), interested parties (such as academic researchers, regulated industries, consortia, and patient groups), and the general public. The docket will open on February 27, 2017, and remain open until March 10, 2017. These pediatric postmarketing pharmacovigilance and drug utilization reviews are for the following products:

- ALEVE PM (diphenhydramine hydrochloride/naproxen sodium)
- ASTEPRO (azelastine hydrochloride)
- ECOZA (econazole nitrate)
- JETREA (ocriplasmin)
- QUARTETTE (levonorgestrel/ethinyl estradiol and ethinyl estradiol)
- TRUVADA (emtricitabine/tenofovir disoproxil fumarate)
- XERESE (acyclovir/hydrocortisone)

Dated: February 15, 2017.

Janice M. Soreth,

Associate Commissioner for Special Medical Programs.

[FR Doc. 2017–03365 Filed 2–17–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Nurse Faculty Loan Program, Annual Performance Report Financial Data Form

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than April 24, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, 14N39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Nurse Faculty Loan Program, Annual Performance Report Financial Data Form, OMB No. 0915–0314—Revision.

Abstract: This collection request is for continued approval of the Nurse Faculty Loan Program's revised Annual Performance Report (NFLP–APR) Financial Data Form. The form was previously titled as the Nurse Faculty Loan Program, Annual Operating Report (NFLP–AOR).

Section 846A of the Public Health Service Act provides the Secretary of HHS with the authority to enter into an agreement with schools of nursing for the establishment and operation of a student loan fund to increase the number of qualified nurse faculty. Under the agreement, HRSA makes awards to schools for the NFLP loan fund, which must be maintained in a distinct account. A school of nursing makes loans from the NFLP account to students enrolled full-time or, at the discretion of the Secretary, part-time in a master's or doctoral nursing education program that will prepare them to become qualified nursing faculty. Following graduation from the NFLP lending school, loan recipients may receive up to 85 percent NFLP loan cancellation over a consecutive 4-year period in exchange for service as full-time faculty at a school of nursing. The NFLP lending school collects any portion of the loan that is not cancelled and any loans that go into repayment due to default, and deposits these monies into the NFLP loan fund to make additional NFLP loans.

Need and Proposed Use of the Information: The online NFLP–APR Financial Data Form is an online form in the HRSA Electronic Handbooks (EHBs) Performance Report module as part of the NFLP, Bureau of Health Workforce performance report (OMB No: 0915–0061, expiration date of 6/30/2019). The revised NFLP–APR financial data form will collect less data from applicants and will no longer include nursing student demographic data. The nursing student demographic data is currently collected under OMB approval number No: 0915–0061. The revised NFLP–APR form will only collect financial data to capture the NFLP loan fund account activity related to financial receivables, disbursements, and borrower account data related to employment status, loan cancellation, loan repayment, and collections. Participating schools will provide HRSA with current and cumulative information on: (1) NFLP loan funds received, (2) number and amount of NFLP loans made, (3) number and amount of loans cancelled, (4) number and amount of loans in repayment, (5) loan default rate percent, (6) number of NFLP graduates employed as nurse faculty, and (7) other related loan fund costs and activities.

The school of nursing must keep records of all NFLP loan fund

transactions. The NFLP–APR financial data form is used to monitor grantee performance by collecting information related to the NFLP loan fund operations and financial activities for a specified reporting period (July 1 through June 30 of the academic year). Participating schools are required to complete and submit the NFLP–APR financial data form annually. The revised NFLP–APR financial data form will allow HRSA to better determine future awards to nursing schools.

Likely Respondents: Participating NFLP schools are required to adhere to reporting requirements.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. 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 per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Nurse Faculty Loan Program—Annual Performance Report Financial Data Form	260	1	260	6	1,560
Total Burden	260		260		1,560

HRSA 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.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–03316 Filed 2–17–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Information Collection Request Title: Nurse Faculty Loan Program—Revised Program Specific Data Form, OMB No. 0915–0378—Revision

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than April 24, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, 14N39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Nurse Faculty Loan Program—Revised Program Specific Data Form, OMB No. 0915–0378—Revision.

Abstract: This clearance request is for continued approval of the Nurse Faculty Loan Program (NFLP) revised Program Specific Data Form. HRSA is streamlining the data collection forms by making the following changes:

- Line Item D will be renamed ''D1. NFLP Loan Fund Balance/Unused Accumulation.''
- Addition of Line Item D2 entitled ''NFLP Loan Fund Default Rate,'' requesting information regarding the status of an institution's default rate.
- Addition of Line Item D3 entitled ''Last NFLP Student Loan Award,'' requesting information regarding the disbursement of NFLP loan funds within the last 2 academic years.
- Line Item E2 Column Header will be renamed ''E.2 NFLP Enrollees Information by Degree—New Students Expected to Request NFLP Support.''
- Under Section B of instructions, ''other attachments'' will be updated to reflect the current list of NFLP Funding Opportunity Announcement attachments.

Need and Proposed Use of the Information: The NFLP—Program Specific Data Form is a required electronic attachment within the NFLP application materials. The data provided in the form is essential for the formula-based criteria used to determine the award amount to the applicant schools. Continued approval of the revised NFLP—Program Specific Data Form will allow HRSA to more efficiently capture data to generate the formula-based award.

Addition of Line Item D2, NFLP Loan Fund Default Rate, will allow HRSA to easily assess and consider an existing performance standard for those applicants with existing NFLP loan accounts. Used in combination with an existing NFLP institution's self-reported NFLP loan balance, addition of Line Item D3, Last NFLP Student Loan Award, will allow HRSA to assess the loan fund activity (*i.e.,* incidence of loans to students) of an existing NFLP institution applying for additional funding.

This data collection enables an efficient award determination process, and facilitates reporting on the use of funds and analysis of program outcomes.

Likely Respondents: NFLP eligible applicants. This includes accredited schools of nursing offering eligible advanced masters and/or doctoral degree nursing education programs that will prepare students to serve as qualified nursing faculty.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. 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 per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NFLP—Program Specific Data Form	90	1	90	8	720
Total	90		90		720

HRSA 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.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–03339 Filed 2–17–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; Questionnaire and Data Collection Testing, Evaluation, and Research for the Health Resources and Services Administration

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate, below, or any other aspect of the ICR.

DATES: Comments on this ICR must be received no later than April 24, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or mail the HRSA Information Collection Clearance Officer, Room 14N–39, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, in compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: Questionnaire and Data Collection Testing, Evaluation, and Research for the Health Resources and Services Administration, OMB No. 0915–0379—Extension.

Abstract: The purpose of collections under this generic clearance is to obtain formative information from respondents to develop new questions, questionnaires, and tools and to identify problems in instruments currently in use. This clearance request is limited to formative research activities emphasizing data collection, toolkit development, and estimation procedures and reports for internal decision-making and development purposes and does not extend to the collection of data for public release or policy formation. It is anticipated that these studies will rely heavily on qualitative techniques to meet their objective. In general, these activities are not designed to yield results that meet generally accepted standards of statistical rigor but are designed to obtain valuable formative information to develop more effective and efficient data collection tools that will yield more accurate results and decrease non-response.

Need and Proposed Use of the Information: HRSA conducts cognitive interviews, focus groups, usability tests, field tests/pilot interviews, and experimental research in laboratory and field settings, both for applied questionnaire development and for evaluation as well as more basic research on response errors in surveys.

HRSA staff use various techniques to evaluate interviewer administered, self-administered, telephone, Computer Assisted Personal Interviewing (CAPI), Computer Assisted Self-Interviewing (CASI), Audio Computer-Assisted Self-Interviewing (ACASI), and web-based questionnaires.

Professionally recognized procedures are followed in each information collection activity to ensure high quality data. Examples of these procedures could include the following:

- Monitoring by supervisory staff of a certain percent of telephone interviews;
- Conducting cognitive interviewing techniques, including think-aloud techniques and debriefings;
- Data-entry from mail or paper-and-pencil surveys will be computerized through scannable forms or checked through double-key entry;
- Observers will monitor focus groups, and focus group proceedings will be recorded; and
- Data submitted through on-line surveys will be subjected to statistical

validation techniques to ensure accuracy, such as disallowing out-of-range values.

Each request under this generic clearance will specify the procedures to be used. Participation will be voluntary, and non-participation will not affect eligibility for, or receipt of, future HRSA health services research activities or grant awards, recruitment, or participation. Specific testing and evaluation procedures will be described when we notify OMB about each new request. Consent procedures will be customized for each information collection activity, but will include assurances of confidentiality and the legislative authority for the activity. If the encounter is to be recorded, the respondent's permission to record will be obtained before beginning the interview.

Screening: When screening is required (*e.g.,* quota sampling), the screening will be as brief as possible and the screening questionnaire will be provided as part of the submission to OMB.

Collection methods: The particular information collection methods used will vary, but may include the following

- Individual in-depth interviews—In-depth interviews will commonly be used to ensure that the meaning of a questionnaire or strategy is understood by the respondent. When in-depth interviewing is used, the interview guide will be provided to OMB for review.
- Focus groups—Focus groups will be used to obtain insights into beliefs and understandings of the target audience early in the development of a questionnaire or tool. When focus groups are used, the focus group discussion guide will be provided to OMB for review.
- Expert/Gatekeeper review of tools—In some instances, tools designed for patients may be reviewed in-depth by medical providers or other gatekeepers to provide feedback on the acceptability and usability of a particular tool. This would usually be in addition to pretesting of the tool by the actual patient or other user.
- Record abstractions—On occasion, the development of a tool or other information collection requires review and interaction with records rather than individuals.
- ''Dress rehearsal'' of a specific protocol—In some instances, the proposed pretesting will constitute a walkthrough of the intended data collection procedure. In these instances, the request will mirror what is expected to occur for the larger scale data collection.

Likely Respondents: Respondents will be recruited by means of advertisements in public venues or through techniques that replicate prospective data collection activities that are the focus of the project. For instance, a survey on physician communication, designed to be administered following an office visit, might be pretested using the same procedure. Each submission to OMB will specify the specific recruitment procedure to be used.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. The total annual burden hours estimated for this Information Collection Request are summarized in the table below.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Type of information collection	Number of respondents	Number of responses per respondent	Total responses	Average burden per response (in hours)	Total burden hours
Mail/email [1]	1,666	1	1,666	0.25	416.5
Telephone	1,666	1	1,666	0.25	416.5
Web-based	1,666	1	1,666	0.25	416.5
Focus Groups	1,666	1	1,666	1.0	1,666
In-person	1,666	1	1,666	1.0	1,666
Automated [2]	1,666	1	1,666	1.0	1,666
Cognitive Testing	5,000	1	5,000	1.41	7,050
Total	14,996		14,996		13,298

[1] May include telephone non-response follow-up in which case the burden will not change.
[2] May include testing of database software, CAPI software, or other automated technologies.

HRSA 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.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–03342 Filed 2–17–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Public Comment Request; The National Health Service Corps and NURSE Corps Interest Capture Form

AGENCY: Health Resources and Services Administration (HRSA), Department of Health and Human Services.

ACTION: Notice.

SUMMARY: In compliance with the requirement for opportunity for public comment on proposed data collection projects of the Paperwork Reduction Act of 1995, HRSA announces plans to submit an Information Collection Request (ICR), described below, to the Office of Management and Budget (OMB). Prior to submitting the ICR to OMB, HRSA seeks comments from the public regarding the burden estimate below, or any other aspect of the ICR.

DATES: Comments on this ICR should be received no later than April 24, 2017.

ADDRESSES: Submit your comments to *paperwork@hrsa.gov* or by mail to the HRSA Information Collection Clearance Officer, Room 14N–29, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, email *paperwork@hrsa.gov* or call the HRSA Information Collection Clearance Officer at (301) 443–1984.

SUPPLEMENTARY INFORMATION: When submitting comments or requesting information, please include the information request collection title for reference, pursuant to Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995.

Information Collection Request Title: The National Health Service Corps and NURSE Corps Interest Capture Form, OMB No. 0915–0337—Extension.

Abstract: HRSA's Bureau of Health Workforce administers the National Health Service Corps (NHSC) and the NURSE Corps programs, which are committed to improving the health of the underserved by connecting communities in need with health professionals and supporting communities' efforts to build better systems of care. The NHSC and NURSE Corps interest capture form, is an optional form that a health profession student, licensed clinician, faculty member, or clinical site administrator may complete to request information regarding opportunities and program updates with the NHSC and/or the NURSE Corps. Forms request information such as name, email, city and state, organization where employed (or the school attending), the year one intends to graduate (if applicable), and how one heard about the NHSC and NURSE Corps programs.

Need and Proposed Use of the Information: The need and purpose of this information collection is to share information regarding the NHSC and NURSE Corps programs with interested individuals.

Likely Respondents: Individuals interested in the NHSC or NURSE Corps programs.

Burden Statement: Burden in this context means the time expended by persons to generate, maintain, retain, disclose, or provide the information requested. This includes the time needed to review instructions; to develop, acquire, install, and utilize technology and systems for the purpose of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information. 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 per respondent	Total responses	Average burden per response (in hours)	Total burden hours
NHSC and NURSE Corps Interest Capture Form	2,400	1	2,400	.025	60
Total	2,400		2,400		60

HRSA 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.

Jason E. Bennett,

Director, Division of the Executive Secretariat.

[FR Doc. 2017–03335 Filed 2–17–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Meetings Announcement for the Physician-Focused Payment Model Technical Advisory Committee Required by the Medicare Access and CHIP Reauthorization Act of 2015 (MACRA)

ACTION: Notice of public meetings.

SUMMARY: This notice announces the next two meeting dates for the Physician-Focused Payment Model Technical Advisory Committee (hereafter referred to as ''the Committee'') which will be held in Washington, DC. All meetings will be open to the public.

DATES: The PTAC meetings will occur on the following dates:

- Monday–Tuesday, March 13–14, 2017, from 10:00 a.m. to 5:00 p.m. ET
- Monday–Tuesday, April, 10–11, 2017, from 10:00 a.m. to 5:00 p.m. ET

Please note that times are subject to change. If the times change, registrants will be notified directly via email.

ADDRESSES: The March 13–14, 2017 meeting will be held at the Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. The April 10–11, 2017 meeting will be held at the Liaison Hotel, 415 New Jersey Ave NW., Washington, DC 20001.

FOR FURTHER INFORMATION CONTACT: Ann Page, Designated Federal Official, at the Office of Health Policy, Assistant Secretary for Planning and Evaluation, U.S. Department of Health and Human Services, 200 Independence Ave SW., Washington, DC 20201, (202) 690–6870.

SUPPLEMENTARY INFORMATION:

I. Purpose: The Physician-Focused Payment Model Technical Advisory Committee (''the Committee'') is required by the Medicare Access and CHIP Reauthorization Act of 2015, 42 U.S.C. 1395ee. This Committee is also governed by provisions of the Federal

Advisory Committee Act, as amended (5 U.S.C App.), which sets forth standards for the formation and use of federal advisory committees. In accordance with its statutory mandate, the Committee is to review physician-focused payment model proposals and prepare recommendations regarding whether such models meet criteria that were established through rulemaking by the Secretary of Health and Human Services (the Secretary). The Committee is composed of 11 members appointed by the Comptroller General.

II. Agenda: At the March 13–14, 2017 and April 10–11, 2017 meetings, the Committee will hear presentations on models that are ready for Committee deliberation. The presentations will be followed by public comment and Committee deliberation. If the Committee completes deliberations, voting will occur on recommendations to the Secretary of Health and Human Services. There will be time allocated for public comment on agenda items. Documents will be posted on the Committee Web site and distributed on the Committee listserv prior to the public meeting. The agenda is subject to change. If the agenda does change, we will inform registrants and update our Web site to reflect any changes.

III. Meeting Attendance: The March 13–14, 2017 and April 10–11, 2017 meetings are open to the public. The public may also attend via conference call. The conference call dial-in information will be sent to registrants prior to the meeting.

Meeting Registration

The public may attend the meetings in-person or participate by phone via audio teleconference. Space is limited and registration is preferred in order to attend in-person or by phone. Registration may be completed online at *www.regonline.com/PTACMeetingsRegistration.*

The following information is submitted when registering:

Name:
Company/organization name:
Postal address:
Email address:

Persons wishing to attend this meeting must register by following the instructions in the ''Meeting Registration'' section of this notice. A confirmation email will be sent to registrants shortly after completing the registration process.

IV. Special Accommodations: If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Angela Tejeda, no later than February 31, 2017 for the March meeting and by March 31, 2017 for the April meeting. Please submit your requests by email to *Angela.Tejeda@hhs.gov* or by calling 202–401–8297.

V. Copies of the PTAC Charter and Meeting Material: The Secretary's Charter for the Physician-Focused Payment Model Technical Advisory Committee is available on the ASPE Web site at *https://aspe.hhs.gov/charter-physician-focused-payment-model-technical-advisory-committee.*

Additional material for this meeting can be found on the PTAC Web site. For updates and announcements, please use the link to subscribe to the PTAC email listserv.

Dated: February 9, 2017.

Laina Bush,

Acting Assistant Secretary for Planning and Evaluation.

[FR Doc. 2017–03311 Filed 2–17–17; 8:45 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; DSCC—Limited Competition (UC4).

Date: March 15, 2017.

Time: 1:00 p.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Barbara A. Woynarowska, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 754, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 402–7172, *woynarowskab@niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; RFA–DK–16–022: Promoting Organ and Tissue Donation Among Diverse Populations (R01).

Date: March 28, 2017.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Ann A. Jerkins, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7119, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, 301–594–2242, *jerkinsa@niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 14, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03275 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute of Neurological Disorders and Stroke, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, National Institute of Neurological Disorders and Stroke.

Date: March 5–7, 2017.

Time: 6:00 p.m. to 12:30 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Alan P. Koretsky, Ph.D., Scientific Director, Division of Intramural Research, National Institute of Neurological Disorders and Stroke, NIH, 35 Convent Drive, Room 6A 908, Bethesda, MD 20892, (301) 435–2232, *koretskya@ninds.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS).

Dated: February 14, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03278 Filed 2–17–17; 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; Fellowships: Genes, Genomes, and Genetics.

Date: March 6–7, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Chevy Chase, 5520 Wisconsin Ave., Chevy Chase, MD 20815.

Contact Person: Tatiana V. Cohen, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5213, Bethesda, MD 20892, 301–455–2364, *tatiana.cohen@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–209: Investigator-Initiated Clinical Sequencing Research.

Date: March 13, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Peter J. Kozel, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, Bethesda, MD 20892, 301–435–1116, *kozelp@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Psychopathology, Developmental Disorders, Epigenetics, and Health.

Date: March 14–15, 2017.

Time: 10:00 a.m. to 4:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Wind Cowles, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3172, Bethesda, MD 20892, *cowleshw@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: AIDS and Related Research.

Date: March 15, 2017.

Time: 11:00 a.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dimitrios Nikolaos Vatakis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3190, Bethesda, MD 20892, 301–827–7480.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Advanced Genomic Technology Development.

Date: March 15, 2017.

Time: 11:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Dominique Lorang-Leins, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5108, MSC 7766, Bethesda, MD 20892, 301.326.9721, *Lorangd@mail.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR–16–329: Countermeasures Against Chemical Threats (CounterACT) Research Centers of Excellence (U54).

Date: March 16, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.

Contact Person: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowship: Infectious Diseases and Microbiology.

Date: March 16–17, 2017.

Time: 9:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Alexander D. Politis, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3210, MSC 7808, Bethesda, MD 20892, (301) 435–1150, *politisa@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Small Business: Computational, Modeling, and Biodata Management.

Date: March 16, 2017.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Allen Richon, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6184, MSC 7892, Bethesda, MD 20892, 301–379–9351, *allen.richon@nih.hhs.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: CounterACT-Countermeasurers against Chemical Threats.

Date: March 17, 2017.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Pier 5 Hotel, 711 Eastern Avenue, Baltimore, MD 21202.

Contact Person: Geoffrey G. Schofield, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4040–A, MSC 7850, Bethesda, MD 20892, 301–435–1235, *geoffreys@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in Bacterial Pathogenesis and Host Interactions.

Date: March 20, 2017.

Time: 10:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.

Contact Person: Soheyla Saadi, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3211, MSC 7808, Bethesda, MD 20892, 301–435–0903, *saadisoh@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Oncology.

Date: March 21–22, 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 Rd. NW., Washington, DC 20015.

Contact Person: Reigh-Yi Lin, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Bethesda, MD 20892, 301–827–6009, *lin.reigh-yi@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 16–366—Dual Purpose with Dual Benefit: Research in Biomedicine and Agriculture.

Date: March 21, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Tera Bounds, DVM, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3214, MSC 7808, Bethesda, MD 20892, 301–435–2306, *boundst@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Fellowships: Risk, Prevention and Health Behavior Overflow.

Date: March 21, 2017.

Time: 9:00 a.m. to 1:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Stacey C. FitzSimmons, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7808, Bethesda, MD 20892, (301) 451–9956, *fitzsimmonss@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Urology and Urogynecology Small Business Applications.

Date: March 21, 2017.

Time: 9:00 a.m. to 12:00 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: Ganesan Ramesh, Ph.D., Center for Scientific Review, National Institutes of Health, 6701 Rockledge Dr., Room 2182, MSC 7818, Bethesda, MD 20892, *ganesan.ramesh@nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Member Conflict: Topics in drug discovery and clinical field studies.

Date: March 21, 2017.

Time: 10:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Liangbiao Zheng, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3202, MSC 7808, Bethesda, MD 20892, 301–996–5819, *zhengli@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 14, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03281 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government.

FOR FURTHER INFORMATION CONTACT: Licensing information may be obtained by emailing the indicated licensing contact at the National Heart, Lung, and Blood, Office of Technology Transfer and Development Office of Technology Transfer, 31 Center Drive, Room 4A29, MSC2479, Bethesda, MD 20892–2479; telephone: 301–402–5579. A signed Confidential Disclosure Agreement may be required to receive any unpublished information.

SUPPLEMENTARY INFORMATION: The following inventions are available for licensing in accordance with 35 U.S.C. 209 and 37 CFR part 404 to achieve expeditious commercialization of results of federally-funded research and development. Technology description follows.

Methods for Improving Drug Delivery to the Central Nervous System

The invention relates to the uses of the tricyclic antidepressant amitriptyline, its bioactive metabolites, and other LPA1R activators to improve the bioavailability and delivery of therapeutics to the central nervous system. This invention demonstrates that amitriptyline and other agents selectively decrease P-glycoprotein (P-gp) transport activity by ligand activation of lysophosphatidic acid 1 receptor (LPA1R) at the blood-brain barrier. P-gp is an effective target for increasing drug delivery to the brain (CNS) for two major reasons: (1) Its substrates include a large portion of on-the-market drugs, including chemotherapeutics, and (2) its directionality results in a net efflux of drugs from the brain. Additionally, specifically targeting P-gp through LPA1R activation bypasses the clinical challenges resulting from the toxicity of substrate inhibitors of P-gp. This invention describes the inhibition of drug efflux by P-gp transport; thus, co-administration of therapeutics with amitriptyline and other LPA1R activators provides a method for increasing drug delivery to the CNS, and improving overall drug efficacy. Moreover, drug delivery to other barrier tissues will also be enhanced where a similar LPA1R–P-gp activity relationship exists.

Potential Commercial Applications:

- Drug Delivery to the CNS.
- Co-administration of therapeutics.
- Blood-brain-barrier permeability.

Development Stage:

- Early stage.

Inventors: Ronald Cannon and David Banks (NIEHS).

Publications:

- Cannon *et al.,* Neurosci Lett. 2017 Feb 3;639:103–113 doi: 10.1016/j.neulet.2016.12.049.
- Mesev, *et al.,* Mol Pharmacol. 2017 Jan 24. pii: mol.116.107169. doi: 10.1124/mol.116.107169.
- More, *et al.,* J Cereb Blood Flow Metab. 2016 May 18. pii: 0271678X16650216.
- Miller, *et. al,* Curr Pharm Des. 2014;20(10):1463–71. Review.
- Cartwright, *et al.,* J Cereb Blood Flow Metab. 2013 Mar;33(3):381–8. doi: 10.1038/jcbfm.2012.174.

Intellectual Property: HHS Reference No. E–179–2065/0 and/1; U.S. Provisional Patent Applications 62/332,888 filed May 6, 2016, and 62/453,718 filed February 2, 2017, respectively.

Licensing Contact: Michael Shmilovich, Esq., CLP; 301–435–5019; *shmilovm@mail.nih.gov.*

Dated: February 10, 2017.

Michael Shmilovich,

Senior Licensing and Patenting Manager, National Heart, Lung, and Blood Institute, Office of Technology Transfer and Development.

[FR Doc. 2017–03306 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; NICHD T35 Teleconference Review.

Date: March 10, 2017.

Time: 1:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20817 (Telephone Conference Call).

Contact Person: Sherry L. Dupere, Ph.D., Chief, Scientific Review Branch, Scientific Review Branch, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20817, 301–451–3415, *duperes@mail.nih.gov.*

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Learning Disabilities Center.

Date: April 20–21, 2017.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Beacon Hotel and Corporate Quarters, 1615 Rhode Island Avenue NW., Washington, DC 20036.

Contact Person: Marita R. Hopmann, Ph.D., Scientific Review Officer, Division of Scientific Review, National Institute of Child Health and Human Development, National Institutes of Health, 6710B Rockledge Drive, Bethesda, MD 20817, (301) 435–6911, *hopmannm@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 14, 2017.

Michelle Trout,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03277 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; 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/contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications/contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Provocative Question 2.

Date: March 15, 2017.

Time: 11:00 a.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W032, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Jun Fang, Ph.D., Scientific Review Officer, Research Technology and Contract Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W246, Bethesda, MD 20892–9750, 240–276–5460, *jfang@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; NCI Provocative Question 4.

Date: March 16, 2017.

Time: 12:30 p.m. to 5:30 p.m.

Agenda: To review and evaluate grant applications.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W556, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Bratin K. Saha, Ph.D., Scientific Review Officer, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W556, Bethesda, MD 20892–9750, 240–276–6411, *sahab@mail.nih.gov*.

Name of Committee: National Cancer Institute Special Emphasis Panel; Cell and Animal Models for Researching Disparities.

Date: March 21, 2017.

Time: 12:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Cancer Institute Shady Grove, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20850 (Telephone Conference Call).

Contact Person: Christopher L. Hatch, Ph.D., Chief, Program Coordination and Referral Branch, Division of Extramural Activities, National Cancer Institute, NIH, 9609 Medical Center Drive, Room 7W554, Rockville, MD 20892–9750, 240–276–6454, *ch29v@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 14, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03282 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the President's Cancer Panel, March 27, 2017, 9:00 a.m. to March 28, 2017, 1:00 p.m., Kimpton Hotel Palomar, Philadelphia, PA 19103 which was published in the **Federal Register** on February 1, 2017, 82 FR 8944.

This meeting notice is amended to change the ending date and time from March 28, 2017 at 1:00 p.m. to March 27, 2017 at 4:30 p.m. The agenda has also been amended as follows: ''Welcome and Introductions; Session 1: The Pricing and Payment Landscapes—Framing the Issues—1 and 2; Session 2: Cancer Drug Value/Intervention Framework; Public Comment; Session 3: High-Cost/High Value Drugs; Session 4: High-Cost/Modest Value Drugs; Public Comment; Wrap-Up and Next Steps.'' The meeting is open to the public.

Dated: February 14, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03274 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Human Genome Research Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Human Genome Research Institute Special Emphasis Panel; H3A Bioinformatics.

Date: March 17, 2017.

Time: 1:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Human Genome Research Institute, 3rd Floor Conf. Room, 5635 Fishers Lane, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Ken D. Nakamura, Ph.D., Scientific Review Officer, Scientific Review Branch, National Human Genome Research Institute, National Institutes of Health, 5635 Fishers Lane, Suite 4076, MSC 9306, Rockville, MD 20852, 301–402–0838, *nakamurk@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.172, Human Genome Research, National Institutes of Health, HHS)

Dated: February 14, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03280 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; Emerging Science and Technologies in Transplantation Research (U01).

Date: March 14–15, 2017.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Thomas F. Conway, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, Room 3G51, National Institutes of Health, NIAID, 5601 Fishers Lane, MSC 9823, Bethesda, MD 20892–9823, 240–507–9685, *thomas.conway@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 14, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–03276 Filed 2–17–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

[1651–0139]

Agency Information Collection Activities: Electronic Visa Update System

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

ACTION: 60-Day notice and request for comments; revision of an existing collection of information.

SUMMARY: U.S. Customs and Border Protection (CBP) of the Department of Homeland Security will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act: Electronic Visa Update System (EVUS). This is a proposed extension and revision of an information collection that was previously approved. CBP is proposing that this information collection be extended with a revision to the information collected. This document is published to obtain comments from the public and affected agencies.

DATES: Written comments should be received on or before April 24, 2017 to be assured of consideration.

ADDRESSES: All submissions received must include the OMB Control Number 1651–0139 in the subject line and the agency name. To avoid duplicate submissions, please use only *one* of the following methods to submit comments:

(1) *Email.* Submit comments to: (*CBP_PRA@cbp.dhs.gov*). The email should include the OMB Control number in the subject line.

(2) *Mail.* Submit written comments to CBP PRA Officer, U.S. Customs and Border Protection, Office of Trade, Regulations and Rulings, Economic Impact Analysis Branch, 10th Floor, 90 K St NE., Washington, DC 20229–1177.

FOR FURTHER INFORMATION CONTACT: Requests for additional PRA information should be directed to Paperwork Reduction Act Officer, U.S. Customs and Border Protection, Regulations and Rulings, Office of Trade, 90 K Street NE., 10th Floor, Washington, DC 20229–1177, or via email (*CBP_PRA@cbp.dhs.gov*). Please note that the contact information provided here is solely for questions regarding this notice. Individuals seeking information about other CBP programs should contact the CBP National Customer Service Center at 877–227–5511, (TTY) 1–800–877–8339, or CBP Web site at *https://www.cbp.gov/.* For additional help: *https://help.cbp.gov/app/home/search/1.*

SUPPLEMENTARY INFORMATION: CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). The comments should address: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual cost burden to respondents or record keepers from the collection of information (total capital/startup costs and operations and maintenance costs). The comments that

are submitted will be summarized and included in the CBP request for OMB approval. All comments will become a matter of public record. In this document, CBP is soliciting comments concerning the following Information collection:

Title: Electronic Visa Update System.

OMB Number: 1651–0139.

Form Number: N/A.

Abstract: The Electronic Visa Update System (EVUS) provides a mechanism through which visa information updates can be obtained from certain nonimmigrant aliens in advance of their travel to the United States. This provides CBP access to updated information without requiring aliens to apply for a visa more frequently. The EVUS requirements apply to nonimmigrant aliens who hold a passport issued by an identified country containing a U.S. nonimmigrant visa of a designated category. EVUS enrollment is currently limited to nonimmigrant aliens who hold unrestricted, maximum validity B–1 (business visitor), B–2 (visitor for pleasure), or combination B–1/B–2 visas, which are generally valid for 10 years, contained in a passport issued by the People's Republic of China.

EVUS provides for greater efficiencies in the screening of international travelers by allowing DHS to identify nonimmigrant aliens who may be inadmissible before they depart for the United States, thereby increasing security and reducing traveler delays upon arrival at U.S. ports of entry. EVUS aids DHS in facilitating legitimate travel while also enhancing public safety and national security.

Proposed Changes

DHS proposes to add the following optional question to EVUS: ''Please enter information associated with your online presence—Provider/Platform—Social media identifier.'' A social media identifier is any name, or ''handle,'' used by the individual on one or more platforms. The optional social media question on the EVUS enrollment will include a drop down menu of options for selection. This data will be used for vetting purposes, as needed, providing highly trained CBP officers with timely visibility into publicly available information on the platforms associated with the social media identifier(s) voluntarily provided by the applicant, along with other information and tools CBP officers regularly use in the performance of their duties. The officer will review said platforms in a manner consistent with the privacy settings the applicant has chosen to adopt for those platforms. It will also help distinguish between individuals with similar characteristics, such as similar names, and provide an additional means to contact an applicant if needed. Respondents who choose not to answer this question can still submit an EVUS enrollment without a negative interpretation or inference. The question will be clearly marked as optional.

Current Actions: This submission is being made to extend the expiration date with a change to the information collected as a result of adding an optional question about social media to EVUS. There are no changes to the burden hours.

Type of Review: Revision.

Affected Public: Individuals.

Estimated Number of Respondents: 3,595,904.

Estimated Number of Responses per Respondent: 1.

Estimated Total Annual Responses: 3,595,904.

Estimated Time per Response: 25 minutes.

Estimated Total Annual Burden Hours: 1,499,492.

Dated: February 15, 2017.

Seth Renkema,

Branch Chief, Economic Impact Analysis Branch, U.S. Customs and Border Protection.

[FR Doc. 2017–03343 Filed 2–17–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 16–34]

Frank D. Li, M.D.; Decision and Order

On August 22, 2016, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, issued an Order to Show Cause to Frank D. Li, M.D. (hereinafter, Respondent), of Tukwila, Washington and Beverly Hills, California. The Show Cause Order proposed the revocation of four separate Certificates of Registration held by Respondent (three of which are for locations in Washington State and one which is for a location in California), pursuant to which he is authorized to dispense controlled substances in schedules II through V, as a practitioner, on the ground that he does hold authority to dispense controlled substances in these States. *Id.* at 1 (citing 21 U.S.C. 823(f) and 824(a)(3)).

With respect to the Agency's jurisdiction, the Show Cause Order alleged that Respondent holds three registrations in Washington State: (1) No. FL0680947, for the location of 1536 N 115th St., Suite 310, Seattle, which does not expire until March 31, 2017; (2) No. FL1688235, for the location of 801 SW 16th St., Suite 121, Renton, which does not expire until March 31, 2018; and (3) No. FL2601335, for the location of 3624 Colby Ave., Suite B, Everett, which does not expire until March 31, 2017. Show Cause Order, at 2. The Show Cause Order also alleged that Respondent holds registration No. BL7067261, for the location of 8641 Wilshire Blvd., Suite 200, Beverly Hills, California, and that this registration does not expire until March 31, 2019. *Id.*

As for the substantive basis of the proposed action, the Show Cause Order alleged that the State of Washington, Department of Health, issued an *ex parte* order, which suspended Respondent's authority to practice medicine and surgery in that State effective on July 14, 2016. *Id.* at 2. The Show Cause Order also alleged that the Medical Board of California issued an order which suspended his authority to practice medicine in that State effective on August 5, 2016. *Id.* The Show Cause Order thus alleged that Respondent is currently without authority to handle controlled substances in Washington and California, the States in which he is registered with the Agency, and subjecting his DEA registrations to revocation.[1] *Id.* at 2 (citing 21 U.S.C. 802(21), 823(f), and 824(a)(3)).

On September 20, 2016, Respondent, through his counsel, requested a hearing on the allegations. Resp. Hrng. Req. The matter was then placed on the docket of the Office of Administrative Law Judges, and assigned to ALJ Charles Wm. Dorman.

On September 21, 2016, the ALJ issued an order directing the Government to submit evidence supporting the allegation and an accompanying dispositive motion by October 5, 2016. Briefing Schedule For Lack Of State Authority Allegations, at 1. The ALJ also ordered that if the Government filed such a motion, Respondent was to file his reply by October 12, 2016. *Id.*

On September 22, 2016, the Government filed its Motion for Summary Disposition. *See* Gov. Mot. for Summ. Disp. As support for its Motion, the Government provided a copy of Respondent's registration information

[1] The Show Cause Order also notified Respondent of his right to request a hearing on the allegations or to submit a written statement while waiving his right to a hearing, and the procedure for electing either option. Show Cause Order, at 2–3 (citing 21 CFR 1301.43). It also notified Respondent of his right to submit a corrective action plan. *See* 21 U.S.C. 824(c)(2)(C).

for each registration in Washington State and California, an affidavit from a Diversion Investigator (DI), and certified copies of the Suspension Orders the DI obtained from the Washington Department of Health, Medical Quality Assurance Commission (MQAC) and the Medical Board of Californian (MBC). *Id.,* at Appendices A–G. Based on the suspensions of his medical licenses by the MQAC and the MBC, the Government moved for summary disposition and a recommendation by the ALJ that Respondent's DEA certificates of registration as a practitioner be revoked. Govt. Mot., at 4.

On October 12, 2016, Respondent filed his Reply. Respondent's Reply, at 1. While Respondent admitted that his licenses to practice medicine in Washington and California had been suspended, he stated that ''he has challenged the Boards' suspension and has every confidence that the current suspensions will be lifted and [that he] will have his medical license restored.'' *Id.* at 2. Respondent further stated that he has ''provided a detailed rebuttal to the Boards' unfounded allegations'' and provided a copy of this document (which was his answer in the MQAC proceeding). Resp's Reply, at 1–2; *see also* Resp's. Appendix A.

Respondent also argued that the authority contained in 21 U.S.C. 824(a)(3) is discretionary with respect to a practitioner's registration and that ''[t]here are numerous factors that the [Agency] should consider prior to summarily revoking [his] [r]egistration.'' Resp's Reply, at 3 (citing *Bio-Diagnostic International,* 78 FR 39327 (2013)). And he maintains that the Agency is required to consider that he is appealing the state suspensions and that the DEA proceeding should be resolved ''through a suspension . . . and not a full revocation . . . given the many serious shortcomings that have been identified in the Boards' actions.'' *Id.* at 3–4.

On October 20, 2016, the ALJ granted the Government's motion and recommended that Respondent's registrations be revoked. Order Granting Summary Disposition And Recommended Rulings, Findings Of Fact, Conclusions Of Law, And Decision, at 5. The ALJ noted various authorities holding that a practitioner must possess state authority in order to maintain a DEA registration. *Id.* at 3 (citations omitted). The ALJ then rejected Respondent's contention that *Bio-Diagnostic International* requires the Agency to consider various factors prior to ordering the revocation of his registration, noting that *Bio-Diagnostic* did not involve a practitioner, but rather a list I chemical distributor, and that the Agency has made clear ''that both the [CSA's] 'definition of the term ''practitioner'' and the registration provision applicable to practitioners make clear that a practitioner must be currently authorized to dispense controlled substances by the State in which he practices in order to obtain and maintain a registration.' '' R.D. 4 (quoting *Rezik A. Saqer,* 81 FR 22122, 22125 (2016)). The ALJ then explained that even though Respondent has not yet been provided with a hearing to challenge the MQAC's action, revocation of his DEA registration was still warranted based on his lack of state authority. *Id.* (citing cases). Because ''the disposition of the Government's Motion depends only on whether the Respondent possess states authority to handle controlled substances,'' and ''it is undisputed that [he] lacks state authorization to handle controlled substances in'' both the States of Washington and California, the ALJ granted the Government's motion and recommended that his registrations be revoked. *Id.* at 4–5.

Neither party filed exceptions to the ALJ's Recommended Decision. Thereafter, the record was forwarded to my Office for Final Agency Action. Having considered the record and the Recommended Decision, I adopt the ALJ's Recommended Decision. I make the following factual findings.

Findings

Respondent holds four separate certificates of registration, pursuant to which he is authorized to dispense controlled substances in schedules II–V as a practitioner:

1. Certificate of Registration FL0680947, at the registered address of 1536 N 115th St., Suite 310, Seattle, Washington, which does not expire until March 31, 2017.
2. Certificate of Registration FL1688235, at the registered address of 801 SW 16th St., Suite 121, Renton, Washington, which does not expire until March 31, 2018.
3. Certificate of Registration FL2601335, at the registered address of 3624 Colby Ave., Suite B, Everett, Washington, which does not expire until March 31, 2017.
4. Certificate of Registration BL7067261, at the registered address of 8641 Wilshire Blvd., Suite 200, Beverly Hills, California, which does not expire until March 31, 2019.

Govt. Mot., at Appendices A–D.

On July 14, 2016, the State of Washington, Department of Health, MQAC, issued an *ex parte* order which summarily suspended Respondent's physician's and surgeon's license; the order alleged that Respondent violated Washington statutes and regulations regarding professional conduct and pain management in his treatment of patients at the Seattle Pain Center clinics he operated. Govt. Mot., at Appendix E, 1–2. The MQAC reviewed a statement of charges and supporting evidence submitted by an investigator and physician, and concluded that its factual findings ''establish an immediate danger to the public health, safety or welfare,'' and that ''summary suspension of the Respondent's medical license is necessary and adequately addresses the danger to the public health, safety or welfare.'' *Id.* at 1–4. According to the online records of the Washington Department of Health, of which I take official notice,[2] Respondent's Washington physician's and surgeon's license remains suspended as of the date of this Decision and Order. *See https://fortress.wa.gov/doh/providercredentialsearch/SearchCriteria.aspx.*

On August 5, 2016 the Medical Board of California issued a Notice of Out of State Suspension Order to Respondent, summarily suspending his California medical license on the basis of the suspension ordered by the MQAC. Govt. Mot. Appendix F, at 1. According to the online records of the MBC, Respondent's California Physician's and Surgeon's license remains suspended as of the date of this Decision and Order. *See https://www.breeze.ca.gov/datamart/detailsCADCA.do.*

Discussion

Pursuant to 21 U.S.C. 824(a)(3), the Attorney General is authorized to suspend or revoke a registration issued under section 823 of the Controlled Substances Act (CSA), ''upon a finding that the registrant . . . has had his State license . . . suspended [or] revoked . . . by competent State authority and is no longer authorized by State law to engage in the . . . dispensing of controlled substances.'' Moreover, DEA has long held that the possession of authority to dispense controlled substances under the laws of the State

[2] In accordance with the Administrative Procedure Act (APA), an agency ''may take official notice of facts at any stage in a proceeding-even in the final decision.'' U.S. Dept. of Justice, *Attorney General's Manual on the Administrative Procedure Act* 80 (1947) (Wm. W. Gaunt & Sons, Inc., Reprint 1979). In accordance with the APA and DEA's regulations, Respondent is ''entitled on timely request to an opportunity to show to the contrary.'' 5 U.S.C. 556(e); *see also* 21 CFR 1316.59(e). To allow Respondent the opportunity to refute the facts of which I take official notice, Respondent may file a motion for reconsideration within 15 calendar days of the date of service of this Order which shall commence on the date this Order is mailed.

in which a practitioner engages in professional practice is a fundamental condition for obtaining and maintaining a practitioner's registration. *See, e.g., James L. Hooper,* 76 FR 71371 (2011), *pet. for rev. denied,* 481 Fed. Appx. 826 (4th Cir. 2012); *Frederick Marsh Blanton,* 43 FR 27616 (1978).

This rule derives from the text of two provisions of the CSA. First, Congress defined ''the term 'practitioner' [to] mean[ ] a . . . physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice.'' 21 U.S.C. 802(21). Second, in setting the requirements for obtaining a practitioner's registration, Congress directed that ''[t]he Attorney General shall register practitioners . . . if the applicant is authorized to dispense . . . controlled substances under the laws of the State in which he practices.'' 21 U.S.C. 823(f). Because Congress has clearly mandated that a practitioner possess state authority in order to be deemed a practitioner under the Act, DEA has held repeatedly that revocation of a practitioner's registration is the appropriate sanction whenever he is no longer authorized to dispense controlled substances under the laws of the State in which he practices medicine. *See, e.g., Hooper,* 76 FR at 71371–72; *Sheran Arden Yeates, M.D.,* 71 FR 39130, 39131 (2006); *Dominick A. Ricci,* 58 FR 51104, 51105 (1993); *Bobby Watts,* 53 FR 11919, 11920 (1988); *Blanton,* 43 FR at 27616.

In his reply to the Government's Motion for Summary Disposition, Respondent argued that the authority contained in 21 U.S.C. 824(a)(3) is discretionary with respect to a practitioner's registration and that ''[t]here are numerous factors that the [Agency] should consider prior to summarily revoking [his] [r]egistration.'' Resp's Reply, at 3 (citing *Bio-Diagnostic,* 78 FR 39327). He maintains that the Agency is required to consider that he is appealing the state suspensions and that the DEA proceeding should be resolved ''through a suspension . . . and not a full revocation . . . given the many serious shortcomings that have been identified in the Boards' actions.'' *Id.* at 3–4.

In *Hooper* v. *Holder,* 481 Fed. Appx. 826 (4th Cir. 2012), a practitioner challenged the Agency's order which revoked his registration after his state license was suspended for a one-year period. *Id.* at 826. Dr. Hooper argued that the revocation of his registration was ''arbitrary and capricious'' because the Administrator's ''decision . . . failed to recognize the discretion under § 824(a) to revoke or suspend a registration and that it was impermissible for the [Administrator] to conclude that the CSA requires revocation of a practitioner's DEA registration when the practitioner's State license is suspended.'' *Id.* at 828. He further argued that the Agency's decision had '' 'read[] the suspension option [in § 824(a)] out of the statute.' '' *Id.* (quoting Pet. Br. 11).

The court of appeals rejected Hooper's contentions. While acknowledging that ''[s]ection 824(a) does state that the [Agency] may 'suspend or revoke' a registration,'' the court noted that ''the statute provides for this sanction [suspension] in five different circumstances, only one of which is loss of a State license.'' *Id.* Continuing, the court explained that ''[b]ecause § 823(f) and § 802(21) make clear that a practitioner's registration is dependent upon the practitioner having state authority to dispense controlled substances, the [Agency's] decision to construe § 824(a)(3) as mandating revocation upon suspension of a state license is not an unreasonable interpretation of the CSA.'' *Id.* The court further explained that the Agency's decision did not ''read[ ] the suspension option'' out of the statute, because that option may still be available for the other circumstances enumerated in § 824(a). *Id. See also Maynard* v. *DEA,* 117 Fed.Appx. 941 (5th Cir. 2004) (rejecting physician's contention that DEA could not revoke his registration based on summary suspension of state medical license).

As for Respondent's contention that *Bio-Diagnostic* requires that the Agency consider various factors before revoking his registration, that case involved a list I chemical distributor and not a practitioner. *See* 78 FR at 39327, 39330. Unlike a practitioner, which the CSA defines, in relevant part, as ''a physician . . . or other person licensed, registered or otherwise permitted, by . . . the jurisdiction in which he practices . . . to distribute, dispense, [or] administer . . . a controlled substance in the course of professional practice,'' 21 U.S.C. 802(21), neither the definition of a distributor nor the registration provision applicable to a list I chemical distributor explicitly requires that an applicant/registrant holds a state license authorizing the applicant/registrant to engage in such activity. *See id.* § 802(11) (''The term 'distribute' means to deliver . . . a controlled substance or a listed chemical. The term 'distributor' means a person who so delivers a controlled substance or a listed chemical.''); *id.* § 823(h) (''The Attorney General shall register an applicant to distribute a list I chemical unless the Attorney General determines that registration of the applicant is inconsistent with the public interest.'').[3] *See also* 78 FR at 39330. Thus, as the ALJ recognized, *Bio-Diagnostic* provides no comfort to Respondent.

Finally, Respondent contends that revocation is not warranted ''given the many serious shortcomings that have been identified in the Boards' actions.'' Resp. Reply, at 4. DEA, however, has no authority to adjudicate the validity of the decisions of state boards, which are deemed to be presumptively lawful for the purpose of the Controlled Substances Act. *See Kamal Tiwari, et al.,* 76 FR 71604, 71607 (2011) (quoting *George S. Heath,* 51 FR 26610 (1986) (''DEA accepts as valid and lawful the action of a state regulatory board unless that action is overturned by a state court or otherwise pursuant to state law.'')). Rather, Respondent is required to litigate his claims challenging the validity of the suspensions in the administrative and judicial fora provided by the States of Washington and California. *See Tiwari,* 76 FR at 71607 (quoting *Heath,* 51 FR at 26610); *Zhiwei Lin,* 77 FR 18862, 18864 (2012); *Sunil Bhasin,* 72 FR 5082, 5083 (2007).

Here, there is no dispute that by virtue of the suspensions ordered by the MQAC and MBC, Respondent is currently without authority to dispense controlled substances in the States of Washington and California. Because he no longer satisfies the statutory requirement of holding authority to dispense controlled substances under the laws of the States in which he is registered, he is not a practitioner within the meaning of the Act and it is of no consequence that he has yet to be afforded a hearing by the MQAC (or MBC) to challenge the suspensions. *See Saqer,* 81 FR at 22126; *Bourne Pharmacy,* 72 FR 18273, 18274 (2007); *Wingfield Drugs,* 52 FR 27070, 27071 (1987). Accordingly, he is not entitled to maintain his DEA registrations in Washington and California and I will therefore order that his registrations be revoked.

ORDER

Pursuant to the authority vested in me by 21 U.S.C. 824(a), as well as 28 CFR

[3] This is not to say that the Agency cannot deny an application or revoke a registration where an applicant/registrant does not possess authority under state law to engage in the distribution of a list I chemical. What it is to say is that the loss of such authority does not automatically require the denial or revocation of a registration. *See Bio-Diagnostic,* 78 FR at 39331.

0.100(b), I order that DEA Certificates of Registration FL0680947, FL1688235, FL2601335, and BL7067261, issued to Frank D. Li, M.D., be, and they hereby are, revoked. Pursuant to the authority vested in me by 21 U.S.C. 823(f), as well as 28 CFR 0.100(b), I further order that any pending application of Frank D. Li, M.D., to renew or modify any of the aforesaid registrations, be, and it hereby is, denied. This Order is effective immediately.[4]

Dated: February 13, 2017.

Chuck Rosenberg,

Acting Administrator.

[FR Doc. 2017–03272 Filed 2–17–17; 8:45 am]

BILLING CODE 4410–09–P

[4] For the same reasons that the MQAC summarily suspended Respondent's medical license, I conclude that the public interest necessitates that this Order be effective immediately. 21 CFR 1316.67.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Importer of Controlled Substances Application: Hospira

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic class, and applicants therefore, may file written comments on or objections to the issuance of the proposed registration in accordance with 21 CFR 1301.34(a) on or before March 23, 2017. Such persons may also file a written request for a hearing on the application pursuant to 21 CFR 1301.43 on or before March 23, 2017.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing must be sent to: Drug Enforcement Administration, Attn: Administrator, 8701 Morrissette Drive, Springfield, Virginia 22152. All requests for hearing should also be sent to: (1) Drug Enforcement Administration, Attn: Hearing Clerk/LJ, 8701 Morrissette Drive, Springfield, Virginia 22152; and (2) Drug Enforcement Administration, Attn: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated her authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers importers, and exporters of, controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.34(a), this is notice that on October 27, 2016, Hospira, 1776 North Centennial Drive, McPherson, Kansas 67460–1247 applied to be registered as an importer of remifentanil (9739), a basic class of controlled substance listed in schedule II.

The company plans to import remifentanil for use in dosage form manufacturing.

Dated: February 8, 2017.

Louis J. Milione,

Assistant Administrator.

[FR Doc. 2017–03273 Filed 2–17–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act

On February 10, 2017, the Department of Justice lodged two proposed consent decrees with the United States District Court for the Western District of New York in the lawsuit entitled *United States* v. *NL Industries, Inc., et al.,* Civil Action No. 1:17–cv–124.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The United States' complaint names NL Industries, Inc., ACF Industries, LLC, American Premier Underwriters, Inc., DII Industries LLC, Exide Technologies, and Gould Electronics Inc. as defendants. The complaint requests recovery of costs that the United States incurred responding to releases of hazardous substances at the NL Depew Superfund Site in Depew, Erie County, New York. NL Industries, Inc. signed the first consent decree, and the remaining defendants signed the second consent decree. The defendants agree to pay the following amounts of the United States' response costs: NL Industries, Inc. will pay $3.677 million, ACF Industries, LLC will pay $80,000, American Premier Underwriters, Inc. will pay $140,000, DII Industries LLC will pay $720,000, Exide Technologies will pay $15,000, and Gould Electronics Inc. will pay $230,000. In return, the United States agrees not to sue the defendants under Sections 106 and 107 of CERCLA with respect to the NL Depew Superfund Site, subject to certain reservations.

The publication of this notice opens a period for public comment on the consent decrees. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *NL Industries, Inc. et al.,* D.J. Ref. No. 90–11–3–11341. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decrees may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decrees 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 $5.00 for the decree with NL, $6.50 for the decree with the remaining defendants, or $11.50 for both decrees (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–03294 Filed 2–17–17; 8:45 am]

BILLING CODE 4410–CW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Performance Partnership Pilots for Disconnected Youth Program National Evaluation

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the information collection request (ICR) proposal titled, ''Performance Partnership Pilots for Disconnected Youth Program National Evaluation,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 23, 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=201609-1290-002* (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 (this is not a toll-free number) 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–OS, 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 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Performance Partnership Pilots (P–3) for Disconnected Youth Program National Evaluation information collection. More specifically, this ICR seeks clearance for four (4) data collection activities conducted as part of the evaluation's implementation and systems analyses: (1) Site visit interviews; (2) focus group discussions with P3 youth participants; (3) a survey of partner managers; and (4) a survey of partner service providers.

This proposed 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 if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on May 19, 2016 (81 FR 31664).

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 ICR Reference Number 201609–1290–002. 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–OS.

Title of Collection: Performance Partnership Pilots for Disconnected Youth Program National Evaluation.

OMB ICR Reference Number: 201609–1290–002.

Affected Public: Individuals or Households; State, Local, and Tribal Governments; Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 252.

Total Estimated Number of Responses: 252.

Total Estimated Annual Time Burden: 195 hours.

Total Estimated Annual Other Costs Burden: $0.

Dated: February 14, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–03354 Filed 2–17–17; 8:45 am]

BILLING CODE 4510–HX–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Default Investment Alternatives Under Participant Directed Individual Account Plans

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Default Investment Alternatives under Participant Directed Individual Account Plans,'' 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 23, 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=201701-1210-006* (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.*

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the information collection requirements specified in regulations 29 CFR 2520.104b–1 and 2550.404c–5. More specifically, Employee Retirement Income Security Act of 1974 (ERISA) section 404(c), 29 U.S.C. 1104(c), provides that a participant or beneficiary who can hold an individual account under his or her pension plan and who can exercise control over account assets, as determined in DOL regulations, will not be treated as a plan fiduciary. Moreover, no other plan fiduciary will be liable for any loss, or due to any breach, resulting from the participant's or beneficiary's exercise of control over the individual account assets. The Pension Protection Act, Public Law 109–280, amended the ERISA by adding section 404(c)(5)(A), 29 U.S.C. 1104(c)(5)(A), which provides that a participant in an individual account plan who fails to make investment elections regarding his or her account assets will nevertheless be treated as having exercised control over those assets, so long as the plan provides appropriate notice and invests the assets in accordance with DOL regulations. The DOL, accordingly, promulgated a regulation to offer guidance on the types of investment vehicles that a plan may choose as its qualified default investment alternative (QDIA). The regulation also outlines two information collection requirements. First, it implements the statutory requirement that a plan provide an annual notice to each participant and beneficiary whose account assets could be invested in a QDIA. Second, the regulation requires a plan to pass any pertinent materials it receives from a QDIA to any participant or beneficiary with assets invested in the QDIA, as well to provide certain information on request. These information collections inform participants and beneficiaries who do not make investment elections of the consequences of the failure to elect investments, the ways in which account assets will be invested through the QDIA, and of the continuing opportunity to make other investment elections, including options available under the plan. ERISA section 404(c)(5)(A) authorizes this information collection. *See* 29 U.S.C. 1104(c)(5)(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 1210–0132.

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, 2016. 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 1210–0132. 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: Default Investment Alternatives under Participant Directed Individual Account Plans.

OMB Control Number: 1210–0132.

Affected Public: Private Sector—businesses or other for-profits and not-for-profit institutions.

Total Estimated Number of Respondents: 276,222.

Total Estimated Number of Responses: 36,249,796.

Total Estimated Annual Time Burden: 191,640 hours.

Total Estimated Annual Other Costs Burden: $9,959,269.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: February 13, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–03359 Filed 2–17–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Pre-Implementation Planning Checklist Report for State Unemployment Insurance Information Technology Modernization Projects

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) proposal titled, ''Pre-Implementation Planning Checklist Report for State Unemployment Insurance Information Technology Modernization Projects,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 23, 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=201508-1205-004* (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 (this is not a toll-free number) 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–ETA, 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 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks PRA authority for the Pre-Implementation Planning Checklist Report for State Unemployment Insurance (UI) Information Technology (IT) Modernization Projects information collection. A State will use the checklist prior to using a new UI benefits or tax system. The checklist can be used to verify that all necessary system functions are available and/or that alternative workarounds are developed prior to the production launch of the UI IT system to help avoid major disruption of services to UI customers and to prevent delays in making UI benefit payments when due. This comprehensive checklist denotes critical functional areas that states should verify prior to launching a new UI IT system including, but not limited to, technical IT functions and UI business processes that interface with the new system. Social Security Act section 303(a)(6) authorizes this information collection. *See* 42 U.S.C. 503(a)(6).

This proposed 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 if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. For additional information, see the related notice published in the **Federal Register** on May 1, 2015 (80 FR 24978).

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 ICR Reference Number 201508–1205–004. 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–ETA.

Title of Collection: Pre-Implementation Planning Checklist Report for State Unemployment Insurance Information Technology Modernization Projects.

OMB ICR Reference Number: 201508–1205–004.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 18.

Total Estimated Number of Responses: 24.

Total Estimated Annual Time Burden: 456 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: February 14, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–03357 Filed 2–17–17; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Requirements Survey

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Bureau of Labor Statistics (BLS) sponsored information collection request (ICR) revision titled, ''Occupational Requirements Survey,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 23, 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=201611-1220-002* (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 sending an email to *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–BLS Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of

the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for a revision to the Occupational Requirements Survey (ORS), which is a nationwide survey the BLS is conducting at the request of the Social Security Administration. The ORS began in 2015 with a scheduled end date in mid-2018. The currently approved portions of this data collection will continue as scheduled. This information collection is a revision request due to the inclusion of a one-time job observation test that will cover selected ORS cognitive, physical, and environmental elements. The goal of the job observation test is to compare data obtained from observation of a selected occupation at an establishment with data obtained previously for the same occupation by interviewing a representative of that establishment. The BLS Authorizing Statute and the Economy Act authorize this information collection. *See* 29 U.S.C. 9, 9(a), and 31 U.S.C. 1535.

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 1220–0189. The current approval is scheduled to expire on August 31, 2018; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on February 18, 2015 (80 FR 8696).

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 1220–0189. 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–BLS.

Title of Collection: Occupational Requirements Survey.

OMB Control Number: 1220–0189.

Affected Public: State, Local, and Tribal Governments; Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 10,071.

Total Estimated Number of Responses: 11,807.

Total Estimated Annual Time Burden: 20,686.

Total Estimated Annual Other Costs Burden: $0.

Dated: February 14, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–03358 Filed 2–17–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Federal Contract Compliance Programs (OFCCP) sponsored information collection request (ICR) revision titled, ''Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before March 23, 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=201609-1250-001* (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 sending an email to *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–OFCCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW., Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor, Form CC–4, information collection that an individual prepares to allege illegal discrimination by a Federal contractor or subcontractor under any OFCCP administered program. This ICR has been classified as a revision, because it

would update the complaint form and accompanying instructions page to reflect two amendments to E.O. 11246 as Amended, Equal Employment Opportunity. E.O. 11246 section 206 (*see* 30 FR 12319, 12935, 3 CFR 1964–1965 Comp., p 339, as amended by E.O. 12086, 43 FR 46501, 3 CFR, 1978 Comp., p. 230); Rehabilitation Act of 1973 section 503 (*see* 29 U.S.C. 793); and Veteran's Education and Employment Assistance Act section 601 (*see* 38 U.S.C. 4212) authorize this information collection.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1250–0002. The current approval is scheduled to expire on August 31, 2017; however, the DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 1, 2016 (81 FR 43254).

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 1250–0002. 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–OFCCP.

Title of Collection: Complaint Involving Employment Discrimination by a Federal Contractor or Subcontractor.

OMB Control Number: 1250–0002.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 753.

Total Estimated Number of Responses: 753.

Total Estimated Annual Time Burden: 753 hours.

Total Estimated Annual Other Costs Burden: $62.

Authority: 44 U.S.C. 3507(a)(1)(D).

Dated: February 14, 2017.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2017–03360 Filed 2–17–17; 8:45 am]

BILLING CODE 4510–CM–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act: Notice of Agency Meeting

TIME AND DATE: 10:00 a.m., Thursday, February 23, 2017.

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

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Share Insurance Fund Quarterly Report.
2. Continuation of Federal Credit Union Loan Interest Rate Ceiling.

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

Gerard Poliquin,

Secretary of the Board.

[FR Doc. 2017–03420 Filed 2–16–17; 4:15 pm]

BILLING CODE 7535–01–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–124; R2017–6]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 22, 2017 (Comment due date applies to Docket No. CP2017–124); and February 27, 2017 (Comment due date applies to Docket No. R2017–6).

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s)

in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–124; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* February 13, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Gregory Stanton; *Comments Due:* February 22, 2017.

2. *Docket No(s).:* R2017–6; *Filing Title:* Notice of United States Postal Service of Type 2 Rate Adjustment, and Notice of Filing Functionally Equivalent Agreement, and Application for Non-Public Treatment; *Filing Acceptance Date:* February 13, 2017; *Filing Authority:* 39 CFR 3010.40 *et seq.; Public Representative:* Lyudmila Y. Bzhilyanskaya; *Comments Due:* February 27, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–03285 Filed 2–17–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2017–91 and CP2017–125; MC2017–92 and CP2017–126; CP2017–127]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* February 23, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* MC2017–91 and CP2017–125; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 294 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* February 14, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Erin Mahagan; *Comments Due:* February 23, 2017.

2. *Docket No(s).:* MC2017–92 and CP2017–126; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Express Contract 45 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* February 14, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative:* Erin Mahagan; *Comments Due:* February 23, 2017.

3. *Docket No(s).:* CP2017–127; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* February 14, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Erin Mahagan; *Comments Due:* February 23, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–03313 Filed 2–17–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* February 21, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 14, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Contract 294 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–91, CP2017–125.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–03286 Filed 2–17–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Effective date:* February 21, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on February 14, 2017, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Priority Mail Express Contract 45 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2017–92, CP2017–126.

Stanley F. Mires,

Attorney, Federal Compliance.

[FR Doc. 2017–03287 Filed 2–17–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80040; File No. SR–CBOE–2016–088]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Related to the Nullification and Adjustment of Options Transactions

February 14, 2017.

I. Introduction

On December 14, 2016, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 6.25, relating to the adjustment and nullification of erroneous complex order and stock-option order transactions. The proposed rule change was published for comment in the **Federal Register** on January 3, 2017.[3] On February 13, 2017, the Exchange submitted Amendment No. 1 to the proposed rule change.[4] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as modified by Amendment No. 1.

II. Description of the Proposed Rule Change

The Exchange proposes to amend Rule 6.25, entitled ''Nullification and Adjustment of Options Transactions'' by adding Interpretation and Policy .07 (a)–(c) related to the adjustment and nullification of erroneous complex order and stock-option order transactions.

A. Background

The Exchange and other options exchanges previously adopted new, harmonized rules related to the adjustment and nullification of erroneous options transactions.[5] The Exchange believes that the changes the options exchanges implemented with the new, harmonized rule have led to increased transparency and finality with respect to the adjustment and nullification of erroneous options transactions. However, as part of the initial initiative, the Exchange and other options exchanges deferred a few specific matters for further discussion, including how erroneous complex orders and stock-option orders should be handled.

Since the adopting of the initial harmonized rule, the exchanges that offer complex orders and/or stock-option orders discussed the adoption of a rule—described below—that they collectively believe will improve the handling of erroneous options transactions that result from the execution of complex orders and stock-option orders.[6]

B. Proposed Rule

The proposed rule applies much of the initial harmonized rule to complex orders and stock-option orders. The proposed rule, however, deviates from the initial harmonized rule to account for unique qualities of complex orders and stock-option orders. Specifically, the proposed rule reflects the fact that complex orders can execute against other complex orders or can execute against individual simple orders in the leg markets. When a complex order executes against the leg markets, there may be different counterparties on each leg of the complex order, and not every leg will necessarily be executed at an erroneous price. With regards to stock-option orders, the proposed rule reflects the fact that stock-option orders contain a stock component that is executed on a stock trading venue, and the Exchange may not be able to ensure that the stock trading venue will adjust or nullify the stock execution in the event of an obvious or catastrophic error. In order to account for the unique characteristics of complex orders and stock-option orders,

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79697 (December 27, 2016), 82 FR 167 (''Notice'').

[4] In Amendment No. 1, the Exchange proposed an implementation date of April 17, 2017, to allow all the other options exchanges that permit complex order or stock-option order transactions the time necessary to harmonize their obvious error rules with the proposed rule change. Because Amendment No. 1 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 1 is not subject to notice and comment. To promote transparency of its proposed amendment, when CBOE filed Amendment No. 1 with the Commission, it also submitted Amendment No. 1 as a comment letter to the file, which the Commission posted on its Web site and placed in the public comment file for SR–CBOE–2016–088 (available at *https://www.sec.gov/comments/sr-cboe-2016-088/cboe2016088-1581994-131907.pdf*). The Exchange also posted a copy of its Amendment No. 1 on its Web site (*http://www.cboe.com/aboutcboe/legal/submittedsecfilings.aspx*), when it filed it with the Commission.

[5] *See, e.g.,* Securities Exchange Act Release Nos. 74898 (May 7, 2015), 80 FR 27354 (May 13, 2015) (SR–CBOE–2015–039); and 74556 (March 20, 2015), 80 FR 16031 (March 26, 2015) (SR–BATS–2014–067) (''BATS Order'').

[6] *See* Notice, *supra* note 3, at 167. An exchange that does not offer complex orders and/or stock-option orders will not adopt these new provisions until such time as the exchange offers complex orders and/or stock-option orders. *See id.* at 167 n.5.

the Exchange divided proposed Interpretation and Policy .07 into three parts—paragraphs (a), (b), and (c).

1. Complex Orders Executed Against Individual Legs

Proposed Interpretation and Policy .07(a) governs the review of complex orders that are executed against individual legs (as opposed to a complex order that executes against another complex order).[7] Proposed Rule 6.25.07(a) provides:

> If a complex order executes against individual legs and at least one of the legs qualifies as an Obvious or Catastrophic Error under this Rule 6.25, then the leg(s) that is an Obvious or Catastrophic Error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3), respectively, regardless of whether one of the parties is a Customer. However, any Customer order subject to this paragraph (a) will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). If any leg of a complex order is nullified, the entire transaction is nullified.

At least one of the legs of the complex order must qualify as an obvious or catastrophic error under the initial harmonized rule in order for the complex order to receive obvious or catastrophic error relief. Thus, when the Exchange is notified (within the timeframes set forth in paragraph (c)(2) or (d)(2)) of a complex order that is a possible obvious error or catastrophic error, the Exchange will first review the individual legs of the complex order to determine if one or more legs qualify as an obvious or catastrophic error.[8] If no leg qualifies as an obvious or catastrophic error, the transaction stands—no adjustment and no nullification.

Reviewing the legs to determine whether one or more legs qualify as an obvious or catastrophic error requires the Exchange to follow the initial harmonized rule. In accordance with paragraphs (c)(1) and (d)(1) of the initial harmonized rule, the Exchange compares the execution price of each individual leg to the Theoretical Price[9] of each leg (as determined by paragraph (b) of the initial harmonized rule). Under the proposed rule, if the execution price of an individual leg is higher or lower than the Theoretical Price for the series by an amount equal to at least the amount shown in the obvious error table in paragraph (c)(1) of the initial harmonized rule or the catastrophic error table in paragraph (d)(1) of the initial harmonized rule, the individual leg qualifies as an obvious or catastrophic error, and the Exchange will take steps to adjust or nullify the transaction.[10]

Paragraph (c)(4)(A) of the initial harmonized rule mandates that if it is determined that an obvious error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in (c)(4)(A).[11] Although for simple orders paragraph (c)(4)(A) is only applicable when no party to the transaction is a Customer,[12] for the purposes of complex orders, paragraph (a) of proposed Interpretation and Policy .07 will supersede that limitation; therefore, if it is determined that a leg (or legs) of a complex order is an obvious error, the leg (or legs) will be adjusted pursuant to paragraph (c)(4)(A), regardless of whether a party to the transaction is a Customer. The Size Adjustment Modifier defined in subparagraph (a)(4) will similarly apply (regardless of whether a Customer is on the transaction) by virtue of the application of paragraph (c)(4)(A).[13]

Pursuant to proposed Rule 6.25.07(a), if a complex order executes against individual legs and at least one of the leg(s) qualifies as an Obvious Error or a Catastrophic Error, then the leg(s) that is an Obvious or Catastrophic error will be adjusted in accordance with paragraphs (c)(4)(A) or (d)(3) of the initial harmonized rule, respectively, regardless of whether one of the parties is a Customer. However, because incoming complex orders may execute against resting simple orders in the leg market and adjusting the execution price of the leg may violate the limit price of the resting order, proposed Rule 6.25.07(a) also provides protection for Customer orders, stating that where at least one party to a complex order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). If any leg of a complex order is nullified, the entire transaction will be nullified.

2. Complex Orders Executed Against Complex Orders

Proposed Interpretation and Policy .07(b) governs the review of complex orders that are executed against other complex orders. Proposed Rule 6.25.07(b) provides:

> If a complex order executes against another complex order and at least one of the legs qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the leg(s) that is an Obvious or Catastrophic Error will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3), respectively, so long as either: (i) The width of the National Spread Market for the complex order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3) or (ii) the net execution price of the complex order is higher (lower) than the offer (bid) of the National Spread Market for the complex order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1). If any leg of a complex order is nullified, the entire transaction is nullified. For purposes of Rule 6.25, the National Spread Market for a complex order strategy is determined by the National Best Bid/Offer of the individual legs of the strategy.

As described above in relation to proposed Rule 6.25.07(a), the first step is for the Exchange to review (upon receipt of a timely notification in accordance with paragraph (c)(2) or (d)(2) of the initial harmonized rule) the individual legs to determine whether a leg or legs qualifies as an obvious or catastrophic error. If no leg qualifies as an obvious or catastrophic error, the transaction stands—no adjustment and no nullification.

Unlike proposed Rule 6.25.07(a), the Exchange also proposes to compare the

[7] The leg market consists of quotes and/or orders in single options series. A complex order may be received by the Exchange electronically, and the legs of the complex order may have different counterparties.

[8] Because a complex order can execute against the leg market, the Exchange may also be notified of a possible obvious or catastrophic error by a counterparty that received an execution in an individual options series. If upon review of a potential obvious error the Exchange determines an individual options series was executed against the leg of a complex order or stock-option order, proposed Rule 6.25.07 will govern.

[9] *See* Rule 6.25(b) (defining the manner in which Theoretical Price is determined).

[10] Only the execution price on the leg (or legs) that qualifies as an obvious or catastrophic error pursuant to any portion of proposed Rule 6.25.07 will be adjusted. The execution price of a leg (or legs) that does not qualify as an obvious or catastrophic error will not be adjusted.

[11] In contrast, paragraph (d)(3) of the initial harmonized rule mandates that if it is determined that a catastrophic error has occurred, the execution price of the transaction will be adjusted pursuant to the table set forth in paragraph (d)(3). However, if a Customer is a party to the transaction and the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price, the Customer order will be nullified.

[12] *See* Rule 6.25(a)(1) (defining Customer for purposes of Rule 6.25 as not including a broker-dealer, Professional Customer, or Voluntary Professional Customer).

[13] *See* Rule 6.25(c)(4)(A) (stating that any non-Customer Obvious Error exceeding 50 contracts will be subject to the Size Adjustment Modifier defined in sub-paragraph (a)(4)). The Size Adjustment Modifier may also apply to the option leg of a stock-option order that is adjusted pursuant to proposed Rule 6.25.07(c).

net execution price of the entire complex order package to the National Spread Market for the complex order strategy.[14] Complex orders are exempt from the order protection rules of the options exchanges.[15] Thus, depending on the manner in which the systems of an options exchange are calibrated, a complex order can execute without regard to the prices offered in the complex order books or the leg markets of other options exchanges. Accordingly, the Exchange proposes to consider the National Spread Market. Specifically, proposed Rule 6.25.07(b) provides that if the Exchange determines that a leg or legs does qualify as an obvious or catastrophic error, the leg or legs will be adjusted or busted in accordance with paragraph (c)(4) or (d)(3) of the initial harmonized rule, so long as either: (i) The width of the National Spread Market for the complex order strategy just prior to the erroneous transaction was equal to or greater than the amount set forth in the wide quote table of paragraph (b)(3) of the initial harmonized rule or (ii) the net execution price of the complex order is higher (lower) than the offer (bid) of the National Spread Market for the complex order strategy just prior to the erroneous transaction by an amount equal to at least the amount shown in the table in paragraph (c)(1) of the initial harmonized rule.

For purposes of complex orders that meet the requirements of proposed Rule 6.25.07(b), the Exchange proposes to apply the initial harmonized rule and adjust or bust obvious errors in accordance with paragraph (c)(4) (as opposed to applying only paragraph (c)(4)(A) as is the case under proposed Rule 6.25.07(a)) and catastrophic errors in accordance with paragraph (d)(3). Therefore, for purposes of complex orders under proposed Rule 6.25.07(b), if one of the legs is determined to be an obvious error under paragraph (c)(1), all Customer transactions will be nullified, unless a Trading Permit Holder (''TPH'') submits 200 or more Customer transactions for review in accordance with paragraph (c)(4)(C).[16] For purposes of complex orders under proposed Rule 6.25.07(b), if one of the legs is determined to be a catastrophic error under paragraph (d)(3) and all of the other requirements of proposed Rule 6.25.07(b) are met, all market participants will be adjusted in accordance with the table set forth in paragraph (d)(3). Again, however, pursuant to paragraph (d)(3) where at least one party to a complex order transaction is a Customer, the transaction will be nullified if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s). Also, if any leg of a complex order is nullified, the entire transaction is nullified.

3. Stock-Option Orders

Proposed Interpretation and Policy .07(c) governs stock-option orders. Proposed Rule 6.25.07(c) provides:

> If the option leg of a stock-option order qualifies as an Obvious Error under paragraph (c)(1) or a Catastrophic Error under paragraph (d)(1), then the option leg that is an Obvious or Catastrophic Error will be adjusted in accordance with paragraph (c)(4)(A) or (d)(3), respectively, regardless of whether one of the parties is a Customer. However, the option leg of any Customer order subject to this paragraph (c) will be nullified if the adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the stock-option order, and the Exchange will attempt to nullify the stock leg. Whenever a stock trading venue nullifies the stock leg of a stock-option order or whenever the stock leg cannot be executed, the Exchange will nullify the option leg upon request of one of the parties to the transaction or in accordance with paragraph (c)(3).

Similar to proposed Interpretation and Policy .07(a), an option leg (or legs) of a stock-option order must qualify as an obvious or catastrophic error under the initial harmonized rule in order for the stock-option order to qualify as an obvious or catastrophic error. Also, similar to proposed Rule 6.25.07(a), if an option leg (or legs) does qualify as an obvious or catastrophic error, the option leg (or legs) will be adjusted in accordance with paragraph (c)(4)(A) or (d)(3), respectively, regardless of whether one of the parties is a Customer. Again, as with proposed Rule 6.25.07(a), where at least one party to a complex order transaction is a Customer, the Exchange will nullify the option leg and attempt to nullify the stock leg if adjustment would result in an execution price higher (for buy transactions) or lower (for sell transactions) than the Customer's limit price on the complex order or individual leg(s).

Finally, the Exchange proposes to provide guidance that whenever the stock trading venue nullifies the stock leg of a stock-option order, the option will be nullified upon request of one of the parties to the transaction or by an Official acting on their own motion in accordance with paragraph (c)(3). The Exchange states that there are situations in which buyer and seller agree to trade a stock-option order, but the stock leg cannot be executed. Thus, the Exchange proposes to provide that whenever the stock portion of a stock-option order cannot be executed, the Exchange will nullify the option leg upon request of one of the parties to the transaction or on an Official's own motion.

In order to ensure that other options exchanges are able to adopt rules consistent with this proposal and to coordinate the effectiveness of such harmonized rules, the Exchange proposes to delay the effectiveness of this proposal to April 17, 2017.[17]

III. Discussion and Commission Findings

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.[18] In particular, the Commission finds that the proposed rule change, as amended, is consistent with the requirements of Section 6(b) of the Act[19] and with Section 6(b)(5) of the Act,[20] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission believes that the proposal to amend Rule 6.25 will help assure greater objectivity, transparency, and clarity with respect to the adjustment and nullification of erroneous options transactions and, in particular, those involving complex order or stock-option order transactions. The Commission notes that the proposal is designed to achieve more consistent results for participants across U.S. options exchanges than under the initial harmonized rules, while maintaining a fair and orderly market, protecting investors, and protecting the public

[14] National Spread Market is the derived net market for a complex order package. *See, e.g.,* Rule 6.53C.04 (utilizing the term derived net market in the context of complex order strategies).

[15] *See* Rule 6.81(b)(7). All options exchanges have the same order protection rule.

[16] Rule 6.25(c)(4)(C) also requires the orders resulting in 200 or more Customer transactions to have been submitted during the course of 2 minutes or less.

[17] *See* Amendment No. 1.

[18] In approving this proposed rule change, as amended, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[19] 15 U.S.C. 78f(b).

[20] 15 U.S.C. 78f(b)(5).

interest. In particular, the proposal is designed to increase the consistency and transparency in the handling of erroneous options transactions among those options exchanges that allow complex order or stock-option order transactions.

In its order approving the initial harmonized rule of BATS Exchange, Inc., the Commission noted that the options exchanges intended to work together to further develop additional objectivity with respect to their processes for the adjustment and nullification of erroneous options transactions.[21] The Commission believes that the proposed rule change to specifically delineate the treatment of erroneous complex order or stock-option order transactions constitutes an additional step towards this goal. Based on the foregoing, the Commission believes that the proposed rule change is consistent with Section 6(b)(5) of the Act[22] in that proposed Rule 6.25 will foster cooperation and coordination with persons engaged in regulating and facilitating transactions.

The Commission notes that the proposed rule change will become operative on April 17, 2017. This delayed implementation is to ensure that other options exchanges that permit transactions in complex orders or stock-option orders will have sufficient time to put in place similar rules consistent with this proposed rule change and to coordinate the date of implementation of such harmonized rules.[23]

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[24] that the proposed rule change, as modified by Amendment No. 1 (SR–CBOE–2016–088) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[25]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03295 Filed 2–17–17; 8:45 am]

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[21] *See* BATS Order, *supra* note 5, at 16039.

[22] 15 U.S.C. 78f(b)(5).

[23] *See* Amendment No. 1.

[24] 15 U.S.C. 78s(b)(2).

[25] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32478; File No. 812–14724]

Brinker Capital Destinations Trust, et al.; Notice of Application

February 14, 2017.

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

ACTION: Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies, registered closed-end investment companies, business development companies, as defined in section 2(a)(48) of the Act, and unit investment trusts (collectively, ''Underlying Funds'') that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.

APPLICANTS: Brinker Capital Destinations Trust, a Delaware statutory trust that is registered under the Act as an open-end management investment company with multiple series, and Brinker Capital, Inc., a Delaware Corporation registered as an investment adviser under the Investment Advisers Act of 1940.

DATES: *Filing Dates:* The application was filed on December 8, 2016 and amended on February 1, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 14, 2017 and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Jason B. Moore, Brinker Capital Destinations Trust, 1055 Westlakes Drive, Berwyn, PA 19312; and John J. O'Brien, Esq., Morgan, Lewis & Bockius LLP, 1701 Market Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Jennifer O. Palmer, Senior Counsel, at (202) 551–5786, or Nadya Roytblat, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

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

Summary of the Application

1. Applicants request an order to permit (a) a Fund[1] (each a ''Fund of Funds'') to acquire shares of Underlying Funds[2] in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) the Underlying Funds that are registered open-end investment companies or series thereof, their principal underwriters and any broker or dealer registered under the Securities Exchange Act of 1934 to sell shares of the Underlying Fund to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.[3] Applicants also request an order of exemption under

[1] Applicants request that the order apply to each existing and future series of Brinker Capital Destinations Trust and to each existing and future registered open-end investment company or series thereof that is advised by Brinker Capital, Inc. or its successor or by any other investment adviser controlling, controlled by or under common control with Brinker Capital, Inc. or its successor and is part of the same ''group of investment companies'' as Brinker Capital Destinations Trust (each, a ''Fund''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies and business development companies, that hold themselves out to investors as related companies for purposes of investment and investor services.

[2] Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund (''ETF'').

[3] Applicants do not request relief for Funds of Funds to invest in reliance on the order in business development companies and registered closed-end investment companies that are not listed and traded on a national securities exchange.

sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.[4] Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over an Underlying Fund that is not in the same ''group of investment companies'' as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

3. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

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

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03297 Filed 2–17–17; 8:45 am]

BILLING CODE 8011–01–P

[4] A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from section 17(a) to permit a Fund of Funds to purchase or redeem shares from the ETF. A Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to transactions in shares of closed-end funds (including business development companies).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80041; File No. SR–CHX–2017–04]

Self-Regulatory Organizations; Chicago Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change To Adopt the CHX Liquidity Enhancing Access Delay

February 14, 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 10, 2017, the Chicago Stock Exchange, Inc. (''CHX'' or ''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

CHX proposes to amend the Rules of the Exchange (''CHX Rules'') to adopt the CHX Liquidity Enhancing Access Delay. The text of this proposed rule change is available on the Exchange's Web site at *http://www.chx.com/regulatory-operations/rule-filings/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the 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

(1) Overview

The Exchange proposes to amend the CHX Rules to adopt the CHX Liquidity Enhancing Access Delay (''LEAD''). In sum, LEAD will require all new incoming orders, cancel and cancel/replace messages to be subject to a 350-microsecond intentional access delay; provided, however, that (1) new incoming orders[3] submitted by LEAD Market Makers (''LEAD MM''), a new class of CHX Market Maker[4] with heightened quoting and trading obligations, that would be immediately ranked on the CHX book without executing against any resting orders on the CHX book and (2) certain cancel messages related to resting orders that were submitted by LEAD MMs will not be delayed. LEAD will be applied to all securities traded on the Exchange throughout the trading day.[5] LEAD is designed to enhance displayed liquidity and price discovery by minimizing the effectiveness of latency arbitrage strategies that diminish displayed liquidity and impair price discovery, as described in detail below.

(2) Latency Arbitrage

As used herein, ''latency arbitrage'' means the practice of exploiting

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''New incoming orders'' are orders received by the Matching System for the first time. As discussed below, LEAD will not apply to other situations where existing orders or portions thereof are treated as incoming orders, such as (1) resting orders that are price slid into a new price point pursuant to the CHX Only Price Sliding or Limit Up-Limit Down Price Sliding Processes and (2) unexecuted remainders of routed orders released into the Matching System. *See* CHX Article 1, Rule 2(b)(1)(C); *see also* CHX Article 20, Rule 2A(b); *see also* CHX Article 20, Rule 8(b)(7). Incidentally, the Exchange is proposing to amend CHX Article 20, Rule 8(a)(7) to delete the word ''new'' from the last sentence, so that the rule provides, in pertinent part, that if no balance exists at the time a part of an unexecuted remainder of a routed order is returned to the Matching System, it shall be treated an incoming order.

[4] *See* CHX Article 1, Rule 1(tt) defining ''Market Maker''; *see also generally* CHX Article 16 (Market Makers).

[5] Each trading day is divided into four trading sessions: Early session, regular trading session, late trading session and late crossing session. *See* CHX Article 20, Rule 1(b). The Exchange only accepts cross orders during the late crossing session and thus does not accept or rank any single-sided orders during the late crossing session. *See* CHX Article 1, Rule 2(a)(2) defining ''cross order.''

disparities in the price of a security or related securities that are being traded in different markets by taking advantage of the time it takes to access and respond to symmetric public information.[6] At CHX, latency arbitrage is effected by low-latency market participants that leverage microsecond speed advantages to take resting liquidity at stale prices from the CHX limit order book.

In 2016, the Exchange experienced a material decline in CHX volume and liquidity in the SPDR S&P 500 trust exchange-traded fund (''SPY''),[7] which the Exchange has attributed to latency arbitrage activity in SPY first observed at CHX in January 2016 (''SPY latency arbitrage activity'').[8] Specifically, during the period of January through July 2016, the Exchange observed unusual messaging patterns in SPY whereby an execution of a large inbound Immediate Or Cancel order (''IOC'') against a contra-side order resting on the CHX book was frequently followed by a late cancel message for the executed resting order soon after the execution (''Too Late to Cancel'' or ''TLTC'').[9] Based on these observations, Participant corroboration of the observations and market data analysis,[10] the Exchange found that SPY latency arbitrage activity caused CHX liquidity providers to dramatically reduce displayed liquidity in SPY (and at times withdraw from the market altogether), which materially decreased liquidity in SPY market wide, especially in light of CHX's significant contributions to overall volume and liquidity in SPY prior to the declines.[11]

As demonstrated by the SPY latency arbitrage activity, latency arbitrage imposes a tax on liquidity provision [12] that dissuades market participants from providing displayed liquidity, which is incompatible with a primary goal of Regulation NMS to enhance displayed liquidity to the benefit of investors and the public interest.[13] Latency arbitrageurs exploit the fact that updating the continuous limit order book (utilized by every national securities exchange) necessarily requires the processing of order-related messages serially by time of receipt. Thus, when reacting to the same symmetric information, a liquidity provider with a quote displayed on an exchange must be faster than a latency arbitrageur to avoid its stale quote from being executed.[14] This structural bias facilitates the ability of the latency arbitrageur to extract profits from symmetric information.[15] The Exchange submits that this bias is contrary to a fundamental principal of trading, that the parties agree upon the terms of the trade, and permitting latency arbitrage to continue to diminish displayed liquidity is wholly inconsistent with the objectives of Regulation NMS.[16]

(3) LEAD

LEAD is designed to offset the structural bias that unfairly favors latency arbitrageurs by giving liquidity providers who have committed to heightened quoting and trading requirements (*i.e.,* LEAD MMs) a small head start to the cancellation of stale quotes in the race to react to symmetric public information.[17] Based on its analysis of CHX market data,[18] the Exchange does not believe that LEAD will have a material impact on the ability of liquidity takers not engaged in latency arbitrage, such as retail investors, to access displayed liquidity at CHX.[19] To the extent a sophisticated market participant seeks to take displayed liquidity pursuant to better or different information (as opposed to the same information exploited by latency arbitrageurs), LEAD is too short to have an incrementally negative impact on such non-latency arbitrage strategies.

The LEAD MM is a new class of CHX Market Maker that will be subject to the proposed Minimum Performance Standards, as described in detail below, which will not be applied to non-LEAD MMs. The purpose of the Minimum Performance Standards is to ensure that LEAD MMs will be required to meet heightened quoting and trading requirements in return for undelayed access to the CHX book for the purposes of submitting liquidity providing orders and cancelling its resting orders. Also, LEAD MMs will be required to establish at least one LEAD MM Trading Account, as described below, through which all LEAD market making activities must originate.

Specifically, LEAD will require the following messages in all securities

[6] *See* Letter to Brent J. Fields, Secretary, SEC, from Eric Budish, Professor of Economic and David G. Booth Faculty Fellow, the University of Chicago Booth School of Business (October 13, 2016) (''Budish LTAD Letter'') at 2. Given its emphasis on speed, latency arbitrage has resulted in a well-documented and escalating technology race among certain market participants seeking to obtain ever smaller speed advantages. *See* Eric Budish, Peter Cramton and John Shim, ''The High-Frequency Trading Arms Race: Frequent Batch Auctions as a Market Design Response,'' *Quarterly Journal of Economics,* Vol. 130(4), November 2015 (''Budish Paper''); *see also,* Elaine Wah and Michael Wellman, ''Latency Arbitrage, Market Fragmentation, and Efficiency: A Two-Market Model,'' *4th ACM Conference on Electronic Commerce,* June 2013.

[7] Most of the CHX liquidity in SPY and other S&P 500-correlated securities is provided as part of an arbitrage strategy between CHX and the futures markets, whereby liquidity providers utilize, among other things, proprietary algorithms to price and size resting orders on CHX to track index market data from a derivatives market (*e.g.,* E-Mini S&P traded on the Chicago Mercantile Exchange's Globex trading platform).

[8] A detailed analysis (''CHX ETF Analysis'') of the impact of latency arbitrage on displayed liquidity in SPY at CHX, for the period of August 2015 through July 2016 (''Analysis Period''), may be found under Appendix A. The market data utilized by the CHX ETF Analysis, as well as defined terms and notes, may be found under Appendix B. Additional analysis regarding the potential impact of LEAD on liquidity takers may be found under Appendix C. As discussed in detail under Appendix A below, prior to the beginning of the SPY latency arbitrage activity in January 2016, CHX volume and liquidity in SPY constituted a material portion of overall volume and liquidity in SPY marketwide. For example, the CHX Market Share in SPY as a percentage of Total Volume decreased from 5.73% in January 2016 to 0.57% in July 2016, while the Control Securities did not experience similar declines. *See infra* Appendix A; *see also infra* Appendix B Calculation Set 1a. Also, the Time-weighted Average CHX Size At The NBBO in SPY relative to the total NMS Size At The NBBO in SPY decreased from 44.36% in January 2016 to 3.39% of the total NMS Size At The NBBO in SPY in July 2016, while the Control Securities did not experience similar declines. *See also infra* Appendix A; *see also infra* Appendix B Calculations Sets 3a and 4a.

[9] The Exchange did not begin maintaining TLTC data until May 2016. *See infra* Appendix C.

[10] *See supra* note 8.

[11] *See id.*

[12] *See* Eric Budish, Comment letter regarding ''Investors' Exchange LLC Form 1 Application (Release No. 34–75925; File No. 10–222)'' (February 5, 2016).

[13] The Commission has stated that ''increased displayed liquidity [is] a principal goal of the Order Protection Rule.'' Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37514 (June 29, 2005) (''Regulation NMS Adopting Release''). The Commission has also stated that ''[t]o the extent that competition among orders is lessened, the quality of price discovery for all sizes of orders can be compromised. Impaired price discovery could cause market prices to deviate from fundamental values, reduce market depth and liquidity, and create excessive short-term volatility that is harmful to long-term investors and listed companies. More broadly, when market prices do not reflect fundamental values, resources will be misallocated within the economy and economic efficiency—as well as market efficiency—will be impaired.'' *Id.* at 37499.

[14] *See* Budish LTAD Letter, *supra* note 6, at 2.

[15] *See id.*

[16] *See* Regulation NMS Adopting Release, *supra* note 13, at 37514.

[17] *See* Budish LTAD Letter, *supra* note 6, at 2. In discussing possible alternatives to a frequent batch auction model for trading securities, the Budish Paper provides that ''the asymmetric delay eliminates sniping and stops the arms race.'' *See* Budish Paper, *supra* note 6, at 1612.

[18] Based on the Exchange's analysis of cancel activity in SPY at CHX for the period starting in May 2016 through July 2016, the Exchange believes that if LEAD had been implemented during that time period, out of a total of 18,316 partially-executed orders in SPY, 20 liquidity taking orders not attributed to latency arbitrage activity would have not been executed, a *de minimis* number in the light of the enhanced liquidity and price discovery afforded by LEAD. *See infra* Appendix C.

[19] The Exchange notes that while LEAD is designed to neutralize microsecond speed advantages exploited by latency arbitrageurs, LEAD MMs would still be required to obtain speed capabilities fast enough to take advantage of LEAD.

received by the Exchange throughout a trading day to be subject to a 350-microsecond intentional delay, the same length as the Investors Exchange LLC (''IEX'') POP/coil delay (''IEX Delay'') recently approved by the Commission,[20] before such delayed messages would be processed [21] by the Matching System: [22]

- All new incoming messages that did not originate from a Valid LEAD MM Trading Account, as described below, will be intentionally delayed; provided, however, that the portion of any new incoming Routable Order [23] that is to be routed away will never be delayed, regardless of who submitted the Routable Order.
- New incoming orders, as well as the replace portion of cancel/replace messages, that originate from a Valid LEAD MM Trading Account that would immediately execute against existing resting orders on the CHX book will be intentionally delayed.
- Cancel and cancel/replace messages for orders that originate from a Valid LEAD MM Trading Account that have been delayed, but not yet processed by the Matching System, will be intentionally delayed.

As such, the following messages would not be intentionally delayed pursuant to LEAD:

- New incoming orders that originate from a Valid LEAD MM Trading Account that would immediately be ranked on the CHX book without executing against existing resting orders on the CHX book will not be intentionally delayed.
- A cancel message for a resting order that originates from a Valid LEAD MM Trading Account will not be intentionally delayed.
- A cancel/replace message related to a resting order that originates from a Valid LEAD MM Trading Account will not be intentionally delayed; provided, however, that if any part of the replace portion would immediately execute against an existing resting order on the CHX book, the replace portion will be intentionally delayed.
- The portion of a Routable Order that is to be routed away will not be intentionally delayed, regardless of who submitted the Routable Order.

Also, LEAD will not delay any outbound messages or market data.

The Exchange notes that adopting a symmetric delay and order types that would permit the Exchange to reprice resting orders based on undelayed market data, such as the IEX Delay and pegged order types, would not address latency arbitrage at CHX with respect to limit orders because the liquidity provision strategies utilized by CHX liquidity providers, which provide valuable liquidity to the market overall,[24] require cancellations or adjustments to resting limit orders pursuant to proprietary algorithms held by the CHX liquidity providers that could not be adequately replicated by CHX.[25] Also, as the Commission noted in the IEX Approval Order, a symmetric delay that delays all inbound messages would be ineffective in protecting resting limit orders from latency arbitrage.[26] However, the Exchange notes that both LEAD and the IEX Delay provide processing advantages to certain types of liquidity providers over all other order senders so as to minimize the effectiveness of latency arbitrage and are thus similar in this respect.[27]

Moreover, the Exchange submits that LEAD is consistent with the objectives of the Exchange Act and the rules and regulations thereunder. As described in detail below,[28] LEAD is, among other things, (1) a *de minimis* intentional access delay in that it is so short as to not frustrate the purposes of Rule 611 of Regulation NMS [29] by impairing fair and efficient access to an exchange's quotations; [30] (2) consistent with Rule 602(b) of Regulation NMS; [31] and (3) furthers the objectives of the objectives of Section 6(b)(5) of the Act in that it would protect investors and the public interest and does not unfairly discriminate among Participants.[32]

Amended Article 16, Rule 4 (Obligation of Market Makers)

Proposed Article 16, Rule 4(f) provides rules regarding the proposed LEAD MM Program. Specifically, proposed paragraph (f)(1) provides defined terms for the purposes of paragraph (f). Thereunder, proposed paragraph (f)(1)(A) provides that ''LEAD'' means the Liquidity Enhancing Access Delay, as described under proposed Article 20, Rule 8(h); proposed paragraph (f)(1)(B) provides that ''LEAD MM'' means a Market Maker assigned to a particular security that has committed to maintaining Minimum Performance Standards, described under proposed paragraph (f)(2), in the security; proposed paragraph (f)(1)(C) provides that ''LEAD MM Security'' means a security assigned to a LEAD MM; and proposed paragraph (f)(1)(D) provides that ''Qualified Executions'' means all executed shares at CHX, during all trading sessions,[33] resulting from single-sided orders, excluding any executed shares resulting from auctions.

Proposed paragraph (f)(2) provides that ''Minimum Performance Standards'' means the Quotation Requirements and Obligations described under current paragraph (d),[34] which provides the current quoting and pricing obligations for Market Makers, with the following modifications.[35]

Proposed paragraph (f)(2)(A) provides that the Designated Percentages described under current Article 16, Rule 4(d)(2)(B) shall be halved.[36] Thus, new incoming orders submitted by LEAD MMs will be required to be priced closer to the NBBO or the last reported sale in the security, as applicable, than those of current Market Makers.

In addition, LEAD MMs will be required to meet the following

[20] *See* Securities Exchange Act Release No. 78101 (June 17, 2016), 81 FR 41141 (June 23, 2016) (''IEX Approval Order''). The IEX Delay will delay all inbound order-related messages from IEX Users, outbound message confirmations to IEX Users and outbound market data disseminated through IEX's proprietary data feed. *See id.* at 41154. By not delaying inbound market data, IEX would be able to reprice its resting pegged orders to track changes to the NBBO before latency arbitrageurs could execute against such pegged orders at potentially stale prices, which facilitates the ability of IEX to comply with its rules regarding the repricing of pegged orders. *See id.* at 41155.

[21] For clarity, ''processed'' means executing instructions contained in a message, including, but not limited to, permitting an order to execute within the Matching System pursuant to the terms of the order or cancelling an existing order, whereas ''evaluate'' means the Matching System determining whether a message should be diverted into LEAD, as described below.

[22] The Matching System is an automated order execution system, which is a part of the Exchange's ''Trading Facilities,'' as defined under CHX Article 1, Rule 1(z).

[23] *See* CHX Article 1, Rule 1(oo) defining ''Routable Order.''

[24] *See supra* note 8; *see also infra* Appendices A and B.

[25] *See supra* note 7.

[26] *See* IEX Approval Order, *supra note* 20, at 41157.

[27] *See infra* Section 3(b).

[28] *See id.*

[29] 17 CFR 242.611.

[30] *See* Securities Exchange Act Release No. 78102 (June 17, 2016), 81 FR 40785 (June 23, 2016) (''Final Interpretation'').

[31] *See* 17 CFR 242.602(b).

[32] 15 U.S.C. 78f(b)(5).

[33] *See supra* note 5.

[34] The current Quotation Requirements and Obligations include, among other things, a continuous two-sided quote obligation and pricing obligations that require a continuous bid no further away from the National Best Bid (''NBB'') and a continuous offer no further away from the National Best Offer (''NBO'') than the Designated Percentage or Defined Limit, as applicable. *See* CHX Article 16, Rule 4(d).

[35] Trading days on which the Exchange does not open for trading, for whatever reason, will be excluded from the Exchange's calculations regarding compliance with the proposed Minimum Performance Standards.

[36] For example, the 8% Designated Percentage for securities subject to the Article 20, Rule 2A(c)(1)(A) pursuant to current CHX Article 16, Rule 4(d)(2)(A) and (B) would be 4% for LEAD MMs.

additional requirements. Proposed paragraph (f)(2)(B) provides that LEAD MMs shall maintain a Monthly Average NBBO Quoting Percentage, as defined thereunder, in each of its LEAD MM Securities, of at least 10% over the course of a calendar month. For each such security, the Exchange will determine: (i) The ''Daily NBB Quoting Percentage'' by determining the percentage of time the LEAD MM has at least one Round Lot [37] of displayed interest in an Exchange bid at the NBB during the Open Trading State [38] of each trading day for a calendar month; (ii) the ''Daily NBO Quoting Percentage'' by determining the percentage of time the LEAD MM has at least one Round Lot of displayed interest in an Exchange offer at the NBO during the Open Trading State of each trading day for a calendar month; (iii) the ''Average Daily NBBO Quoting Percentage'' for each trading day by summing the ''Daily NBB Quoting Percentage'' and the ''Daily NBO Quoting Percentage'' then dividing such sum by two; and (iv) the ''Monthly Average NBBO Quoting Percentage'' for each security by summing the security's ''Average Daily NBBO Quoting Percentages'' for each trading day in a calendar month then dividing the resulting sum by the total number of trading days in such calendar month.[39] [40]

Proposed paragraph (f)(2)(C) provides that a LEAD MM's Qualified Executions in each of its LEAD MM Securities must comprise on an equally-weighted daily average at least 2% of all Qualified Executions in the same security over the course of a calendar month.[41] The Exchange believes that the 2% requirement is sufficiently high to require a material contribution to overall volume in the security, while not rendering the requirement impractical in the event the security is assigned numerous LEAD MMs.

Proposed paragraph (f)(2)(D) provides that at least 80% of the LEAD MM's Qualified Executions in each of its LEAD MM Securities must result from its resting orders that originated from the corresponding LEAD MM Trading Account over the course of a calendar month.[42]

The Exchange submits that the proposed Minimum Performance Standards are commensurate with the benefit afforded to LEAD MMs. Given that the only benefit afforded to LEAD MMs is the ability to cancel and cancel/replace its resting orders without delay, the Exchange believes that it would be inappropriate to adopt even higher quoting and trading requirements, such as those for Designated Marker Makers (''DMMs'') on the New York Stock Exchange (''NYSE''), who, in return for such higher quoting and trading requirements, receive certain financial and execution parity benefits not proposed herein.[43]

Proposed paragraph (f)(3) provides rules regarding the process by which Market Makers would be assigned securities as a LEAD MM. Specifically, proposed paragraph (f)(3)(A) provides that only a Market Maker may apply to be assigned one or more securities as a LEAD MM. Market Makers must receive written approval from the Exchange to be assigned securities as a LEAD MM. LEAD MMs shall be selected by the Exchange based on factors including, but not limited to, experience with making markets in securities, adequacy of capital, willingness to promote the Exchange as a marketplace, issuer preference, operational capacity, support personnel and history of adherence to Exchange rules and securities laws. Current Article 16, Rules 2(c)–(e) regarding withdrawal from assigned securities shall also apply to LEAD MMs and LEAD MM Securities.[44]

Proposed paragraph (f)(3)(B) outlines requirements regarding LEAD MM Trading Accounts and provides that before beginning LEAD market making activities in a security, a LEAD MM shall complete the following, subject to Exchange approval. Thereunder, proposed subparagraph (B)(i) provides that the LEAD MM must establish at least one separately designated LEAD MM Trading Account through which all and only LEAD market making activities in LEAD MM Securities shall originate.

Subparagraph (B)(ii) provides that the LEAD MM must register each of its LEAD MM Securities to precisely one LEAD MM Trading Account (''Valid LEAD MM Trading Account''); provided, however, that a LEAD MM Trading Account may be registered with one or more LEAD MM Securities. All messages related to a single LEAD MM Security must originate from the Valid LEAD MM Trading Account on a given day and in the event a LEAD MM wishes to change the Valid LEAD MM Trading Account for a given LEAD MM Security, the LEAD MM shall so notify the Exchange in writing by no later than 9 a.m. on the trading day immediately preceding the effective date of the change; provided, however, that the Exchange may, at its discretion, delay or deny the change. In addition, no change of a Valid LEAD MM Trading Account for a given LEAD MM Security may be effected intraday.

Proposed paragraph (f)(3)(B) facilitates the ability of the Exchange to monitor compliance with the proposed Minimum Performance Standards by requiring a LEAD MM to submit all LEAD market making activities in a particular security through a Valid LEAD MM Trading Account. Moreover, in the event a LEAD MM would like to change the Valid LEAD MM Trading Account for a given LEAD MM Security, the proposed rule outlines the precise procedures to effect the change, which promotes clarity regarding the process.

Proposed paragraph (f)(3)(C) provides that the Exchange may, at its discretion, approve more than one LEAD MM to be assigned to any LEAD MM Security and limit the number of LEAD MMs assigned to any security.

Proposed paragraph (f)(3)(D) provides that the Exchange will review each LEAD MM's quoting and trading activity on a monthly basis to determine whether the LEAD MM has met the Minimum Performance Standards. Also, a LEAD MM's failure to meet the Minimum Performance Standards on any given month will result in the Exchange (i) suspending or terminating a LEAD MM's registration as a Market Maker pursuant to current Article 16, Rule 1(d) or (ii) suspending or terminating assignment to a LEAD MM Security pursuant to proposed subparagraph (A) above. In addition, nothing in proposed subparagraph (D) will limit any other power of the Exchange to discipline a LEAD MM pursuant to CHX Rules.

[37] *See* CHX Article 1, Rule 2(f)(3) defining ''Round Lot.''

[38] *See* CHX Article 1, Rule 1(qq) defining ''Open Trading State.''

[39] For example, a LEAD MM with a Monthly Average NBBO Quoting Percentage of 11% would meet the requirements of proposed paragraph (f)(2)(B), even if on a particular day during the calendar month, the LEAD MM's Average Daily Quoting Percentage was 9%.

[40] *See supra* note 35.

[41] For example, a LEAD MM whose Qualified Executions in an assigned security comprised on average 3% of all Qualified Executions in the assigned security over the course of a calendar month would meet the requirements of proposed paragraph (f)(2)(C), even if on a particular day during the calendar month, the LEAD MM's Qualified Executions in the same assigned security comprised 1% of all Qualified Executions in the assigned security on that day.

[42] Unlike the standards provided under proposed paragraphs (f)(2)(A)–(C), this standard would be measured based on aggregate activity over the course of a calendar month.

[43] *See generally* NYSE Rules 103B and 104.

[44] The Exchange will expand its current procedures for voluntary and involuntary withdrawals regarding Marker Maker securities to apply to LEAD MM Securities.

Amended Article 20, Rule 8 (Operation of the CHX Matching System)

Proposed Article 20, Rule 8(h) provides rules regarding the operation of LEAD. Specifically, proposed paragraph (h) begins by stating that after initial receipt [45] of a new incoming message, the Matching System will evaluate [46] the message to determine whether it is a Delayable Message, as defined under proposed paragraph (h)(1) below. For the purposes of such an evaluation only, the Matching System shall not consider Match Trade Prevention (''MTP''), as described under current Article 1, Rule 2(b)(3)(F).[47] If not delayable, the Matching System will immediately process the message without delay.

Proposed paragraph (h)(1) provides that ''Delayable Message'' means all new incoming order, cancel and cancel/replace messages, except as follows:

(A) Any new incoming order or unrouted balance, as described under proposed subparagraph (D) below, that originates from a Valid LEAD MM Trading Account, as described under proposed Article 16, Rule 4(f)(3)(B)(ii), that would, by its terms, immediately be ranked on CHX book without executing against any existing resting orders on the CHX book shall not be a Delayable Message.

(B) A cancel message related to a resting order that originates from a Valid LEAD MM Trading Account shall not be a Delayable Message.

(C) A cancel/replace message related to a resting order that originates from a Valid LEAD MM Trading Account shall not be a Delayable Message; provided, however, that if any part of the replace portion would immediately execute against existing resting orders on the CHX book, the replace portion shall be a Delayable Message.

(D) The portion of a new incoming Routable Order that is to be routed away, pursuant to current Article 19, Rule 3(a), shall not be diverted into the LEAD; provided, however, that the entire unrouted balance of the Routable Order shall be diverted into the LEAD, subject to proposed subparagraph (A).

Mechanically, upon initial receipt of a new incoming message, the Matching System would assign the message a unique sequence number, as it does currently, which, in addition to establishing processing and execution priority, will serve as the starting point for the Fixed LEAD Period, as described below. The Matching System would then initially evaluate the message to determine whether it is a Delayable Message.[48] For example, a new incoming limit order marked Post Only [49] that originated from a Valid LEAD MM Trading Account that would not be immediately ranked on the CHX book due to one or more matchable contra-side orders resting on the CHX book would be a Delayable Message because the Post Only order would not, by its terms, immediately be ranked on the CHX book without executing against any resting orders on the CHX book. In such a case, the Post Only order would be diverted into the LEAD queue before being processed by the Matching System, which would result in the Post Only order being posted or cancelled depending on the state of the CHX book upon its release.[50] If, however, the Exchange were to receive a new Post Only order that originated from a Valid LEAD MM Trading Account that would post to the CHX book due to no existing orders resting on the CHX book at that time, the Post Only order would not be a Delayable Message and it would immediately be ranked on the CHX book without delay.[51] Similarly, a new incoming order marked CHX Only [52] that originated from a Valid LEAD MM Trading Account that would trade-through a protected quotation of an external market would not be a Delayable Message as it would be price slid to a permissible price.[53] Also, a new incoming order that originated from a Valid LEAD MM Trading Account that would immediately be ranked on the CHX book without executing against any resting orders because MTP would cancel the resting contra-side orders against which the order would have executed, would be a Delayable Message, as MTP is ignored for the purposes of the LEAD evaluation only.[54]

Proposed paragraph (h) continues by providing that if a message is delayable, the message will be diverted into the LEAD queue and will remain delayed until it is released for processing. A delayed message shall become releasable 350 microseconds after initial receipt by the Exchange (''Fixed LEAD Period''),[55] but shall only be processed after the Matching System has evaluated and processed, if applicable,[56] all messages in the security received by the Exchange during the Fixed LEAD Period for the delayed message. A message may be delayed for longer than the Fixed LEAD Period depending on the then-current messaging volume at CHX.[57] The Matching System will utilize a new market snapshot to process a released order.[58] A delayed message shall retain its original sequence number and may only be delayed once. LEAD shall apply to all securities traded on the Exchange throughout the trading day.[59] LEAD shall not apply to messages received during an auction.[60]

The Exchange also proposes to make corresponding amendments to current Article 20, Rule 8(d) and (f) to contemplate LEAD. Specifically, the Exchange proposes to add the clause ''subject to paragraph (h) below'' at the end of current paragraph (d)(1) so that amended paragraph (d)(1) provides as follows:

[45] As used herein, ''initial receipt'' means the time at which the Exchange receives a message and assigns the message a unique sequence number, which the Exchange utilizes to determine, among other things, message processing order and ranking on the CHX book. *See* CHX Article 20, Rule 8(b).

[46] *See supra* note 21.

[47] The purpose of ignoring MTP in LEAD evaluation is to provide a previously delayed order that would not have triggered MTP an opportunity to execute against the resting order before the newer incoming order would cancel the resting order after release from LEAD. The Exchange is also proposing unrelated modifications to MTP to contemplate LEAD, as discussed below.

[48] The Exchange notes that the Matching System processes messages for a given security serially. Thus, the length of time it takes for a message to be evaluated and/or processed by the Matching System after initial receipt is herein called ''variable message queuing delay,'' as the actual length of the delay depends on the number of precedent messages that have yet to be evaluated and/or processed by the Matching System and are residing in the ''Inbound Queue.'' The length of time it takes for a message to be evaluated and/or processed by the Matching System is herein called ''system processing delay.''

[49] *See* CHX Article 1, Rule 2(b)(1)(D) defining ''Post Only.''

[50] *See infra* Example 2.

[51] *See id.*

[52] *See* CHX Article 1, Rule 2(b)(1)(C) defining ''CHX Only.''

[53] *See* CHX Article 20, Rule 5(a)(2).

[54] *See supra* note 47.

[55] In the event that then-current messaging volume results in a Delayable Message being evaluated after 350 microseconds from initial receipt, the Delayable Message shall be diverted into LEAD and be immediately releasable. This will ensure that messages received during the Fixed LEAD Period for a delayed message are evaluated and processed, if applicable, before the Delayable Message is released.

[56] For example, an order that would not take liquidity from the CHX book would not be delayed and would be immediately processed, whereas an order that would take liquidity from the CHX book would be delayed and would not be immediately processed.

[57] In the event a releasable message is awaiting other messages received during its Fixed LEAD Period to be evaluated and processed, if applicable, the releasable message would be subject to an additional unintentional variable delay that is a function of the then-current messaging volume at CHX. *See supra* note 21; *see also supra* note 45; *see also infra* Examples 1–3.

[58] The purpose of a new market snapshot is to ensure that the released order is processed in a manner consistent with federal securities rules and regulations, such as Regulation NMS and Regulation SHO.

[59] *See supra* note 5.

[60] For example, if the Exchange receives an order after initiation of a Sub-second Non-displayed Auction Process (''SNAP'') in the security, the order will not be diverted into the LEAD queue and, rather, be handled pursuant to current CHX Article 18, Rule 1.

Except for certain orders which shall be executed as described in Rule 8(e), below, an incoming order shall be matched against one or more resting orders in the Matching System, in the order in which the resting orders are ranked on the CHX book, pursuant to Rule 8(b) above, at the Working Price of each resting order, as defined under Article 1, Rule 1(pp), for the full amount of shares available at that price, or for the size of the incoming order, if smaller; subject to paragraph (h) below.

The Exchange also proposes to amend paragraph (f)(1) to provide that orders resting on the CHX book shall be immediately and automatically cancelled upon receipt of a cancellation message, subject to paragraph (h) below, as certain cancel messages will be diverted into the LEAD as described above.

Examples 1–2 below illustrate the operation of LEAD.

Amended Routing Protocol

In light of the possible bifurcation of a Routable Order into an immediately routed portion and a delayed unrouted portion [61] and the fact that the Exchange does not currently utilize any Router Feedback to augment protected quotations,[62] LEAD could result in a single order being routed twice to satisfy the same protected quotation. In order to eliminate this inefficiency, the Exchange proposes to amend its current order routing protocol to adopt a single type of Router Feedback utilized by the Bats BYX Exchange,[63] Immediate Feedback, but only on an order-by-order basis. Use of Immediate Feedback would permit the Exchange to augment away quotes on an order-by-order basis to avoid double routing of the same order to satisfy the same protected quotation(s).

Specifically, Immediate Feedback would permit the Exchange to decrease the number of shares available at an away market by an amount equal to the size of the immediately routed portion of the Routable Order. In the extremely unlikely event that the Exchange receives an execution report from an away market indicating that the routed portion of a Routable Order had partially-executed prior to the unrouted balance being released from the LEAD queue, the Exchange would first add the cancelled remainder to the unrouted balance in the LEAD queue and then continue to utilize Immediate Feedback to augment the relevant away quotes when processing the unrouted balance upon release from the LEAD queue, unless the feedback had expired.

Immediate Feedback would expire as soon as: (i) One second passes or (ii) the Exchange receives new quote information from the away market. Given that Immediate Feedback will only be applied on an order-by-order basis, Immediate Feedback would also expire upon full execution, cancellation or ranking of the Routable Order on the CHX book. Also, in light of the relatively short Fixed LEAD Period, it is unlikely that Router Feedback would expire prior to the unrouted balance being released from the LEAD queue and processed by the Matching System.

Examples 2–3 illustrate the operation of the amended routing protocol in the context of LEAD.

Amended Article 1, Rule 2(b)(3)(F) (Match Trade Prevention)

Current Article 1, Rule 2(b)(3)(F) describes the MTP modifier, which prevents matches between orders that originate from the same MTP Trading Group or MTP sublevel thereunder.[64] Also, an order sender must designate one of the following MTP Actions for each order, with the MTP Action noted on the incoming order controlling the MTP interaction:

MTP Cancel Incoming (''N''): An incoming limit or market order marked ''N'' will not execute against opposite side resting interest originating from the same MTP Trading Group or MTP sublevel, if applicable. Only the incoming order will be cancelled pursuant to MTP.

MTP Cancel Resting (''O''): An incoming limit or market order marked ''O'' will not execute against opposite side resting interest originating from the same MTP Trading Group or MTP sublevel, if applicable. Only the resting order will be cancelled pursuant to MTP.

MTP Cancel Both (''B''): An incoming limit or market order marked ''B'' will not execute against opposite side resting interest originating from the same MTP Trading Group or MTP sublevel, if applicable. The entire size of both orders will be cancelled pursuant to MTP.

Given that LEAD may result in newer orders (*i.e.,* orders with lower sequence numbers) becoming resting orders prior to older orders being released from LEAD,[65] the Exchange proposes to amend current Article 1, Rule 2(b)(3)(F)(iii)(a) and (b), which describe MTP Actions ''N'' and ''O'' respectively, to provide that the newer of the contra-side orders, as opposed to the incoming order if it is the older order, would be cancelled if the incoming order is marked ''N,'' and the older of the contra-side orders, as opposed to the resting order if it is the newer order, would be cancelled if the incoming order is marked ''O.'' Moreover, given that a price slid order that triggers MTP is not always the newer order [66] and because the Exchange wishes to maintain the current handling of MTP when it is triggered by a price slid order, the Exchange proposes to add clauses to the end of current subparagraphs (a) and (b) that preserve that current handling. Thus, amended subparagraphs (a) and (b) provide as follows:

(a) *MTP Cancel New* (''*N*''): An incoming limit or market order marked ''N'' will not execute against opposite side resting interest originating from the same MTP Trading Group or MTP sublevel, if applicable. Only the newer order will be cancelled pursuant to MTP; provided that the incoming order will be cancelled, even if it is not the newer order, in the event MTP is triggered by the incoming order being price slid pursuant to the CHX Only Price Sliding Processes.

(b) *MTP Cancel Old (''O''):* An incoming limit or market order marked ''O'' will not execute against opposite side resting interest originating from the same MTP Trading Group or MTP sublevel, if applicable. Only the older order will be cancelled pursuant to MTP; provided that the resting order will be cancelled, even if it is not the older order, in the event MTP is triggered by the incoming order being price slid pursuant to the CHX Only Price Sliding Processes.

Example 4 below illustrates the operation of the amended MTP in the context of LEAD.

(4) *Examples*

The following Examples are illustrative of LEAD and related amendments to existing functionality, but do not exhaustively depict every possible scenario that may arise under LEAD. Moreover, the Examples do not necessarily depict the actual technical processes of prioritizing messages and executing orders.

[61] *See* proposed CHX Article 20, Rule 8(h)(1)(D).

[62] The Exchange does not currently ignore or modify SIP quote data for away markets under any circumstances where the SIP data feed shows an uncrossed market. *See* Exchange Act Release No. 74357 (February 24, 2015), 80 FR 11252 (March 2, 2015) (SR–CHX–2015–01); *see also* Securities Exchange Act Release No. 72711 (July 29, 2014), 79 FR 45570 (August 5, 2014) (SR–CHX–2014–10).

[63] ''Router Feedback'' refers to the use of routed orders (''Feedback Orders'') to augment protected quotations for the purposes of calculating the National Best Bid and Offer. *See* Securities Exchange Act Release No. 74075 (January 15, 2015), 80 FR 3693 (January 23, 2015) (SR–BYX–2015–03).The three types of Router Feedback are Immediate Feedback, Execution Feedback and Cancellation Feedback. *See id.* at 3695.

[64] *See* Securities Exchange Act Release No. 71216 (December 31, 2013), 79 FR 883 (January 7, 2014) (SR–CHX–2013–23); *see also* Securities Exchange Act Release No. 70948 (November 26, 2013), 78 FR 72731 (December 3, 2013) (SR–CHX–2013–20).

[65] Currently, a new incoming order that triggers MTP is always newer than the resting contra-side order. However, LEAD may result in the newer of the contra-side orders being the resting order and the older order being the incoming order. *See infra* Example 4.

[66] *See* Example 4 under SR–CHX–2013–20.

Example 1: LEAD. Assume that LEAD is operational, all messages are for security XYZ and all orders are routable, unless marked otherwise. Assume also that the system processing delay [67] is 50 microseconds [68] and the CHX book is as follows:

Fig 1(a): CHX book	
Buy	Sell
Empty	*Order A:* 1000 @10.01 (LMM).[69]

Assume then that the Exchange receives the following messages:

Fig 1(b): Inbound queue	
Initial receipt	Message
10:00:00.000000	*Order B:* Buy 1000 @10.01.
10:00:00.000265	*Cancel Order A* (LMM).
10:00:00.000305	*Order C:* Sell 1000 @10.02.
10:00:00.000310	*Order D:* Buy 1000 @10.01 (LMM).
10:00:00.000325	*Cancel Order B.*
10:00:00.000355	*Order E:* Sell 1000 @10.01.

Under this Example 1:

• *Order B* would be evaluated and diverted into LEAD as it originated from a non-Valid LEAD MM Trading Account and is thus a Delayable Message. Due to the system processing delay, *Order B* would be diverted into LEAD at 10:00:00.000050 and releasable at 10:00:00.000350. The result is that the LEAD queue would be as follows:

Fig 1(c): LEAD queue	
Releasable time	Message
10:00:00.000350	*Order B:* Buy 1000 @10.01.

• *Cancel Order A* would be evaluated and processed at 10:00:00.000265 without being diverted into LEAD as it is a cancel message for a resting order that originated from a Valid LEAD MM Trading Account and is thus not a Delayable Message. Due to the system processing delay, *Order A* would be cancelled at 10:00:00.000315 and the CHX book would become empty.

• *Order C* would then be evaluated at 10:00:00.000315, due to the variable message queuing delay,[70] and be diverted into LEAD because it originated from a non-Valid LEAD MM Trading Account and is thus a Delayable Message. Due to the system processing delay, *Order C* would be diverted into LEAD at 10:00:00.000365 and releasable at 10:00:00.000665.

Fig 1(d): LEAD queue	
Releasable time	Message
10:00:00.000350	*Order B:* Buy 1000 @10.01.
10:00:00.000665	*Order C:* Sell 1000 @10.02.

• While *Order C* was being evaluated by the Matching System, *Order B* became releasable from the LEAD queue at 10:00:00.000350. However, given that the Matching System processes messages serially,[71] the Matching System would not consider releasing *Order B* until after *Order C* had been placed into the LEAD queue at 10:00:00.000365, at which point it would be handled as follows:

○ At 10:00:00.000365, the Matching System would compare the releasable time of *Order B* to the initial receipt time of the message at the top of the Inbound Queue: *Order D.* Since *Order D* was received during the Fixed LEAD Period for *Order B, Order D* would be evaluated before releasing *Order B* and processed without being diverted into LEAD as it originated from a Valid LEAD MM Trading Account and would be immediately ranked on the CHX book without executing against resting orders on the CHX book and is thus not a Delayable Message. Due to the system processing delay, *Order D* would be ranked on the CHX book at 10:00:00.000415. The result is that the CHX book would be as follows:

Fig 1(e): CHX book	
Buy	Sell
Order D: 1000 @10.01 (LMM).	Empty.

○ At 10:00:00.000415, the Matching System would then compare the releasable time of *Order B* to the initial receipt time of the next message at the top of the Inbound Queue: *Cancel Order B.* Since *Cancel Order B* was received when *Order B* was in the LEAD queue, *Cancel Order B* would be diverted into LEAD as it originated from a non-Valid LMM Trading Account and is thus a Delayable Message. However, due to the system processing delay, *Cancel Order B* would be diverted into LEAD at 10:00:00.000465 and releasable at 10:00:00.000675. The result is that the LEAD queue would be as follows:

Fig 1(f): LEAD queue	
Releasable time	Message
10:00:00.000350	*Order B:* Buy 1000 @10.01.
10:00:00.000665	*Order C:* Sell 1000 @10.02.
10:00:00.000675	*Cancel Order B.*

○ At 10:00:00.000465, the Matching System would then compare the releasable time of *Order B* to the initial receipt time of the next message at the top of the Inbound Queue: *Order E.* Given that *Order E* was received after the Fixed LEAD Period for *Order B* had expired, the Matching System would release *Order B* before evaluating *Order E.* Due to the system processing delay, *Order B* would be ranked on the CHX book at 10:00:00.000515. Also, given that *Order B* was initially received before *Order D, Order B* would receive execution priority over *Order D,* pursuant to Article 20, Rule 8(b)(1). The result is that the CHX book and LEAD queue would be as follows:

Fig 1(g): CHX book	
Buy	Sell
Order B: 1000 @10.01. *Order D:* 1000 @10.01 (LMM).	Empty.

Fig 1(h): LEAD queue	
Releasable time	Message
10:00:00.000665	*Order C:* Sell 1000 @10.02.
10:00:00.000675	*Cancel Order B.*

• *Order E* would then be evaluated at 10:00:00.000515, due to the variable message queuing delay, and then diverted into the LEAD as it originated from a non-Valid LEAD MM Trading Account and is thus a Delayable Message. Due to the system-processing delay, *Order E* would be diverted at 10:00:00.000565 and releasable at 10:00:00.000705. The result is that the LEAD queue would be as follows:

Fig 1(i): LEAD queue	
Releasable time	Message
10:00:00.000665	*Order C:* Sell 1000 @10.02.
10:00:00.000675	*Cancel Order B.*
10:00:00.000705	*Order E:* Sell 1000 @10.01.

• *Order C* would then be released from LEAD at 10:00:00.000665. Due to the system processing delay, *Order C* would be ranked on the CHX book at 10:00:00.000715. The result is that the CHX book and LEAD queue are as follows:

Fig 1(j): CHX book	
Buy	Sell
Order B: 1000 @10.01. *Order D:* 1000 @10.01 (LMM).	*Order C:* 1000 @10.02.

Fig 1(k): LEAD queue	
Releasable time	Message
10:00:00.000675	*Cancel Order B.*
10:00:00.000705	*Order E:* Sell 1000 @10.01.

• *Cancel Order B* would then be released from LEAD at 10:00:00.000715, as the Matching System was processing *Order C* when *Cancel Order B* became releasable at 10:00:00.000675. Due to the system processing delay *Order B* would be cancelled at 10:00:00.000765. The result is that the CHX book and the LEAD queue would be as follows:

Fig 1(l): CHX book	
Buy	Sell
Order D: 1000 @10.01 (LMM).	*Order C:* 1000 @10.02.

Fig 1(m): LEAD queue	
Releasable time	Message
10:00:00.000705	*Order E:* Sell 1000 @10.01.

[67] *See supra* note 48.

[68] The Exchange does not represent that actual system processing delay is at or near 50 microseconds or that unintentional delays do not exist elsewhere in the Matching System processes. The figure is being utilized for demonstrative purposes only.

[69] ''LMM'' refers to messages that originated from a Valid Lead MM Trading Account. Absence of ''LMM'' means that the message did not originate from a Valid LEAD MM Trading Account.

[70] *See supra* note 48.

[71] *See id.*

• *Order E* would then be released from LEAD at 10:00:00.000765, as the Matching System was processing *Order C* (then *Cancel Order B*) when *Order E* became releasable at 10:00:00.000705. *Order E* would then be processed and fully execute against *Order D* at 10.01/share at 10:00:00.000775, due to the system processing delay. The result is that the Inbound Queue and the LEAD queue would be empty and the CHX book would be as follows:

Empty	*Order C:* 1000 @10.02.

Example 2: Post Only and Routing—Immediate Feedback. Assume the same as Example 1. Assume also that after *Order E* was processed, the NBBO became 10.01 x 10.02 with only one market (''Away Market A_1'') displaying 100 shares at the NBB (''Protected Bid A_1'') and no other protected bids and CHX is alone at the NBO displaying 1000 shares at 10.02. Assume then that the Matching System receives the following new messages in security XYZ:

Fig 2(a): Inbound queue

Initial receipt	Message
10:00:00.000900	*Cancel Order C.*
10:00:00.001000	*Order F:* Post Only Buy 100 @10.02.
10:00:00.001010	*Order G:* Post Only Buy 100 @10.01 (LMM).
10:00:00.001020	*Order H:* Sell 500 @9.99 (LMM).
10:00:00.001030	*Order I:* Sell 500 @9.99.
10:00:00.001600	*Order J:* Buy 600 @9.99.
10:00:00.001610	*Order K:* Sell 200 @9.99 (LMM).
10:00:00.001750	*Cancel Order I.*
10:00:00.001760	*Cancel Order H* (LMM).

Under this Example 2:

• *Cancel Order C* would be evaluated at 10:00:00.000900 and diverted into the LEAD as it originated from a non-Valid LEAD MM Trading Account and is thus a Delayable Message. Due to the system processing delay, *Cancel Order C* would be diverted at 10:00:00.000950 and releasable at 10:00:00.001250. The result is that the CHX Book and LEAD queue would be as follows:

Fig 2(b): CHX book

Buy	Sell
Empty	*Order C:* 1000 @10.02.

Fig 2(c): LEAD queue

Releasable time	Message
10:00:00.001250	*Cancel Order C.*

• *Order F* would then be evaluated at 10:00:00.001000 and diverted into the LEAD as it originated from a non-Valid LEAD MM Trading Account and is thus a Delayable Message. Due to the system processing delay, *Order F* would be diverted at 10:00:00.001050 and releasable at 10:00:001350. The result is that the LEAD queue would be as follows:

Fig 2(d): LEAD queue

Releasable time	Message
10:00:00.001250	*Cancel Order C.*
10:00:00.001350	*Order F.*

• *Order G* would then be evaluated at 10:00:00.001050, due to variable message queuing delay, and would be immediately processed without being diverted into LEAD as it originated from a Valid LEAD MM Trading Account and would be immediately ranked on the CHX book without executing against resting orders and is thus not a Delayable Message. Due to the system processing delay, *Order G* would be ranked on the CHX book at 10:00:00.1100. The result is that the CHX book is as follows:

Fig 2(e): CHX book

Buy	Sell
Order G: 100 @10.01 (LMM).	*Order C:* 1000 @10.02.

• *Order H* would then be evaluated at 10:00:00.001100, due to variable message queuing delay. Pursuant to the Exchange's routing protocol, the Exchange would immediately route 100 shares of *Order H* priced at 10.01/share to satisfy Protected Bid A_1, and divert the unrouted 400 shares of *Order H* into the LEAD queue as it is priced such that it would immediately execute against *Order G* and is thus a Delayable Message. Due to the system processing delay, *Order H* would be diverted at 10:00:00.001150, and releasable at 10:00:00.001370. The result is that the LEAD queue would be as follows:

Fig 2(f): LEAD queue

Releasable time	Message
10:00:00.001250	*Cancel Order C.*
10:00:00.001350	*Order F.*
10:00:00.001370	*Order H*—Unrouted Balance (LMM).

• *Order I* would then be evaluated at 10:00:00.001150, due to variable message queuing delay. Given that the proposed Router Feedback is only applied on an order-by-order basis, *Order I* would be handled similarly to *Order H.* Thus, the Exchange would immediately route 100 shares of *Order I* priced at 10.01/share to satisfy Protected Bid A_1, and divert the unrouted 400 shares of *Order I* into the LEAD queue as it originated from a non-Valid LEAD MM Trading Account and is thus a Delayable Message. Due to the system processing delay, *Order I* would be diverted at 10:00:00.001200 and releasable at 10:00:00.001380. The result is that the LEAD queue would be as follows:

Fig 2(g): LEAD queue

Releasable time	Message
10:00:00.001250	*Cancel Order C.*
10:00:00.001350	*Order F.*
10:00:00.001370	*Order H*—Unrouted Balance (LMM).
10:00:00.001380	*Order I*—Unrouted Balance.

• At 10:00:00.001250, *Cancel Order C* would be released from the LEAD queue. Due to the system processing delay, *Order C* would be cancelled at 10:00:00.01300. The result is that the CHX book and LEAD queue would be as follows:

Fig 2(h): CHX book

Buy	Sell
Order G: 100 @10.01	Empty.

Fig 2(i): LEAD queue

Releasable time	Message
10:00:00.001350	*Order F.*
10:00:00.001370	*Order H*—Unrouted Balance (LMM).
10:00:00.001380	*Order I*—Unrouted Balance.

• At 10:00:00.01350, *Order F* would be released from the LEAD queue. Due to the system processing delay, *Order F* would be ranked on the CHX book at 10:00:00.001400. The result is that the CHX book and the LEAD queue would be as follows:

Fig 2(j): CHX book

Buy	Sell
Order F: 100 @10.02 *Order G:* 100 @10.01.	Empty.

Fig 2(k): LEAD queue

Releasable time	Message
10:00:00.001370	*Order H*—Unrouted Balance (LMM).
10:00:00.001380	*Order I*—Unrouted Balance.

• Due to system processing delays, *Order H* and *Order I* would be released after their respective releasable times as follows:

○ The unrouted balance of *Order H* would be released from the LEAD queue at 10:00:00.001400. *Order H* would then execute against all 100 shares of *Order F* at 10.02/share, as well as all 100 shares of *Order G* at 10.01/share, and the remaining 200 shares of *Order H* would be ranked on the CHX book at 9.99. Due to the system processing delay, the unexecuted balance would be ranked to the CHX book at 10:00:00.001450.

○ The unrouted balance of *Order I* would then be released from the LEAD queue at 10:00:00.001450. All 400 shares of *Order I* would then be ranked on the CHX book at 9.99. Due to the system processing delay, *Order I* would be ranked on the CHX book at 10:00:00.001500. The result is that the LEAD queue would be empty and the CHX book would be as follows:

Fig 2(l): CHX book

Buy	Sell
Empty	*Order H:* 200 @9.99 (LMM). *Order I:* 400 @9.99.

• *Order J* would be evaluated at 10:00:00.001600 and diverted into LEAD as it originated from a non-Valid LEAD MM Trading Account and is thus a Delayable

Message. Due to the system processing delay, *Order J* would be diverted at 10:00:00.001650 and releasable at 10:00:00.001950. The result is that the LEAD queue would be as follows:

Fig 2(m): LEAD queue	
Releasable time	Message
10:00:00.001950	*Order J.*

• *Order K* would be evaluated at 10:00:00.001650, due to the variable messaging delay. *Order K* would be immediately ranked on the CHX book as it originated from a Valid LEAD MM Trading Account and would not immediately execute against any resting orders. Due to the system processing delay, *Order K* would be ranked on the CHX book at 10:00:00.001700. The result is that the CHX book would be as follows:

Fig 2(n): CHX book	
Buy	Sell
Empty	*Order H:* 200 @9.99 (LMM). *Order I:* 400 @9.99. *Order K:* 200 @9.99 (LMM).

• *Cancel Order I* would be evaluated at 10:00:00.001750 and diverted into the LEAD as it is originated from a non-Valid LEAD MM Trading Account and is thus a Delayable Message. Due to the system processing delay, *Cancel Order I* would be diverted at 10:00:00.001800 and releasable at 10:00:00.002100. The result is that the LEAD queue would be as follows:

Fig 2(o): LEAD queue	
Releasable time	Message
10:00:00.001950 ..... 10:00:00.002100	*Order J.* *Cancel Order I.*

• *Cancel Order H* would be evaluated and processed at 10:00:00.001800, due to variable messaging delay, without being diverted into LEAD as it is a cancel message for a resting order that originated from a Valid LEAD MM Trading Account and is thus not a Delayable Message. Due to the system processing delay, *Order H* would be cancelled at 10:00:00.001850. The result is that the CHX Book would be as follows:

Fig 2(p): CHX book	
Buy	Sell
Empty	*Order I:* 400 @9.99. *Order K:* 200 @9.99 (LMM).

• At 10:00:00.001950, *Order J* would be released from the LEAD queue and would immediately execute against all 400 shares of *Order I* at 9.99/share and all 200 shares of *Order K* at 9.99/share. The result is that the CHX book is empty and the LEAD queue is as follows:

Fig 2(q): LEAD queue	
Releasable time	Message
10:00:00.002100	*Cancel Order I.*

• At 10:00:00.002100, *Cancel Order I* would be released from the LEAD queue. Since *Order I* had already been executed in full, *Cancel Order I* will have no effect.

Example 3: Routing—Expired Feedback. Assume the same as Example 2, except that immediately prior to the unrouted balance of Order H being released, the Exchange received an updated quote from Away Market A_1 displaying 1,000 shares at the $10.01.

Under this Example 3, the Immediate Feedback derived from the immediately routed portion of *Order H* would expire and, upon release of the unrouted delayed portion of *Order H,* the Matching System would route the entire unrouted portion to satisfy the updated Protected Bid displayed by Away Market A_1.

Similarly, the Immediate Feedback derived from the immediately routed portion of *Order I* would also expire and, upon release of the unrouted delayed portion of *Order I,* the Matching System would route the entire unrouted portion to satisfy the updated Protected Bid displayed by Away Market A_1.

Example 4: MTP. Assume the same as Example 2, except that *Order J* and *Order K* originated from the same MTP Trading Group and *Order J* has an MTP Action of ''N.''

Under this Example 4, pursuant to the current MTP rules, MTP would be triggered and the *Order J* would be cancelled, as the current ''N'' MTP Action requires the *incoming* order to be cancelled. However, pursuant to the proposed amended MTP rules, *Order K* would be cancelled, as the amended ''N'' MTP action requires the *newer* order to be cancelled, absent a price sliding event.

(5) Operative Date

In the event the proposed rule change is approved by the SEC, the proposed rule change shall be operative pursuant to notice by the Exchange to its Participants. Prior to the operative date, the Exchange will ensure that policies and procedures are in place to allow Exchange operations personnel to effectively monitor the operation of LEAD and compliance by LEAD MMs with the proposed Minimum Performance Standards.

Appendix A: CHX ETF Analysis

The purpose of the CHX ETF Analysis is to demonstrate that latency arbitrage activity [72] in SPY at CHX (''SPY latency arbitrage activity'') has (1) reduced volume and displayed liquidity in SPY at CHX and (2) impaired liquidity provision in SPY marketwide. For the purpose of this CHX ETF Analysis, the following terms shall have the following meanings: [73]

• *After Period* refers to February 2016 through July 2016.

• *Analysis Period* refers to August 2015 through July 2016.

• *Before Period* refers to August 2015 through December 2015.

• *Control Average* refers to the arithmetic average of a given metric for Control Securities.

• *Control Securities* refers to DIA, IWM, and QQQ.[74]

• *Entry Event* refers to a trading day in January 2016 on which latency arbitrage activity in SPY at CHX was first observed.

• *Entry Month* refers to January 2016, the month in which latency arbitrage activity in SPY at CHX was first observed.

• *Subject Securities* refers to SPY and the Control Securities.

Entry of SPY Latency Arbitrage Activity

During the After Period, the Exchange observed unusual messaging patterns in SPY whereby executions of large inbound IOC [75] orders against resting orders in SPY were frequently followed by the receipt of late cancel messages for the executed resting orders very soon after the execution. This observation was corroborated by feedback from liquidity providing Participants that indicated that, unlike prior to the Entry Event, they were no longer able to reliably cancel or cancel/adjust resting orders on the CHX book in SPY in response to market changes after the Entry Event. The Exchange believes that each instance of the unusual messaging pattern is the end result of a race triggered by an away market event (*e.g.,* change in market data from a futures market) whereby the liquidity taker is able to take a resting order at a stale price before the liquidity provider could adjust the resting order to accurately reflect the market. As such, the SPY latency arbitrage activity has had the following impact on volume and liquidity in SPY at CHX and away exchanges:

Analysis 1: SPY Latency Arbitrage Activity Reduced CHX Market Share in SPY Relative to Total Volume in SPY and Disproportionately To Control Securities

As shown under *Figure 1,* CHX Market Share in SPY as a percentage of Total Volume dropped by 90.1% from 5.73% in the Entry Month to 0.57% in

[72] *See supra* note 6; *see also supra* Section 3(a)(2).

[73] Other capitalized terms utilized in the CHX ETF Analysis shall have the meanings set forth under Appendix B.

[74] Each of the Control Securities were selected for the following similarities to SPY in that each is: (1) Highly correlated in price movements with a well-known equity market index; (2) ETFs; (3) traded in CHX's Chicago data center; (4) actively traded in the NMS; and (5) highly correlated with a futures contract traded electronically on the Globex trading platform.

[75] *See* CHX Article 1, Rule 2(d)(4).

July 2016, while CHX Market Share in the Control Average dropped by 45.20% from 5.54% in the Entry Month to 3.03% in July 2016.[76] As shown under *Figure 2,* changes in the average Total Volume during the Analysis Period for the Subject Securities were highly correlated. Thus, *Figure 1* and *Figure 2* show that despite the high correlation between SPY and each of the Control Securities during the Analysis Period, the CHX Market Share in SPY decreased disproportionately to Total Volume, which the Exchange submits is attributed to the SPY latency arbitrage activity.

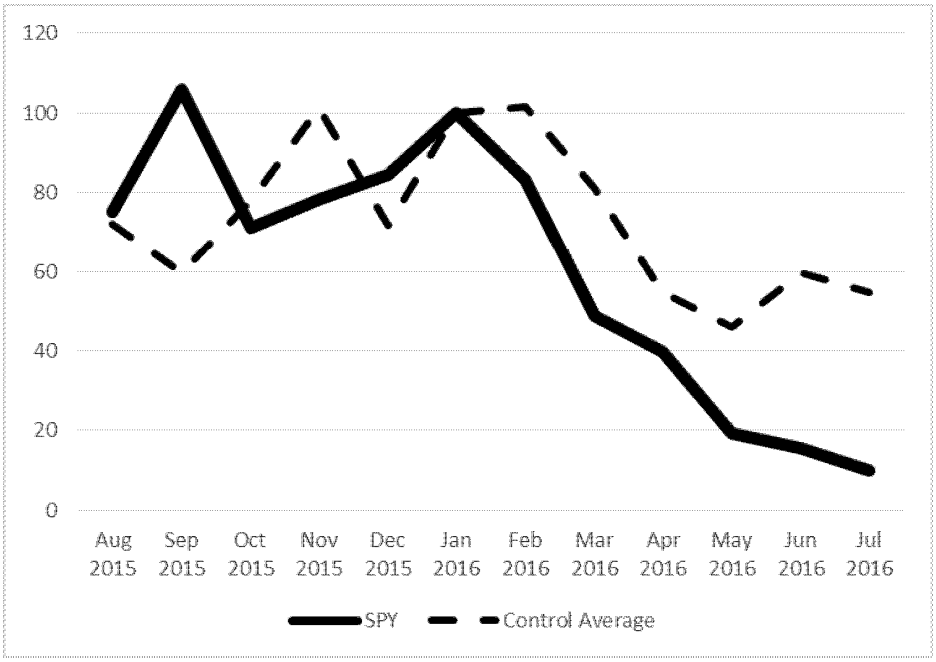

Figure 1. This figure illustrates the decrease in CHX Market Share as a percentage of Total Volume in the Subject Securities (Index: January 2016=100).[77]

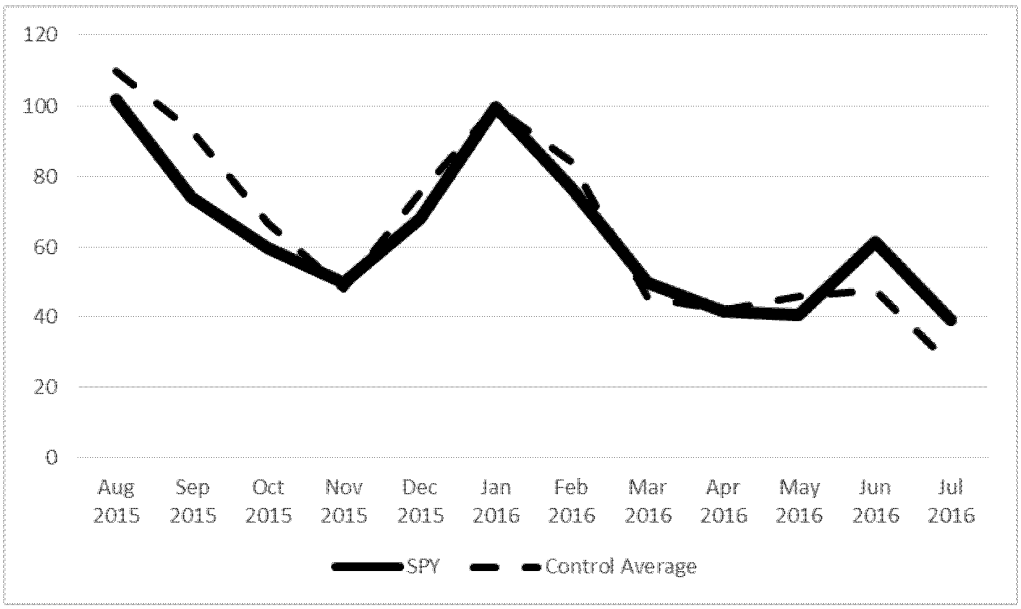

Figure 2. This figure illustrates the correlation in the Total Volume between SPY and the Control Average (Index: January 2016 = 100) during the Analysis Period.[78] [79]

[76] *See infra* Appendix B Calculation Set 1a.

Analysis 2: SPY Latency Arbitrage Activity Resulted in Less Aggressively Priced and Smaller Orders in SPY at CHX

While the Exchange did not observe any discernable change on the NBBO spread in SPY during the After Period, the Exchange did observe a negative impact on the frequency at which CHX was at the NBBO in SPY and the frequency at which CHX displayed the largest quote at the NBBO in SPY during the After Period, while Control Securities experienced either smaller declines or no declines at all.[80]

Specifically, the % of Time CHX Was At The NBB decreased from 23.8% in the Entry Month to 8.2% in July 2016;[81] the % of Time CHX Was At The NBO decreased from 23.3% in the Entry Month to 5.8% in July 2016;[82] and the % of Time CHX Was At The NBB and that CHX Was At The NBO decreased from 3.3% in the Entry Month to 0% in July 2016.[83]

Moreover, the % of Time CHX Was At The NBB And Was The Largest Bid At That Price decreased from 20% in the Entry Month to 2.3% in July 2016;[84] the % of Time CHX Was At The NBO And Was The Largest Offer At That Price decreased from 20.7% in the Entry Month to 1.1% in July 2016;[85] and the % of Time CHX Was At The NBB And Was The Largest Bid At That Price and that CHX Was At The NBO And Was The Largest Offer At That Price decreased from 1.9% to 0%.[86]

These calculation sets clearly show that SPY latency arbitrage activity resulted in less aggressively priced CHX displayed liquidity in SPY and smaller CHX displayed size at the NBBO, during the After Period. SPY latency arbitrage activity also negatively impacted the percentage of the time that CHX was at the NBBO and the percentage of the time CHX displayed the largest quote at the NBBO.

Analysis 3: Latency Arbitrage Activity at CHX Reduced CHX Size At The NBBO in SPY Relative to the Control Securities and NMS Size At The NBBO

As shown under *Figure 3,* during the Before Period, the Time-weighted Average CHX Size at The NBBO for SPY tended to follow changes to the Control Average, whereas from the Entry Month through July 2016, the Time-weighted Average CHX Size At The NBBO for SPY decreased by 82.16% and the Time-weighted Average CHX Size At The NBBO for the Control Average increased by 64.38%.[87] As shown under *Figure 4,* during the Before Period, the monthly changes in the Time-weighted Average CHX Size At The NBBO tended to follow similar changes to the Time-weighted Average NMS Size At The NBBO. However, during the After Period, the monthly changes in the Time-weighted Average CHX Size At The NBBO in SPY did not follow changes to the Time-weighted Average NMS Size At The NBBO in SPY. Moreover, during the After Period, CHX went from having a Two-Sided Market in SPY 100% of regular trading hours in the Entry Month to 74% of regular trading hours in July 2016.[88]

Thus, *Figure 3* and *Figure 4* show that SPY latency arbitrage activity negatively impacted liquidity in SPY marketwide. Moreover, the data shows that the change in the risk/reward of providing liquidity in SPY at CHX which resulted from the introduction of the SPY latency arbitrage activity resulted in a significant reduction of liquidity in SPY provided by CHX, even during a period when significant incremental liquidity was being added in the Control Securities.

[77] *See infra* Appendix B Calculation Sets 1a and 1b.

[78] The correlation coefficients (ρ) over the twelve-month period were: ρ(SPY, DIA) = 0.9118, ρ(SPY, IWM) = 0.8996, ρ(SPY, QQQ) = 0.9392, ρ(SPY, Average) = 0.9493.

[79] *See infra* Appendix B Calculation Sets 2a and 2b.

[80] *See infra* Appendix B Calculation Sets 6 and 7.

[81] *See infra* Appendix B Calculation Set 6a.

[82] *See infra* Appendix B Calculation Set 6b.

[83] *See infra* Appendix B Calculation Set 6c.

[84] *See infra* Appendix B Calculation Set 7a.

[85] *See infra* Appendix B Calculation Set 7b.

[86] *See infra* Appendix B Calculation Set 7c.

[87] *See infra* Appendix B Calculation Sets 3a and 3b.

[88] *See infra* Appendix B Calculation Set 5.

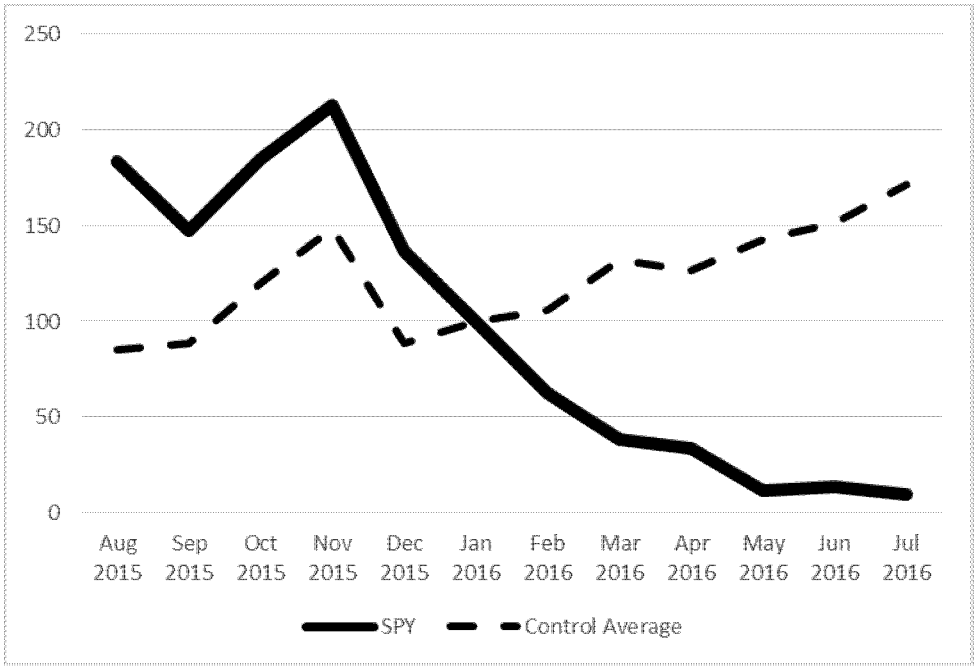

Figure 3. This figure illustrates the Time-weighted Average CHX Size At The NBBO in the Subject Securities (Indexed: January 2016 = 100) during the Analysis Period.[89]

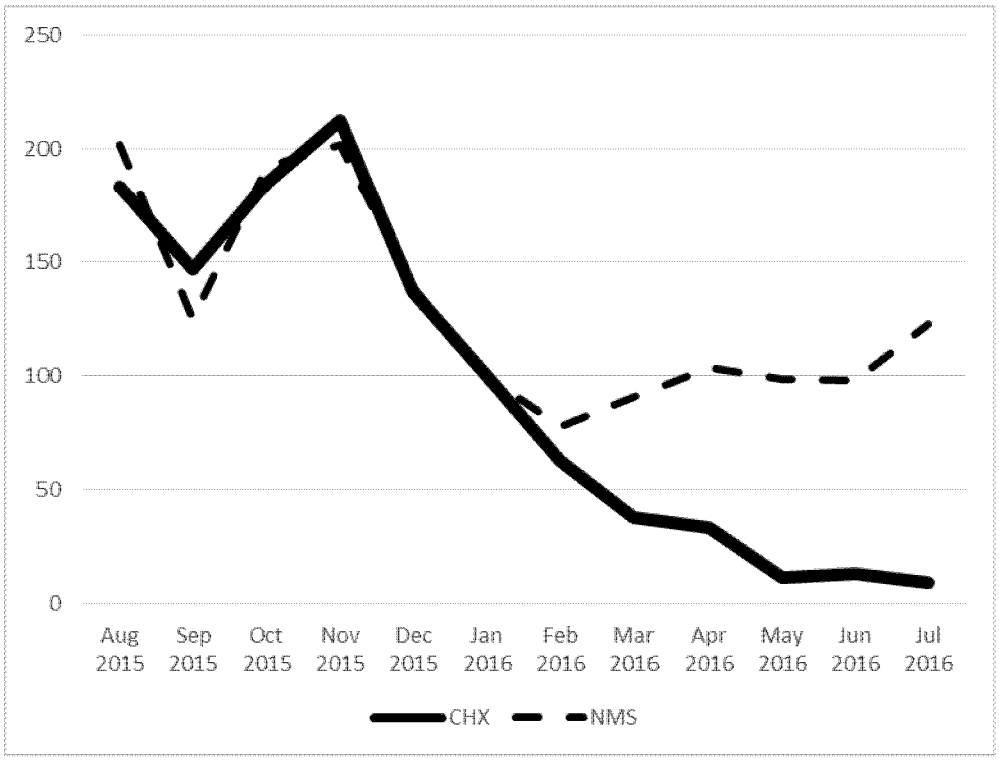

Figure 4. This figure illustrates the Time-weighted Average CHX Size At The NBBO in SPY versus Time-weighted Average NMS Size At The NBBO in SPY (Indexed: January 2016 = 100) during the Analysis Period.[90]

Analysis 4: SPY Latency Arbitrage Activity Reduced Displayed Liquidity in SPY Marketwide

Although the Time-weighted Average NMS Size At The NBBO in SPY increased by 22.83% during the After Period, the increase in SPY did not follow much greater increases in the Time-weighted Average NBBO Size in the Control Group, which increased by 128.82% during the After Period.[91] Moreover, during the After Period, the Time-weighted Average CHX Size At The NBBO for SPY decreased by 90.61% [92] and, as a % of total NMS Size At The NBBO in SPY, from 44.36% to 3.39%.[93] These calculations suggest that the SPY latency arbitrage activity materially impacted displayed liquidity in SPY marketwide. The dramatic decrease in displayed liquidity in SPY at CHX during the After Period explains why the increase in Time-weighted Average NBBO Size in SPY lagged behind the increase in Time-weighted Average NBBO Size in the Control Securities. Had CHX Size At The NBBO remained at least constant during the After Period, NBBO Size in SPY would have been at least 32.7% higher in July 2016, as shown below: [94]

	NMS Size at NBBO			Change attribution	
	Jan-16	Jul-16	Change	CHX	Others
SPY	9,513	11,686	2,172	−3,824	5,996
DIA	2,569	4,711	2,142	1,227	915
IWM	5,222	10,026	4,804	536	4,268
QQQ	14,100	35,354	21,253	3,900	17,353
Control Average	7,297	16,697	9,400	1,888	7,512

Conclusion

Based on its observations of unusual messaging patterns in SPY, feedback from Participants and the analysis summarized above, the Exchange believes that the unusual messaging activity in SPY that was first observed in the Entry Month is attributed to SPY latency arbitrage activity. The market data shows that in response to the SPY latency arbitrage activity, CHX liquidity providers displayed smaller orders in SPY at less aggressive prices during the After Period relative to the Before Period and Entry Month. Moreover, in light of CHX's significant contribution to overall volume and liquidity in SPY during the Before Period and the Entry Month, diminished displayed liquidity at CHX has materially impaired displayed liquidity in SPY market wide.

Appendix B: Calculation Sets

The calculations sets below were prepared with microsecond-level trade and quote record. Trade records include the date, microsecond-level timestamp, exchange, security symbol, price, and quantity of all trades reported to the consolidated tape. Quote records include the date, microsecond-level timestamp, exchange, security symbol, bid price, bid quantity, ask price, and ask quantity of all quotes reported to the consolidated tape. Only protected quotations are reported to the consolidated tape.

The Analysis Period for the calculations begins on August 1, 2015 and ends on July 31, 2016. Symbols SPY and three other Control Securities (*i.e.,* DIA, IWM, and QQQ) were considered. Only trades and quotes that occurred on the national securities exchanges during the regular trading hours [95] were considered. Certain types of non-standard trades were excluded.[96] Quotes with negative prices or quantities were excluded. Unless otherwise indicated, lengths of time when the market was locked or crossed were not considered.

In the calculations below:

- *Total Volume* refers to the number of shares of the indicated symbol traded on the national securities exchanges on a given day, excluding certain types of non-standard trades. *CHX Volume* refers to the number of shares of the indicated symbol traded on CHX on a given day, excluding certain types of non-standard trades.
- *CHX Market Share* was calculated as CHX Volume divided by Total Volume on a given day, CHX Market Share = CHX Volume ÷ Total Volume.
- *CHX Had A Two-Sided Market* refers to an indicator variable defined as true at any microsecond when there was at least one bid and at least one offer among all outstanding orders on CHX, and false otherwise. *CHX Had A One-Sided Market* refers to an indicator variable defined as true at any microsecond when there was at least one bid but no offers among all outstanding orders on CHX or when there was at least one offer but no bids among all outstanding orders on CHX, and false otherwise. *CHX Had No Market* refers to an indicator variable defined as true at any microsecond when there were no outstanding orders on CHX, and false otherwise.
- A bid was *At The NBB* at any microsecond when its price was equal to the National Best Bid. An offer was *At The NBO* at any microsecond when its price was equal to the National Best Offer.
- At any microsecond, the *NMS Size At The National Best Bid* (''NMS Size At The NBB'') refers to the quantity of shares in prevailing bids on the national securities exchanges priced at the National Best Bid and the *NMS Size At The National Best Offer* (''NMS Size At The NBO'') refers to the quantity of shares in prevailing offers on the national securities exchanges priced at the National Best Offer. *NMS Size At The NBBO* was calculated as the average of the National Best Bid Size and the National Best Offer Size at each microsecond, NMS Size At The NBBO = (NMS Size At The NBB + NMS Size At The NBO) ÷ 2.
- *CHX Was At The NBB* refers to an indicator variable defined as true at any microsecond when the CHX Best Bid was at the National Best Bid, and false otherwise. *CHX Was At The NBO* refers to an indicator variable defined as true at any microsecond when the CHX Best Offer was at the National Best Offer, and false otherwise.
- At any microsecond, the *CHX Size At The NBB* (''CHX Size At The NBB'') refers to the CHX Best Bid Size if CHX was at the NBB and zero if CHX was not at the NBB. At any microsecond, the *CHX Size At The NBO* (''CHX Size At The NBO'') refers to the CHX Best Offer Size if CHX was at the NBO and zero if CHX was not at the NBO. *CHX Size At The NBBO* was calculated as the average of the CHX Size At The NBB and CHX Size At The NBO at each microsecond, CHX Size At The NBBO = (CHX Size At The NBB + CHX Size At The NBO) ÷ 2.
- *CHX Was At The NBB And Was The Largest Bid At That Price* refers to an indicator variable defined as true at any

[89] *See infra* Appendix B Calculation Sets 3a and 3b.

[90] *See infra* Appendix B Calculation Sets 3b and 4b.

[91] *See infra* Appendix B Calculation Set 4a.

[92] *See infra* Appendix B Calculation Set 3a.

[93] *See infra* Appendix B Calculations Sets 3a and 4a.

[94] *See infra* Appendix B Calculation Set 4a.

[95] *See* 17 CFR 242.600(b)(64).

[96] Non-standard trades include derivatively priced trades, qualified contingent trades, opening trades, closing trades, and after hours trades.

microsecond when CHX was at the National Best Bid and the CHX Best Bid Size was greater than or equal to the largest quantity of shares in prevailing bids on any one national securities exchange other than CHX, and false otherwise. *CHX Was At The NBO And Was The Largest Offer At That Price* refers to an indicator variable defined as true at any microsecond when CHX was at the National Best Offer and the CHX Best Offer Size was greater than or equal to the largest quantity of shares in prevailing offers on any one national securities exchange other than CHX, and false otherwise.

For the calculations in the table below:

• Monthly average values are shown. Monthly average values were calculated as the average of daily values for each day in a month. Daily values were calculated as time-weighted averages or as percentages of time in the trading day, as indicated in the table. *Time-weighted average* values were calculated as daily average of the specified quantity, market share, or spread value weighted by time (in microseconds). *% of time* values were calculated as the length of time (in microseconds) for which the specified indicator variable was true divided by the length of time in that trading day, excluding lengths of time during which the market was locked or crossed or otherwise could not be calculated (*e.g.,* at the start of the trading day).

[No.] Calculation	Month	Symbol				
		SPY	DIA	IWM	QQQ	Control Average
		[1]	[2]	[3]	[4]	([2]:[4])
[1a] CHX market share (% of total volume)	Aug 2015	4.32%	3.07%	5.51%	3.40%	3.99%
	Sep 2015	6.07%	2.61%	3.82%	3.46%	3.30%
	Oct 2015	4.08%	5.95%	2.58%	4.42%	4.32%
	Nov 2015	4.49%	8.58%	3.14%	5.13%	5.62%
	Dec 2015	4.85%	4.89%	2.53%	4.49%	3.97%
	Jan 2016	5.73%	9.13%	3.14%	4.35%	5.54%
	Feb 2016	4.78%	9.13%	3.32%	4.41%	5.62%
	Mar 2016	2.80%	7.54%	2.38%	3.57%	4.50%
	Apr 2016	2.28%	4.41%	2.01%	2.69%	3.04%
	May 2016	1.10%	3.53%	2.21%	1.93%	2.55%
	Jun 2016	0.90%	5.17%	1.74%	3.00%	3.30%
	Jul 2016	0.57%	6.11%	1.22%	1.77%	3.03%
[1b] CHX market share (% of total volume) index: January 2016 = 100.	Aug 2015	75	34	176	78	72
	Sep 2015	106	29	122	80	60
	Oct 2015	71	65	82	102	78
	Nov 2015	78	94	100	118	101
	Dec 2015	85	54	81	103	72
	Jan 2016	100	100	100	100	100
	Feb 2016	83	100	106	102	102
	Mar 2016	49	83	76	82	81
	Apr 2016	40	48	64	62	55
	May 2016	19	39	70	44	46
	Jun 2016	16	57	55	69	60
	Jul 2016	10	67	39	41	55
[2a] Average total volume	Aug 2015	130,150,083	6,153,725	26,846,599	33,963,873	23,568,046
	Sep 2015	94,627,144	6,552,649	21,381,524	28,452,481	19,947,099
	Oct 2015	75,881,581	4,461,519	22,420,310	22,701,556	14,268,977
	Nov 2015	63,307,314	3,673,677	16,624,141	17,531,483	10,308,999
	Dec 2015	87,011,822	4,969,853	23,287,782	24,474,150	16,211,695
	Jan 2016	127,469,871	8,301,912	35,204,822	39,029,308	21,425,674
	Feb 2016	97,911,733	6,121,299	27,668,000	35,547,824	18,060,375
	Mar 2016	63,333,000	2,521,807	20,709,893	17,600,599	9,724,974
	Apr 2016	53,023,531	2,337,084	15,556,074	14,984,599	8,991,216
	May 2016	51,578,634	2,016,095	17,899,288	14,856,962	9,822,504
	Jun 2016	78,385,026	2,740,421	20,938,721	16,963,513	10,240,678
	Jul 2016	49,783,615	2,130,330	14,122,275	11,973,239	5,657,111
[2b] Average total volume index: Jan 2016 = 100.	Aug 2015	102	74	76	87	110
	Sep 2015	74	79	61	73	93
	Oct 2015	60	54	64	58	67
	Nov 2015	50	44	47	45	48
	Dec 2015	68	60	66	63	76
	Jan 2016	100	100	100	100	100
	Feb 2016	77	74	79	91	84
	Mar 2016	50	30	59	45	45
	Apr 2016	42	28	44	38	42
	May 2016	40	24	51	38	46
	Jun 2016	61	33	59	43	48
	Jul 2016	39	26	40	31	26
[3a] Time-weighted average CHX size at the NBBO.	Aug 2015	7,740.13	753.47	2,294.04	3,666.82	2,238.11
	Sep 2015	6,217.48	682.18	2,157.29	4,177.88	2,339.12
	Oct 2015	7,816.38	1,308.53	2,052.68	6,130.87	3,164.03
	Nov 2015	8,983.84	2,439.37	2,158.33	7,182.16	3,926.62
	Dec 2015	5,776.73	1,152.21	1,517.59	4,347.08	2,338.96
	Jan 2016	4,220.05	1,830.97	1,726.35	4,341.83	2,633.05
	Feb 2016	2,642.32	1,829.95	2,004.50	4,523.73	2,786.06

[No.] Calculation	Month	Symbol				
		SPY	DIA	IWM	QQQ	Control Average
		[1]	[2]	[3]	[4]	([2]:[4])
	Mar 2016	1,611.90	2,347.82	2,077.08	5,987.78	3,470.89
	Apr 2016	1,415.95	1,481.35	2,314.10	6,196.84	3,330.76
	May 2016	485.23	1,469.69	2,374.66	7,423.33	3,755.89
	Jun 2016	565.73	1,772.03	2,188.41	7,994.73	3,985.06
	Jul 2016	396.37	3,057.61	2,262.70	8,241.77	4,520.69
[3b] Time-weighted average CHX size at the NBBO index: Jan 2016 = 100.	Aug 2015	183	41	133	84	85
	Sep 2015	147	37	125	96	89
	Oct 2015	185	71	119	141	120
	Nov 2015	213	133	125	165	149
	Dec 2015	137	63	88	100	89
	Jan 2016	100	100	100	100	100
	Feb 2016	63	100	116	104	106
	Mar 2016	38	128	120	138	132
	Apr 2016	34	81	134	143	126
	May 2016	11	80	138	171	143
	Jun 2016	13	97	127	184	151
	Jul 2016	9	167	131	190	172
[4a] Time-weighted average NMS size at the NBBO.	Aug 2015	19,257.66	2,609.35	6,511.42	18,471.79	9,197.52
	Sep 2015	11,919.38	1,679.93	6,540.46	14,223.92	7,481.44
	Oct 2015	18,309.27	2,468.56	6,972.46	19,848.75	9,763.26
	Nov 2015	19,257.58	3,930.75	6,963.92	23,442.48	11,445.72
	Dec 2015	13,230.66	2,204.20	5,812.28	17,106.74	8,374.40
	Jan 2016	9,513.33	2,569.26	5,221.94	14,100.46	7,297.22
	Feb 2016	7,417.60	2,489.46	6,340.40	13,869.32	7,566.40
	Mar 2016	8,638.39	3,703.26	8,521.28	20,316.43	10,846.99
	Apr 2016	9,876.59	3,070.53	9,422.71	23,246.57	11,913.27
	May 2016	9,398.26	3,144.93	10,295.88	28,354.88	13,931.90
	Jun 2016	9,313.10	3,107.54	9,597.43	28,288.57	13,664.51
	Jul 2016	11,685.53	4,711.37	10,026.35	35,353.64	16,697.12
[4b] Time-weighted average NMS size at the NBBO index: Jan 2016 = 100.	Aug 2015	202	102	125	131	126
	Sep 2015	125	65	125	101	103
	Oct 2015	192	96	134	141	134
	Nov 2015	202	153	133	166	157
	Dec 2015	139	86	111	121	115
	Jan 2016	100	100	100	100	100
	Feb 2016	78	97	121	98	104
	Mar 2016	91	144	163	144	149
	Apr 2016	104	120	180	165	163
	May 2016	99	122	197	201	191
	Jun 2016	98	121	184	201	187
	Jul 2016	123	183	192	251	229
[5a] % of time CHX had a two-sided market	Aug 2015	99.8%	99.6%	99.7%	99.6%	99.7%
	Sep 2015	99.9%	99.9%	99.9%	99.9%	99.9%
	Oct 2015	100.0%	99.9%	99.9%	100.0%	99.9%
	Nov 2015	99.9%	99.9%	99.5%	99.8%	99.7%
	Dec 2015	98.6%	98.3%	98.6%	98.6%	98.5%
	Jan 2016	100.0%	99.9%	99.9%	100.0%	99.9%
	Feb 2016	99.9%	100.0%	100.0%	100.0%	100.0%
	Mar 2016	99.8%	100.0%	100.0%	100.0%	100.0%
	Apr 2016	99.3%	99.9%	100.0%	99.8%	99.9%
	May 2016	85.2%	99.9%	100.0%	100.0%	100.0%
	Jun 2016	73.2%	99.9%	100.0%	100.0%	100.0%
	Jul 2016	74.0%	99.9%	100.0%	100.0%	100.0%
[5b] % of time CHX had a one-sided market ...	Aug 2015	0.1%	0.1%	0.0%	0.2%	0.1%
	Sep 2015	0.0%	0.0%	0.0%	0.0%	0.0%
	Oct 2015	0.0%	0.0%	0.0%	0.0%	0.0%
	Nov 2015	0.0%	0.0%	0.0%	0.2%	0.1%
	Dec 2015	0.0%	0.3%	0.0%	0.0%	0.1%
	Jan 2016	0.0%	0.1%	0.0%	0.0%	0.0%
	Feb 2016	0.0%	0.0%	0.0%	0.0%	0.0%
	Mar 2016	0.2%	0.0%	0.0%	0.0%	0.0%
	Apr 2016	0.2%	0.0%	0.0%	0.0%	0.0%
	May 2016	3.0%	0.0%	0.0%	0.0%	0.0%
	Jun 2016	6.1%	0.0%	0.0%	0.0%	0.0%
	Jul 2016	1.8%	0.0%	0.0%	0.0%	0.0%
[5c] % of time CHX had no market	Aug 2015	0.1%	0.3%	0.3%	0.1%	0.2%
	Sep 2015	0.0%	0.1%	0.1%	0.0%	0.1%

[No.] Calculation	Month	Symbol				
		SPY	DIA	IWM	QQQ	Control Average
		[1]	[2]	[3]	[4]	([2]:[4])
	Oct 2015	0.0%	0.1%	0.1%	0.0%	0.1%
	Nov 2015	0.1%	0.1%	0.4%	0.0%	0.2%
	Dec 2015	1.4%	1.4%	1.4%	1.4%	1.4%
	Jan 2016	0.0%	0.0%	0.0%	0.0%	0.0%
	Feb 2016	0.1%	0.0%	0.0%	0.0%	0.0%
	Mar 2016	0.0%	0.0%	0.0%	0.0%	0.0%
	Apr 2016	0.5%	0.1%	0.0%	0.2%	0.1%
	May 2016	11.8%	0.1%	0.0%	0.0%	0.0%
	Jun 2016	20.7%	0.1%	0.0%	0.0%	0.0%
	Jul 2016	24.2%	0.0%	0.0%	0.0%	0.0%
[6a] % of time CHX was at the NBB	Aug 2015	16.5%	32.7%	46.9%	58.0%	45.9%
	Sep 2015	24.0%	36.4%	44.7%	67.6%	49.6%
	Oct 2015	30.8%	45.8%	44.3%	74.9%	55.0%
	Nov 2015	24.5%	50.3%	54.0%	79.6%	61.3%
	Dec 2015	29.2%	34.1%	38.3%	71.3%	47.9%
	Jan 2016	23.8%	46.0%	40.2%	70.4%	52.2%
	Feb 2016	15.5%	53.9%	33.7%	65.5%	51.0%
	Mar 2016	18.5%	58.4%	35.6%	66.8%	53.6%
	Apr 2016	18.7%	46.8%	35.9%	60.5%	47.7%
	May 2016	7.0%	44.8%	53.5%	68.5%	55.6%
	Jun 2016	5.4%	47.1%	44.2%	72.8%	54.7%
	Jul 2016	8.2%	45.9%	40.8%	74.1%	53.6%
[6b] % of time CHX was at the NBO	Aug 2015	27.9%	39.8%	57.0%	65.6%	54.1%
	Sep 2015	29.7%	36.0%	41.8%	66.7%	48.2%
	Oct 2015	20.9%	41.4%	42.7%	74.0%	52.7%
	Nov 2015	28.7%	39.3%	52.9%	78.2%	56.8%
	Dec 2015	27.1%	35.5%	42.4%	70.0%	49.3%
	Jan 2016	23.3%	52.3%	48.8%	70.4%	57.2%
	Feb 2016	23.2%	55.5%	46.3%	69.1%	57.0%
	Mar 2016	19.0%	58.5%	44.4%	70.0%	57.7%
	Apr 2016	14.0%	44.0%	36.4%	65.8%	48.7%
	May 2016	12.4%	40.4%	49.3%	64.2%	51.3%
	Jun 2016	11.0%	47.3%	48.4%	74.6%	56.8%
	Jul 2016	5.8%	46.0%	34.0%	69.4%	49.8%
[6c] % of time CHX was at the NBB and that CHX was at the NBO.	Aug 2015	1.0%	8.2%	19.7%	32.5%	20.2%
	Sep 2015	2.0%	10.0%	9.2%	37.1%	18.8%
	Oct 2015	3.0%	14.4%	10.2%	49.8%	24.8%
	Nov 2015	6.0%	14.2%	17.9%	58.1%	30.1%
	Dec 2015	4.4%	9.3%	12.5%	44.8%	22.2%
	Jan 2016	3.3%	19.2%	7.8%	41.8%	22.9%
	Feb 2016	1.0%	24.5%	4.8%	35.4%	21.5%
	Mar 2016	0.5%	29.6%	4.6%	38.0%	24.1%
	Apr 2016	0.2%	15.7%	2.2%	29.9%	15.9%
	May 2016	0.0%	13.5%	17.5%	34.6%	21.9%
	Jun 2016	0.0%	17.0%	12.2%	48.5%	25.9%
	Jul 2016	0.0%	12.6%	4.0%	44.1%	20.3%
[7a] % of time CHX was at the NBB and was the largest bid at that price.	Aug 2015	13.6%	26.2%	37.1%	26.6%	29.9%
	Sep 2015	21.5%	34.0%	40.0%	47.6%	40.6%
	Oct 2015	24.9%	43.8%	36.2%	57.4%	45.8%
	Nov 2015	18.8%	47.9%	39.4%	55.9%	47.7%
	Dec 2015	25.1%	31.7%	27.7%	39.1%	32.8%
	Jan 2016	20.0%	43.6%	32.0%	48.1%	41.2%
	Feb 2016	11.2%	52.7%	28.5%	45.5%	42.2%
	Mar 2016	11.9%	55.7%	28.3%	44.8%	42.9%
	Apr 2016	13.0%	42.2%	31.6%	43.6%	39.1%
	May 2016	1.7%	39.8%	37.9%	50.2%	42.6%
	Jun 2016	2.0%	43.7%	32.2%	48.3%	41.4%
	Jul 2016	2.3%	43.2%	31.7%	48.0%	41.0%
[7b] % of time CHX was at the NBO and was the largest offer at that price.	Aug 2015	24.3%	34.4%	51.2%	39.8%	41.8%
	Sep 2015	27.0%	33.8%	37.8%	46.7%	39.4%
	Oct 2015	16.0%	38.1%	31.3%	44.0%	37.8%
	Nov 2015	22.6%	36.8%	35.1%	53.4%	41.8%
	Dec 2015	23.2%	32.7%	30.6%	36.8%	33.4%
	Jan 2016	20.7%	51.1%	41.3%	50.7%	47.7%
	Feb 2016	18.5%	54.7%	40.8%	49.4%	48.3%
	Mar 2016	12.9%	55.2%	35.3%	51.2%	47.2%
	Apr 2016	8.1%	38.6%	30.8%	45.9%	38.4%

[No.] Calculation	Month	Symbol				
		SPY	DIA	IWM	QQQ	Control Average
		[1]	[2]	[3]	[4]	([2]:[4])
[7c] % of time CHX was at the NBB and was the largest bid at that price and that CHX was at the NBO and was the largest offer at that price.	May 2016	3.8%	36.7%	29.8%	45.2%	37.2%
	Jun 2016	4.6%	44.6%	31.4%	51.8%	42.6%
	Jul 2016	1.1%	42.5%	27.0%	31.0%	33.5%
	Aug 2015	0.2%	5.3%	12.8%	7.1%	8.4%
	Sep 2015	1.1%	8.5%	7.3%	16.7%	10.9%
	Oct 2015	0.9%	12.3%	5.3%	17.7%	11.8%
	Nov 2015	2.3%	12.6%	7.0%	23.0%	14.2%
	Dec 2015	2.9%	8.1%	6.4%	13.7%	9.4%
	Jan 2016	1.9%	17.3%	4.3%	18.5%	13.4%
	Feb 2016	0.3%	23.3%	2.8%	13.9%	13.3%
	Mar 2016	0.1%	26.0%	2.6%	14.0%	14.2%
	Apr 2016	0.0%	10.9%	1.5%	14.0%	8.8%
	May 2016	0.0%	10.4%	8.0%	15.6%	11.3%
	Jun 2016	0.0%	14.3%	4.8%	18.6%	12.5%
	Jul 2016	0.0%	10.7%	2.8%	10.8%	8.1%

Appendix C: Impact of LEAD on Liquidity Takers

The purpose of this analysis is to show that implementation of LEAD would not materially impact the ability of a random market participant not engaged in a latency arbitrage strategy, such as retail investors, to take displayed liquidity at CHX. This analysis assumes that LEAD would not materially change order sending behavior of Participants.

For the period of May 2016 through July 2016,[97] the Exchange observed the following with regards to SPY:

- There were a total of 18,316 orders at least partially executed.
- During the same period, the Exchange received 1,278 cancel messages to cancel resting orders after the resting order had been fully executed (''too-late-to-cancel'' or ''TLTC'').
- Of the 1,278 TLTCs, 412 TLTCs (32.24%) were received sooner than or exactly 350 microseconds after the execution (''$TLTC_{\leq 350}$''), whereas 866 (67.76%) were received later than 350 microseconds after the execution (''$TLTC_{>350}$'').
- Of the 412 $TLTC_{\leq 350}$, 392 (95.15%) executions were attributed to SPY latency arbitrage activity while the remaining 20 (4.85%) executions were not.
- Of the 866 $TLTC_{>350}$, 780 (90.07%) executions were attributed to SPY latency arbitrage activity while the remaining 86 (9.93%) executions were not.

Thus, if LEAD had been in effect for the period of May 2016 through July 2016, LEAD (1) would have prevented up to 412 orders, virtually all of which the Exchange believes were submitted as part of SPY latency arbitrage activity, from being executed during the 350 microsecond Fixed LEAD Period and (2) would have had a negative impact on only 20 liquidity taking orders not attributed to SPY latency arbitrage activity. These 20 orders comprised 0.11% of the 18,316 orders executed during the period. That is, during the measurement period of 63 trading days, LEAD would have had an adverse effect on approximately one order every three trading days. Thus, LEAD can make a significant contribution to leveling the playing field between LEAD MMs and latency arbitrageurs with minimal adverse effect on other liquidity taking orders.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act in general,[98] and furthers the objectives of Section 6(b)(5) in particular,[99] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments and perfect the mechanisms of a free and open market, and, in general, to protect investors and the public interest; and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

Specifically, the Exchange believes that the proposed rule change would remove impediments and perfect the mechanisms of a free and open market and, in general, protect investors and the public interest by enhancing displayed liquidity and price discovery by minimizing the effectiveness of latency arbitrage strategies that negatively impact market quality. As shown under the CHX ETF Analysis,[100] latency arbitrage lessens competition among orders by dissuading liquidity providers from displaying large and aggressively priced orders, which in turn impairs market efficiency.[101] The Commission has recognized the crucial role that displayed limit orders play in the price discovery process.[102] Thus, the Exchange believes that optimizing liquidity provision on the Exchange will enhance price discovery and, thereby, enhance market efficiency. To this end, LEAD is designed to promote displayed liquidity on the Exchange by giving LEAD MMs a small head start to the cancellation of stale quotes in the race to react to symmetric public information. LEAD is designed to achieve these goals without having a materially negative impact on the ability of liquidity takers not engaged in latency arbitrage, such as retail investors, to access displayed liquidity at CHX, as such liquidity will most always remain on the CHX book after a liquidity taking order has been released from LEAD.[103] Thus, the Exchange believes that LEAD will encourage LEAD MMs to post large aggressively priced orders on the CHX book, which

[97] For the months prior to May 2016 during the Analysis Period, the Exchange did not maintain TLTC data. A limitation of this data is that CHX Market Share and displayed liquidity in SPY and, by extension, order sending activity had all diminished considerably by May 2016. *See supra* Appendix B Calculation Set 1.

[98] 15 U.S.C. 78f(b).

[99] 15 U.S.C. 78f(b)(5).

[100] *See supra* Appendix A

[101] *See* Regulation NMS Adopting Release, *supra* note 13, at 37499.

[102] *See* Regulation NMS Adopting Release, *supra* note 13, at 37526.

[103] *See also supra* note 18; *see also supra* Appendix C.

will enhance liquidity and optimize price discovery in furtherance of the objectives of Section 6(b)(5) of the Act [104] and in a manner consistent with Regulation NMS, as described below.

In addition, the Exchange believes that the proposed LEAD MM designation would protect investors and the public interest by requiring LEAD MMs to meet the proposed Minimum Performance Standards in return for being afforded the benefits of LEAD. Moreover, the Exchange submits that the proposal to leverage existing Market Maker rules regarding the procedures for deregistering Market Makers and involuntary withdrawals from assigned securities will provide the Exchange with sufficient authority to compel and enforce compliance by LEAD MMs with the proposed Minimum Performance Standards.

The Exchange also believes that the proposed rules regarding assignment of LEAD MM Securities would protect investors and the public interest by implementing a comprehensive process whereby the Exchange will be able to select LEAD MMs that have demonstrated the ability and capacity to enhance displayed liquidity on the Exchange and to comply with federal rules and regulations, as well as CHX Rules. When considering these procedures with the proposed Minimum Performance Standards and enforcement mechanism, the Exchange believes that the effectiveness of LEAD in enhancing displayed liquidity and price discovery will be optimized.

Moreover, for similar reasons, the Exchange submits that the proposed rules for LEAD are not designed to permit unfair discrimination. Specifically, the Exchange believes that any discrimination between LEAD MMs and non-LEAD MMs is permissible under the Act because (1) LEAD is designed to enhance displayed liquidity and price discovery by rectifying a current structural bias against displayed liquidity,[105] without having a materially negative impact on the ability of liquidity takers not engaged in latency arbitrage, such as retail investors, to access displayed liquidity at CHX,[106] and (2) the proposed Minimum Performance Standards, which will not apply to non-LEAD MMs, will help ensure that those goals are achieved, as well as to provide a safeguard against LEAD MMs utilizing LEAD to engage in manipulative activities or otherwise non-bona fide liquidity provision strategies.

Regardless of whether a delay is symmetric (*e.g.,* IEX Delay) or asymmetric (*e.g.,* LEAD), any intentional delay designed to address latency arbitrage must necessarily discriminate among members. That is, correcting asymmetry in the market requires asymmetry in the remedy. For example, while the IEX Delay delays all incoming messages, the IEX Delay is asymmetric in that it provides processing advantages to non-displayed pegged orders resting on the IEX book, which are not provided to other orders. LEAD would similarly address latency arbitrage by providing a processing advantage to LEAD MMs, which will not be provided to non-LEAD MMs.

The Exchange also believes that the LEAD is narrowly-tailored to address latency arbitrage as applied to limit orders. In finding that the rules pertaining to the IEX Delay did not permit unfair discrimination, and would not impose any unnecessary or inappropriate burden on competition, the Commission recognized that displayed limit orders or non-pegged non-displayed limit orders, the types of liquidity LEAD is designed to protect, would not benefit from the symmetric IEX Delay [107] because the purpose of such limit orders is to post or execute consistent with their fixed limit price, as opposed to being repriced by an exchange based on changes to the NBBO.[108] Given that limit orders are also vulnerable to latency arbitrage and could only be effectively adjusted by the liquidity providers, if such orders are provided as part of a broader liquidity provision strategy that utilizes proprietary algorithms to price and size such limit orders, it logically flows that the best way to protect such liquidity is through an asymmetric delay, such as LEAD, that empowers LEAD MMs to better execute their liquidity provision strategies, which result in valuable displayed liquidity being provided to the market.[109] Thus, given the ineffectiveness of symmetric delays in protecting limit orders from latency arbitrage and the immaterial impact that LEAD would have on the ability of random liquidity takers not engaged in latency arbitrage to access liquidity at CHX,[110] the Exchange believes that LEAD is narrowly-tailored to address latency arbitrage as applied to limit orders.

The Exchange further submits that LEAD would not confer any unfair advantage to LEAD MMs or introduce incremental risk of manipulative activity. While LEAD is long enough to neutralize microsecond speed advantages exploited by latency arbitrageurs, it is too short to provide any actionable incremental advantage to LEAD MMs in reacting to information not already it their possession. LEAD is also too short to introduce any incremental risk of manipulative practices, which is supported by the fact that the Commission has recognized that a 350-microsecond delay would not materially increase the likelihood of certain manipulative practices such as ''spoofing'' or ''marking-the-close'' due to the practical difficulties of executing such strategies within such a short time frame.[111] [112] Notwithstanding, the Exchange has elected to adopt the proposed Minimum Performance Standards to provide additional assurance to the Commission that CHX displayed liquidity will remain valuable and reliable by tying the processing advantage afforded to LEAD MMs to heightened market quality requirements, which will not be applied to non-LEAD MMs. Thus, for all of the reasons described above, any discrimination between LEAD MMs and non-LEAD MMs is justified and consistent with the requirements of the Section 6(b)(5) of the Act.[113]

The Exchange notes that the Commission has previously approved functionality that permissibly discriminates among members for the purpose enhancing displayed liquidity. Specifically, the Commission has previously approved the following mechanisms:

- *Maker/taker fee.* Many national securities exchanges, including CHX, utilize the ''maker/taker'' fee model, which discriminates between liquidity providers and takers for the purpose of incentivizing market participants to provide liquidity to or take liquidity from the exchange.[114]
- *Bulk-quoting interface.* Nasdaq offers a bulk-quoting interface to allow its options market makers to more efficiently submit and update quotes as ''aiding market makers in their market making activities will help to

[104] 15 U.S.C. 78f(b)(5).

[105] *See supra* Section 3(a)(2).

[106] *See also supra* note 18; *see also supra* Appendix C.

[107] *See* IEX Approval Order, *supra* note 20, at 41157.

[108] *See id.*

[109] *See supra* notes 7 and 8.

[110] *See also supra* note 18; *see also supra* Appendix C.

[111] Final Interpretation, *supra* note 30, at n. 70.

[112] The Exchange notes that it currently maintains surveillance protocols designed to detect such manipulative practices.

[113] 15 U.S.C. 78f(b)(5).

[114] *See, e.g.,* Bats BYX Fee Schedule; *see also* Section E.1 of the CHX Fee Schedule.

enhance market liquidity for investors.'' [115] BATS Options offers a similar functionality, but permits all BATS Options users to utilize its bulk-quoting interface.[116] In each case, the exchange gives liquidity providers a processing advantage to facilitate the adjusting of stale quotes to the disadvantage of liquidity takers. Consequently, as bulk-quoting interfaces permit liquidity providers to adjust numerous quotes through a single message, this would minimize the possibility of stale quotes being executed before the liquidity provider has an opportunity to adjust the stale quote. That is, bulk-quoting interfaces, among other things, minimize the effectiveness of latency arbitrage strategies.

• *Market Makers generally.* Many national securities exchange offer a market maker program that provides certain financial or operational benefits (*e.g.,* Nasdaq's bulk-quoting interface and NYSE DMM parity [117]) in return for meeting heightened market quality requirements.

The Exchange also believes that the proposed amendments to the MTP order modifier would remove impediments and perfect the mechanisms of a free and open market and, in general, protect investors and the public interest, in that they are designed to avoid certain unintended consequences of LEAD on the MTP functionality. Specifically, since an order would be assigned a sequence number prior to being evaluated pursuant to LEAD,[118] LEAD may result in a newer undelayed order being ranked on the CHX book before an older delayed order, which would not otherwise occur today. Under this scenario and assuming that the contra-side orders trigger MTP and the incoming order is marked ''N,'' the current MTP rules would require the incoming older order to be cancelled, whereas the amended MTP handling would require the resting newer order to be cancelled subject to the exception for CHX Only orders described under amended Article 1, Rule 2(b)(3)(F)(iii)(a) and (b). Thus, the Exchange believes that the amended MTP functionality better contemplates LEAD and preserves expected results.

The Exchange also believes that the proposed rule change is consistent with Regulation NMS. Specifically, the Exchange believes that LEAD is consistent with Rule 600(b)(3),[119] Rule 602(b)(2) (''Firm Quote Rule''),[120] Rule 611 [121] and Rule 610(d).[122]

The Exchange believes that the proposed rule change is consistent with the ''immedia[cy]'' requirement of Rule 600(b)(3) as LEAD is a *de minimis* intentional access delay and thereby compatible with the Exchange having an ''automated quotation'' under Rule 600(b)(3) and thus a ''protected quotation'' under Rule 611.[123] Specifically, Rule 600(b)(3) requires that a trading center displaying an automated quotation permit, among other things, an incoming IOC order to immediately and automatically execute against the automated quotation up to its full size; and immediately and automatically cancel any unexecuted portion of the IOC order without routing the order elsewhere.[124] In the context of determining whether a trading center maintains an ''automated quotation'' for purposes of Rule 611, the Commission does not interpret the term ''immediate'' used in Rule 600(b)(3) by itself to prohibit a trading center from implementing an intentional access delay that is *de minimis* (*i.e.,* a delay so short as to not frustrate the purposes of the Order Protection Rule by impairing fair and efficient access to an exchange's quotations).[125] Accordingly, the Commission's revised interpretation provides that the term ''immediate'' precludes any coding of automated systems or other type of intentional device that would delay the action taken with respect to a quotation unless such delay is *de minimis.*[126]

The Exchange believes that LEAD is so short as to not frustrate the purposes of the Rule 611 [127] by impairing fair and efficient access to the Exchange's quotations. Specifically, all Participants seeking to take liquidity from the CHX book will have fair and efficient access to CHX quotations. Also, the 350-microsecond delay is so short that it does not provide an incremental advantage to a LEAD MM other than neutralizing a structural bias that permits latency arbitrageurs to profit off of symmetric public information. To the extent a market participant has a better algorithm or better information, LEAD is too short to have a negative impact on such non-latency arbitrage strategies, much less permit a LEAD MM to decide on a quotation-by-quotation basis whether to cancel or modify a quote. In addition, LEAD is narrowly-tailored to minimize the effectiveness of latency arbitrage strategies at CHX, as described above.

The Exchange also believes that LEAD is consistent with Rule 602(b)(2).[128] Specifically, a plain reading of Rule 602(b) indicates that the delay of a liquidity taking order pursuant to LEAD would not result in the order being ''presented'' to the LEAD MM.[129] This is consistent with the Commission's guidance regarding the applicability of the Firm Quote Rule in the context of obsolete Intermarket Trading System (''ITS'') commitments.[130] Specifically, the Commission stated that ''the Firm Quote Rule requires that every exchange specialist or OTC market maker execute any order to buy or sell a security it *receives* at a price at least as favorable as its published bid or offer in any amount up to its published size, subject to two exceptions.'' [131] The Commission further stated ''that the Firm Quote Rule applies to ITS commitments; where a specialist or market maker fails to honor its quote by *refusing* to execute an ITS commitment received at its published bid or offer, and neither of the exceptions contained in the Firm Quote Rule apply, the specialist or market maker is in violation of the Firm Quote Rule.'' [132] As such, the Commission's guidance clearly suggests that a Rule 602(b) violation occurs when a liquidity provider receives (*i.e.,* is presented) a marketable contra-side order and refuses to honor its quote.[133] When also

[115] *See* Securities Exchange Act Release No. 65024 (August 3, 2011), 76 FR 48925 (August 9, 2011) (SR–NASDAQ–2011–102).

[116] *See* Securities Exchange Act Release No. 65307 (September 9, 2011), 76 FR 57092 (September 15, 2011) (SR–BATS–2011–034) (expanding the availability of the bulk-quoting interface to all users of BATS Options); Securities Exchange Act Release No. 65133 (August 15, 2011), 76 FR 52032 (August 19, 2011) (SR–BATS–2011–029) (adopting the bulk-quoting interface).

[117] *See* NYSE Rules 103B and 104.

[118] *See supra* note 45.

[119] *See* 17 CFR 242.600(b)(3).

[120] *See* 17 CFR 242.602(b)(2).

[121] *See* 17 CFR 242.611.

[122] *See* 17 CFR 242.610(d).

[123] *See* Final Interpretation, *supra* note 30, at 40792.

[124] *See* 17 CFR 242.600(b)(3).

[125] *See* Final Interpretation, *supra* note 30, at 40792. Thus, the Exchange's quotations would continue to be ''immediately'' accessible and protected pursuant to Rule 611. *See* 17 CFR 242.600(b)(3) defining ''automated quotation''; *see also* 17 CFR 242.600(b)(58) defining ''protected quotation.''

[126] *See* Final Interpretation, *supra* note 30, at 40792.

[127] *See* 17 CFR 242.611.

[128] ''Subject to the provisions of paragraph (b)(3) of this section, each responsible broker or dealer shall be obligated to execute any order to buy or sell a subject security, other than an odd-lot order, *presented to it by another broker or dealer,* or any other person belonging to a category of persons with whom such responsible broker or dealer customarily deals, at a price at least as favorable to such buyer or seller as the responsible broker's or dealer's published bid or published offer (exclusive of any commission, commission equivalent or differential customarily charged by such responsible broker or dealer in connection with execution of any such order) in any amount up to its published quotation size.'' 17 CFR 242.602(b)(2) (emphasis added).

[129] *See* 17 CFR 242.602(b).

[130] *See* Exchange Act Release No. 40260, 63 FR 40748, 40754 (July 30, 1998).

[131] *Id* (emphasis added).

[132] *Id* (emphasis added).

[133] *See* 17 CFR 242.602(b). A Section 21(a) report from 1996 regarding, among other things, misconduct by certain market makers with respect to its published quotes is illustrative of the type of activity that the Firm Quote Rule is designed to

considering that the Exchange will never notify Participants or the public of the Exchange's receipt of a liquidity taking order subject to LEAD and CHX Rules indicate that a liquidity provider's Rule 602(b) obligation vests only after execution of its order within the Matching System,[134] the Exchange submits that LEAD is consistent with the Firm Quote Rule.

The Exchange further believes that LEAD is consistent with the requirements of Rule 611.[135] As described above, a portion of a Routable Order may be immediately routed away to execute against away protected quotations, with the unrouted remainder being delayed before being permitted to execute against an order resting on the CHX book at a price inferior to the away protected quotations. [136] Given that LEAD is *de minimis* in the context of Rule 600(b)(3),[137] it logically flows that LEAD would also be considered *de minimis* for the purposes of the ''simultaneously routed'' Intermarket Sweep Order (''ISO'') requirement under Rule 611(b)(6).[138] Thus, the Exchange submits that a delay caused by LEAD between the routing of one or more ISOs to satisfy better priced protected quotation(s) and the delayed execution of a related order at price inferior to such protected quotation(s) is consistent with the requirements of Rule 611(b)(6).[139]

Similarly, a portion of a Routable Order may be immediately routed away to execute against away protected quotations with the unrouted remainder being delayed before be ranked on the CHX book at a price that crosses such away protected quotations. This could result if the resting order on the CHX book that resulted in the unrouted remainder being delayed was cancelled before the unrouted remainder were released from LEAD. Under this scenario, given that LEAD is *de minimis* in the context of Rule 600(b)(3),[140] it logically flows that the *de minimis* delay caused by LEAD between the routing of one or more ISOs to satisfy away protected quotations and the display of the related order at a price that crosses such away protected quotations is permissible and consistent with the requirements of Rule 610(d).[141]

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. To the contrary, the Exchange believes that any burden on competition is necessary and appropriate in furtherance of the purposes of Section 6(b)(5) of the Act because LEAD is functionality that seeks to enhance liquidity and optimize price discovery by deemphasizing speed as a key to trading success in order to further serve the interests of investors and thereby removes impediments and perfects the mechanisms of a free and open market.

The Exchange further notes that market participants will continue to be able to obtain CHX book data via the Securities Information Processors or through the Exchange's proprietary book feed, the CHX Book Feed,[142] without delay as the Exchange does not propose to delay any outbound messages or market data. As such, the Exchange submits that any burden on competition, while necessary and appropriate in furtherance of the purposes of that Act, has been minimized.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve or disapprove the proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–CHX–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–CHX–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 the

address. *See* Report Pursuant to Section 21(a) of the Securities Exchange Act of 1934 Regarding the NASD, the Nasdaq Market, and Nasdaq Market Makers, Exchange Act Release No. 37542 (August 8, 1996). Page 32 of the report provides, in pertinent part, as follows: Certain market makers at times did not honor their quotation for those with whom they preferred not to trade and ''backed away'' from their quotes as reprisal for, among other reasons, perceived prior back way by other market makers. Certain market makers also variously refused to trade with order entry firms, certain other market makers, and participants they ''dislike,'' such as options market makers. Market makers at times backed away from their trading obligations to avoid unwanted orders placed when they coordinated their quotations with other market makers.

[134] CHX Article 20, Rule 3(a) provides as follows: Each order submitted by each Participant is a firm order and each Participant must, upon execution of the order within the Matching System, purchase or sell, as the case may be, at the price, size and conditions identified by the participant at the time it submitted the order. No Participant may submit an order marked for display as a ''manual'' quotation.

[135] 17 CFR 242.611.

[136] *See supra* Example 3.

[137] *See* 17 CFR 242.600(b)(3).

[138] *See* 17 CFR 242.611(b)(6).

[139] *See id.*

[140] *See* 17 CFR 242.600(b)(3).

[141] *See* ''Division of Trading and Markets: Responses to Frequency Asked Questions Concerning Rule 611 and Rule 610 of Regulation NMS.'' U.S. Securities and Exchange Commission, 4 April 2008. Web. 20 June 2016 *http://www.sec.gov/divisions/marketreg/nmsfaq610-11.htm* (''Question 5.02''); *see also* CHX Article 20, Rule 6(c)(3); *see also* 17 CFR 242.610(d).

[142] *See* CHX Article 4, Rule 1.

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–CHX–2017–04 and should be submitted on or before March 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[143]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03296 Filed 2–17–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80035; File No. SR–PEARL–2017–09]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the MIAX PEARL Fee Schedule To Establish an Options Regulatory Fee (''ORF'')

February 14, 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 3, 2017, MIAX PEARL, LLC (''MIAX PEARL'' or ''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 Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal rule change to amend the MIAX PEARL Fee Schedule (the ''Fee Schedule'') by establishing an Options Regulatory Fee (''ORF'').

While changes to the Fee Schedule pursuant to this proposal are effective upon filing, the Exchange has designated these changes to be operative February 6, 2017.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.miaxoptions.com/rule-filings/pearl,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to establish an ORF in the amount of $0.0010 per contract side. The per-contract ORF will be assessed by MIAX PEARL to each MIAX PEARL Member for all options transactions executed, cleared, or ultimately cleared by the Member which are cleared by OCC in the ''customer'' range, regardless of the exchange on which the transaction occurs. The ORF will be collected indirectly from Members through their clearing firms by OCC on behalf of MIAX PEARL.

In the case where a non-Member executes a transaction and a Member clears the transaction, the ORF will be assessed to the Member who clears the transaction. In the case where a Member executes a transaction and another Member clears the transaction, the ORF will be assessed to the Member who clears the transaction. Further, the ORF will be assessed on transactions that are not executed by a Member, but are ultimately cleared by a Member. The Exchange notes that, in the limited circumstance in which a Member executes or clears a transaction and then ''gives-up'' or ''CMTAs'' the trade to a non-member of MIAX PEARL (which non-member becomes the ultimate clearing firm for the transaction), MIAX PEARL will collect the ORF from such non-member involving [sic] that transaction. However, for the avoidance of doubt, the Exchange will not assess the ORF when the transaction is not executed on the Exchange and neither the executing clearing firm nor the ultimate clearing firm (*e.g.,* such as when the Member is ''given-up'' or ''CMTAed'' and then subsequently ''gives-up'' or ''CMTAs'' the transaction to another non-member via a CMTA reversal) is a Member. Further, the Exchange will not assess the ORF on linkage trades, whether executed at the Exchange or an away exchange. A customer order routed to another exchange results in two customer trades, one from the originating exchange and one from the recipient exchange. Charging ORF on both trades could result in double-billing of ORF for a single customer order, thus the Exchange chooses not to charge ORF on the trade from the originating exchange in a linkage scenario. This assessment practice will be identical to the assessment practice currently utilized by the Exchange's affiliate, Miami International Securities Exchange, LLC (''MIAX Options'').

As a practical matter, when a transaction that is subject to the ORF is not executed on the Exchange, the Exchange lacks the information necessary to identify the executing member for that transaction. There are countless executing market participants, and each day such participants can and often do drop their connection to one market center and establish themselves as participants on another. For these reasons, it is not possible for the Exchange to identify, and thus assess fees such as an ORF on, executing participants on away markets on a given trading day.

Clearing members, however, are distinguished from executing participants because they remain identified to the Exchange regardless of the identity of the initiating executing participant, their location, and the market center on which they execute transactions. Therefore, the Exchange believes it is more efficient for the operation of the Exchange and for the marketplace as a whole to collect the ORF from clearing members.

As discussed below, the Exchange believes it is appropriate to charge the ORF only to transactions that clear as customer at the OCC. The Exchange believes that its broad regulatory responsibilities with respect to a Member's activities supports applying the ORF to transactions cleared but not executed by a Member. The Exchange's regulatory responsibilities are the same regardless of whether a Member executes a transaction or clears a transaction executed on its behalf. The Exchange regularly reviews all such activities, including performing surveillance for position limit violations, manipulation, front-running, contrary exercise advice violations and

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[143] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

insider trading. These activities span across multiple exchanges.

The ORF is designed to recover a material portion of the costs to the Exchange of the supervision and regulation of Members' customer options business, including performing routine surveillances and investigations, as well as policy, rulemaking, interpretive and enforcement activities. The Exchange believes that revenue generated from the ORF, when combined with all of the Exchange's other regulatory fees and fines, will cover a material portion, but not all, of the Exchange's regulatory costs. The Exchange notes that its regulatory responsibilities with respect to Member compliance with options sales practice rules have been allocated to the Financial Industry Regulatory Authority (''FINRA'') under a 17d–2 Agreement. The ORF is not designed to cover the cost of options sales practice regulation.

The Exchange will continue to monitor the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange expects to monitor MIAX PEARL regulatory costs and revenues at a minimum on a semi-annual basis. If the Exchange determines regulatory revenues exceed or are insufficient to cover a material portion of its regulatory costs, the Exchange will adjust the ORF by submitting a fee change filing to the Commission. The Exchange will notify Members of adjustments to the ORF via regulatory circular at least 30 days prior to the effective date of the change.

The Exchange believes it is reasonable and appropriate for the Exchange to charge the ORF for options transactions regardless of the exchange on which the transactions occur. The Exchange has a statutory obligation to enforce compliance by Members and their associated persons under the Act and the rules of the Exchange and to surveil for other manipulative conduct by market participants (including non-Members) trading on the Exchange. The Exchange cannot effectively surveil for such conduct without looking at and evaluating activity across all options markets. Many of the Exchange's market surveillance programs require the Exchange to look at and evaluate activity across all options markets, such as surveillance for position limit violations, manipulation, front-running and contrary exercise advice violations/expiring exercise declarations. Also, the Exchange and the other options exchanges are required to populate a consolidated options audit trail (''COATS'')[3] system in order to surveil a Member's activities across markets.

In addition to its own surveillance programs, the Exchange works with other SROs and exchanges on intermarket surveillance related issues. Through its participation in the Intermarket Surveillance Group (''ISG''),[4] the Exchange shares information and coordinates inquiries and investigations with other exchanges designed to address potential intermarket manipulation and trading abuses. The Exchange's participation in ISG helps it to satisfy the requirement that it has coordinated surveillance with markets on which security futures are traded and markets on which any security underlying security futures are traded to detect manipulation and insider trading.[5]

The Exchange believes that charging the ORF across markets will avoid having Members direct their trades to other markets in order to avoid the fee and to thereby avoid paying for their fair share for regulation. If the ORF did not apply to activity across markets then a Member would send their orders to the least cost, least regulated exchange. Other exchanges do impose a similar fee on their member's activity, including the activity of those members on MIAX PEARL.[6]

The Exchange notes that there is established precedent for an SRO charging a fee across markets, namely, FINRAs Trading Activity Fee[7] and the NYSE Amex, NYSE Arca, CBOE, PHLX, ISE, ISE Gemini and BOX ORF. While the Exchange does not have all the same regulatory responsibilities as FINRA, the Exchange believes that, like other exchanges that have adopted an ORF, its broad regulatory responsibilities with respect to a Member's activities, irrespective of where their transactions take place, supports a regulatory fee applicable to transactions on other markets. Unlike FINRA's Trading Activity Fee, the ORF would apply only to a Member's customer options transactions.

Additionally, the Exchange proposes to specify in the Fee Schedule that the Exchange may only increase or decrease the ORF semi-annually, and any such fee change will be effective on the first business day of February or August. In addition to submitting a proposed rule change to the Commission as required by the Act to increase or decrease the ORF, the Exchange will notify participants via a Regulatory Circular of any anticipated change in the amount of the fee at least 30 calendar days prior to the effective date of the change. The Exchange believes that by providing guidance on the timing of any changes to the ORF, the Exchange would make it easier for participants to ensure their systems are configured to properly account for the ORF.

2. Statutory Basis

MIAX PEARL believes that its proposal to amend its Fee Schedule is consistent with Section 6(b) of the Act[8] in general, and furthers the objectives of Section 6(b)(4) of the Act[9] in particular, in that it is an equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities. The Exchange also believes the proposal furthers the objectives of Section 6(b)(5) of the Act[10] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest and is not designed to permit unfair discrimination between customers, issuers, brokers and dealers.

The Exchange believes the ORF is equitable and not unfairly discriminatory because it is objectively allocated to Members in that it is charged to all Members on all their transactions that clear as customer at the OCC. Moreover, the Exchange believes the ORF ensures fairness by assessing fees to those Members that are directly based on the amount of customer options business they conduct. Regulating customer trading activity is much more labor intensive and requires greater expenditure of human and technical resources than regulating non-

[3] COATS effectively enhances intermarket options surveillance by enabling the options exchanges to reconstruct the market promptly to effectively surveil certain rules.

[4] ISG is an industry organization formed in 1983 to coordinate intermarket surveillance among the SROs by co-operatively sharing regulatory information pursuant to a written agreement between the parties. The goal of the ISG's information sharing is to coordinate regulatory efforts to address potential intermarket trading abuses and manipulations.

[5] *See* Section 6(h)(3)(I) of the Act.

[6] Similar regulatory fees have been instituted by PHLX (*See* Securities Exchange Act Release No. 61133 (December 9, 2009), 74 FR 66715 (December 16, 2009) (SR–Phlx–2009–100)); ISE (*See* Securities Exchange Act Release No. 61154 (December 11, 2009), 74 FR 67278 (December 18, 2009) (SR–ISE–2009–105)); and ISE Gemini (*See* Securities Exchange Act Release No. 70200 (August 14, 2013) 78 FR 51242 (August 20, 2013) (SR–Topaz–2013–01)).

[7] *See* Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 34021 (June 6, 2003) (SR–NASD–2002–148).

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(4).

[10] 15 U.S.C. 78f(b)(5).

customer trading activity, which tends to be more automated and less labor-intensive. As a result, the costs associated with administering the customer component of the Exchange's overall regulatory program are materially higher than the costs associated with administering the non-customer component (*e.g.,* Member proprietary transactions) of its regulatory program.

The ORF is designed to recover a material portion of the costs of supervising and regulating Members' customer options business including performing routine surveillances, investigations, examinations, financial monitoring, and policy, rulemaking, interpretive, and enforcement activities. The Exchange will monitor, on at least a semi-annual basis the amount of revenue collected from the ORF to ensure that it, in combination with its other regulatory fees and fines, does not exceed the Exchange's total regulatory costs. The Exchange has designed the ORF to generate revenues that, when combined with all of the Exchange's other regulatory fees, will be less than or equal to the Exchange's regulatory costs, which is consistent with the Commission's view that regulatory fees be used for regulatory purposes and not to support the Exchange's business side. In this regard, the Exchange believes that the initial level of the fee is reasonable.

The Exchange believes that the proposal to limit changes to the ORF to twice a year on specific dates with advance notice is reasonable because it will give participants certainty on the timing of changes, if any, and better enable them to properly account for ORF charges among their customers. The Exchange believes that the proposed change is equitable and not unfairly discriminatory because it will apply in the same manner to all Members that are subject to the ORF and provide them with additional advance notice of changes to that fee.

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 ORF is not intended to have any impact on competition. Rather, it is designed to enable the Exchange to recover a material portion of the Exchange's cost related to its regulatory activities. The Exchange is obligated to ensure that the amount of regulatory revenue collected from the ORF, in combination with its other regulatory fees and fines, does not exceed regulatory costs. Unilateral action by MIAX PEARL in establishing fees for services provided to its Members and others using its facilities will not have an impact on competition. As a new entrant in the already highly competitive environment for equity options trading, MIAX PEARL does not have the market power necessary to set prices for services that are unreasonable or unfairly discriminatory in violation of the Act. MIAX PEARL's proposed ORF, as described herein, are comparable to fees charged by other options exchanges for the same or similar services. The proposal to limit the changes to the ORF to twice a year on specific dates with advance notice is not intended to address a competitive issue but rather to provide Members with better notice of any change that the Exchange may make to the ORF.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act,[11] and Rule 19b–4(f)(2)[12] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. 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 No. SR–PEARL–2017–09 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–PEARL–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/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 No. SR–PEARL–2017–09, and should be submitted on or before March 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03300 Filed 2–17–17; 8:45 am]

BILLING CODE 8011–01–P

[11] 15 U.S.C. 78s(b)(3)(A)(ii).

[12] 17 CFR 240.19b–4(f)(2).

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80034; File No. SR–BatsEDGX–2017–09]

Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Fees for Use of Use of the Exchange's Equities Platform

February 14, 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 EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') 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 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 EDGX Rules 15.1(a) and (c).

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its fee schedule to: (i) Increase the standard rate to remove liquidity to $0.0030 per share; (ii) increase the rate for orders that yield fee codes EA or ER; (iii) add a definition for the term ''Step-Up Add TCV; and (iii) add a new Step-Up Tier under footnote 1.

Standard Removal Rate

Currently, fee codes 6,[6] BB,[7] N,[8] PR,[9] W[10] and ZR[11] of the Exchange's fee schedule set for the standard rate of $0.0029 charged per share to orders that remove liquidity from the Exchange in securities priced equal to or greater than $1.00. The Exchange now proposes to increase the standard rate for orders in securities priced equal to or greater than $1.00 that remove liquidity from the Exchange to $0.0030 per share.[12] Therefore, the Exchange proposes to increase the rate under fee codes 6, BB, N, PR, W and ZR from $0.0029 to $0.0030 per share. The Exchange also proposes to update the Standard Rates table accordingly to reflect new standard rate.[13]

Fee Codes EA or ER

An Internalized Trade is a trade where the two orders inadvertently match against each other and share the same Market Participant Identifier (''MPID''). Fee code EA is appended to side of an Internalized Trade that adds liquidity, while fee code ER is appended to the side of an Internalized Trade that removes liquidity. Orders that yield fee codes EA or ER are charged a fee of $0.00045 per share in securities priced at or above $1.00 and 0.15% of the dollar value of the trade in securities priced below $1.00. The Exchange now proposes to increase the fee for orders that yield fee codes EA or ER in securities priced at or above $1.00 to $0.00050 per share.[14]

Step-Up Add Volume Tier

The Exchange proposes to add a definition for the term ''Step-Up Add TCV and add a new Step-Up Tier under footnote 1.

First, the Exchange proposes to define the term ''Step-Up Add TCV'' as ''ADAV[15] as a percentage of TCV[16] in the relevant baseline month subtracted from current ADAV as a percentage of TCV.''

Second, the Exchange proposes to add a new tier under footnote 1 of the fee schedule to be known as ''Step-Up Tier 1'' [sic]. By way of background, the Exchange determines the liquidity adding rebate that it will provide to Members using the Exchange's tiered pricing structure. Under such pricing structure, a Member will receive a rebate of anywhere between $0.0025 and $0.0033 per share executed, depending on the volume tier for which such Member qualifies under footnote 1 of the fee schedule. Under the proposed Step-Up Tier, a Member would receive a rebate of $0.0032 per share for orders that add liquidity where that Member adds an ADV[17] equal to or greater than 0.40% of the TCV and has a Step-Up Add TCV from January 2017 equal to or greater than 0.10%.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule on February 1, 2017.

[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 described in the Exchange's fee schedule, orders that remove liquidity from the Exchange during the pre and post market yield fee code 6 and are charged the standard removal rate of $0.0029 per share.

[7] As described in the Exchange's fee schedule, orders that remove liquidity from the Exchange in Tape B securities yield fee code BB and are charged the standard removal rate of $0.0029 per share.

[8] As described in the Exchange's fee schedule, orders that remove liquidity from the Exchange in Tape C securities yield fee code N and are charged the standard removal rate of $0.0029 per share.

[9] As described in the Exchange's fee schedule, orders that remove liquidity from the Exchange utilizing the ROUQ routing strategy yield fee code PR and are charged the standard removal rate of $0.0029 per share. The ROUQ routing strategy is described in Exchange Rule 11.11(b)(3)(D).

[10] As described in the Exchange's fee schedule, orders that remove liquidity from the Exchange in Tape A securities yield fee code W and are charged the standard removal rate of $0.0029 per share.

[11] As described in the Exchange's fee schedule, Retail Orders that remove liquidity from the Exchange yield fee code ZR and are charged the standard removal rate of $0.0029 per share. Retail Orders are defined in Exchange Rule 11.21(a)(2).

[12] The Exchange does not proposes to amend the standard removal rate for orders in securities priced below $1.00.

[13] The Exchange also proposes to add fee code PR to the Standard Fee Code row of the Standard Rates Table because, as described above, fee code PR sets forth a standard rate for removing liquidity from the Exchange.

[14] The Exchange does not proposes [sic] to amend the rate for orders in securities priced below $1.00 that yield fee codes EA or ER.

[15] As defined in the Exchange's fee schedule.

[16] As defined in the Exchange's fee schedule.

[17] As defined in the Exchange's fee schedule.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6 of the Act.[18] Specifically, the Exchange believes that the proposed rule change 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. The Exchange 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 to be excessive. The Exchange also believes that each of the proposed amendments are non-discriminatory because each will apply uniformly to all Members.

Standard Removal Rate

The Exchange believes that its proposal to increase the standard fee charged for orders that remove liquidity from the Exchange is reasonable and equitable because it will allow the Exchange to utilize the additional revenue to offset providing volume based enhanced rebates for removing liquidity as proposed herein. In addition, the Exchange notes that the proposed standard removal rate is consistent with Rule 610(c)(1) of Regulation NMS [20] and is equal to the standard remove rate charged by other exchange to remove liquidity in securities priced at or above $1.00.[21]

Fee Codes EA or ER

The Exchange believes that its proposal to increase the fees charged for Internalized Orders is reasonable and equitable because the charge for Members inadvertently matching with themselves will continue to be no more favorable than the Exchange's maker/taker spread enabling the Exchange to continue to discourage potential wash sales.[22] In addition, like as stated above for the increase to the standard removal rate, the proposed increase will allow the Exchange to utilize the additional revenue to offset providing volume based enhanced rebates for removing liquidity as proposed herein.

Step-Up Add Volume Tier

The Exchange believes that its proposed definition of Step-Up Add TCV and the new Step-Up Tier provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange 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 changes reflect a competitive pricing structure designed to incent market participants to direct their order flow to the Exchange.

In particular, the Exchange believes the definition of Step-Up Add TCV is equitable and reasonable as it is identical to the same defined term on BZX.[23] Volume-based rebates such as that proposed herein have been widely adopted by exchanges, including the Exchange, 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: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provision and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. The Exchange believes that the proposed tier is a reasonable, fair and equitable, and not unfairly discriminatory allocation of fees and rebates because it will continue to provide Members with an incentive to reach certain thresholds on the Exchange.

In particular, the Exchange believes the proposed Step-Up Tier is a reasonable means to encourage Members to increase their liquidity on the Exchange. The Exchange further believes that the proposed Step-Up Tier represents an equitable allocation of reasonable dues, fees, and other charges because the thresholds necessary to achieve the tier encourages Members to add increased liquidity to the EDGX Book [24] each month. The increased liquidity benefits all investors by deepening the Exchange's liquidity pool, offering additional flexibility for all investors to enjoy cost savings, supporting the quality of price discovery, promoting market transparency and improving investor protection. Such pricing programs thereby reward a Member's growth pattern on the Exchange and such increased volume increases potential revenue to the Exchange, and will allow the Exchange to continue to provide and potentially expand the incentive programs operated by the Exchange. Specifically, the Exchange believes the level of the enhanced rebate provided by the tier reasonably reflects the criteria necessary to achieve the tier. For example, a Member would receive a rebate of $0.0032 per share where they not only add an ADV equal to or greater than 0.40% of the TCV, but also has a Step-Up Add TCV from January 2017 equal to or greater than 0.10%.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendments to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. To the contrary, the Exchange has designed the proposed amendments to its fee schedule in order to enhance its ability to compete with other exchanges. Rather, the proposal as a whole is a competitive proposal that is seeking further the growth of the Exchange. The Exchange has structured the proposed fees and rebates to attract certain additional volume in both Customer and certain Non-Customer orders, however, the Exchange believes that its pricing for all capacities is competitive with that offered by other options exchanges. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. 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. In particular, the Exchange believes that the proposed tiers contribute to, rather than burden competition, as such changes are broadly intended to incentivize participants to increase their participation on the Exchange, which will increase the liquidity and market quality on the Exchange, which will then further enhance the Exchange's ability to compete with other exchanges. Likewise, the proposed changes to the standard removal rates and rates for Internalized Trades should not have any burden on competition on competition [sic] as they are in line with that

[18] 15 U.S.C. 78f.

[19] 15 U.S.C. 78f(b)(4).

[20] 17 CFR 242. 610(c)(1).

[21] *See* Nasdaq Stock Market LLC's fee schedule *available at http://www.nasdaqtrader.com/Trader.aspx?id=PriceListTrading2,* NYSE Arca fee schedule *available at https://www.nyse.com/publicdocs/nyse/markets/nyse-arca/NYSE_Arca_Marketplace_Fees.pdf,* and the Bats BZX Exchange, Inc.'s ("BZX") fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[22] The Exchange will continue to ensure that the fees applicable to Internalized Trades are no more favorable than the Exchange's prevailing maker/taker spread.

[23] *See* the BZX fee schedule *available at http://www.bats.com/us/equities/membership/fee_schedule/bzx/.*

[24] *See* Exchange Rule 1.5(d).

charged by other exchanger or is designed to continue to discourage potential wash sales.

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 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 [25] and paragraph (f) of Rule 19b–4 thereunder.[26] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsEDGX–2017–09 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–BatsEDGX–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/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–BatsEDGX–2017–09, and should be submitted on or before March 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[27]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03299 Filed 2–17–17; 8:45 am]

BILLING CODE 8011–01–P

[25] 15 U.S.C. 78s(b)(3)(A).

[26] 17 CFR 240.19b–4(f).

[27] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32479; File No. 812–14718]

Brinker Capital Destinations Trust, et al.; Notice of Application

February 14, 2017.

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

ACTION: Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

APPLICANTS: Brinker Capital Destinations Trust (the ''Trust''), a Delaware statutory trust registered under the Act as an open-end management investment company with multiple series, and Brinker Capital, Inc., a Delaware corporation registered as an investment adviser under the Investment Advisers Act of 1940 (''Brinker'' or the ''Adviser,'' and, collectively with the Trust, the ''Applicants'').

FILING DATES: The application was filed December 1, 2016, and amended on February 1, 2017 and February 10, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 14, 2017, and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090. Applicants: Jason B. Moore, Brinker Capital Destinations Trust, 1055 Westlakes Drive, Berwyn, PA 19312; and John J. O'Brien, Esq., Morgan, Lewis & Bockius LLP, 1701 Market Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Jennifer O. Palmer, Senior Counsel, at (202) 551–5786, or Nadya Roytblat, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

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

Summary of the Application

1. The Adviser will serve as the investment adviser to the Subadvised Series pursuant to an investment advisory agreement with the Trust (the

''Advisory Agreement'').[1] The Adviser will provide the Subadvised Series with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Subadvised Series' board of trustees (''Board''). The Advisory Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more sub-advisers (each, a ''Sub-Adviser'' and collectively, the ''Sub-Advisers'') the responsibility to provide the day-to-day portfolio investment management of each Subadvised Series, subject to the supervision and direction of the Adviser. The primary responsibility for managing the Subadvised Series will remain vested in the Adviser. The Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit the Adviser, subject to Board approval, to hire certain Sub-Advisers pursuant to Sub-Advisory Agreements and materially amend existing Sub-Advisory Agreements without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[2] Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Series to disclose (as both a dollar amount and a percentage of the Subadvised Series' net assets): (a) The aggregate fees paid to the Adviser and any Affiliated Sub-Adviser; and (b) the aggregate fees paid to Sub-Advisers other than Affiliated Sub-Advisers (collectively, ''Aggregate Fee Disclosure''). For any Subadvised Series that employs an Affiliated Sub-Adviser, the Subadvised Series will provide separate disclosure of any fees paid to the Affiliated Sub-Adviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the Application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Series shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Series' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the Application, the Advisory Agreements will remain subject to shareholder approval, while the role of the Sub-Advisers is substantially similar to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Series. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Series.

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

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03298 Filed 2–17–17; 8:45 am]

BILLING CODE 8011–01–P

[1] Applicants request relief with respect to any existing and any future series of the Trust and any other registered open-end management company or series thereof that: (a) Is advised by Brinker or its successor or by a person controlling, controlled by, or under common control with Brinker or its successor (each, also an ''Adviser''); (b) uses the manager of managers structure described in the application; and (c) complies with the terms and conditions of the application (each, a ''Subadvised Series'' and collectively, the ''Subadvised Series''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization.

[2] The requested relief will not extend to any sub-adviser that is an affiliated person, as defined in section 2(a)(3) of the Act, of a Subadvised Series or the Adviser, other than by reason of serving as a sub-adviser to one or more of the Subadvised Series (''Affiliated Sub-Adviser'').

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80036; File No. SR–BatsBZX–2017–10]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the iShares iBonds Dec 2024 AMT-Free Muni Bond ETF, iShares iBonds Dec 2025 AMT-Free Muni Bond ETF, and iShares iBonds Dec 2026 AMT-Free Muni Bond ETF of the iShares U.S. ETF Trust Under Bats Rule 14.11(i), Managed Fund Shares

February 14, 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 January 31, 2017, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposed rule change to list and trade shares of the iShares iBonds Dec 2024 AMT-Free Muni Bond ETF, iShares iBonds Dec 2025 AMT-Free Muni Bond ETF, and iShares iBonds Dec 2026 AMT-Free Muni Bond ETF (each a ''Fund'' or, collectively, the ''Funds'') of the iShares U.S. ETF Trust (the ''Trust'' or the ''Issuer'') under Bats Rule 14.11(i) (''Managed Fund Shares''). The shares of the Funds are referred to herein as the ''Shares.''

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 list and trade the Shares under Bats Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Funds will be actively

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Bats Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

managed funds. The Shares will be offered by the Trust, which was established as a Delaware statutory trust on June 21, 2011. The Trust is registered with the Commission as an open-end investment company and has filed a registration statement on behalf of the Funds on Form N–1A (''Registration Statement'') with the Commission.[4]

Description of the Shares and the Funds

BlackRock Fund Advisors is the investment adviser (''BFA'' or ''Adviser'') to the Funds.[5] State Street Bank and Trust Company is the administrator, custodian, and transfer agent (''Administrator,'' ''Custodian,'' and ''Transfer Agent,'' respectively) for the Trust. BlackRock Investments, LLC serves as the distributor (''Distributor'') for the Trust.

Bats Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio.[6] In addition, Rule 14.11(i)(7) further requires that personnel who make decisions on the investment company's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the applicable investment company portfolio. Rule 14.11(i)(7) is similar to Bats Rule 14.11(b)(5)(A)(i), however, Rule 14.11(i)(7) in connection with the establishment of a ''fire wall'' between the investment adviser and the broker-dealer reflects the applicable open-end fund's portfolio, not an underlying benchmark index, as is the case with index-based funds. The Adviser is not a registered broker-dealer, but is affiliated with multiple broker-dealers and has implemented ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolio. In addition, Adviser personnel who make decisions regarding a Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

iShares iBonds Dec 2024 AMT-Free Muni Bond ETF

According to the Registration Statement, the Fund will seek to maximize tax-free current income and terminate on or around December 2024. To achieve its objective, the Fund will invest, under normal circumstances,[7] at least 80% of its net assets in Municipal Securities, as defined below, such that the interest on each security is exempt from U.S. federal income taxes and the federal alternative minimum tax (the ''AMT''). The Fund is not a money market fund and does not seek to maintain a stable net asset value of $1.00 per share. The Fund will be classified as a ''non-diversified'' investment company under the 1940 Act.[8]

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended. The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Principal Holdings—Municipal Securities

To achieve its objective, the Fund will invest, under normal circumstances, in U.S.-dollar denominated investment-grade fixed-rate Municipal Securities, as defined below. The Fund will invest in both callable and non-callable municipal bonds. Investment-grade securities are rated a minimum of BBB- or higher by Standard & Poor's Ratings Services and/or Fitch, or Baa3 or higher by Moody's, or if unrated, determined by the Adviser to be of equivalent quality.[9] Under normal circumstances, the Fund's effective duration will vary within one year (plus or minus) of the effective duration of the securities comprising the S&P AMT-Free Municipal Series Dec 2024 Index, which, as of December 15, 2015, was 7.24 years.[10]

Municipal securities (''Municipal Securities'') are fixed and variable rate securities issued in the U.S. by U.S. states and territories, municipalities and other political subdivisions, agencies, authorities, and instrumentalities of states and multi-state agencies and authorities and will include only the following instruments: General obligation bonds,[11] limited obligation

[4] *See* Registration Statement on Form N–1A for the Trust, dated November 2, 2015 (File Nos. 333–179904 and 811–22649). The descriptions of the Funds and the Shares contained herein are based, in part, on information in the Registration Statement. The Commission has issued an order granting certain exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) (''1940 Act'') (the ''Exemptive Order''). *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601).

[5] BFA is an indirect wholly owned subsidiary of BlackRock, Inc.

[6] An investment adviser to an open-end fund is required to be registered under the Investment Advisers Act of 1940 (the ''Advisers Act''). As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[7] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the financial markets; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot, or labor disruption, or any similar intervening circumstance.

[8] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[9] According to the Adviser, BFA may determine that unrated securities are of ''equivalent quality'' based on such credit quality factors that it deems appropriate, which may include among other things, performing an analysis similar, to the extent possible, to that performed by a nationally recognized statistical ratings organization when rating similar securities and issuers. In making such a determination, BFA may consider internal analyses and risk ratings, third party research and analysis, and other sources of information, as deemed appropriate by the Adviser.

[10] Effective duration is a measure of the Fund's price sensitivity to changes in yields or interest rates.

[11] General obligation bonds are obligations involving the credit of an issuer possessing taxing

Continued

bonds (or revenue bonds),[12] municipal notes,[13] municipal commercial paper,[14] tender option bonds,[15] variable rate demand obligations (''VRDOs''),[16] municipal lease obligations,[17] stripped securities,[18] structured securities,[19] when issued securities,[20] zero coupon securities,[21] and exchange traded and non-exchange traded investment companies (including investment companies advised by BFA or its affiliates) that invest in such Municipal Securities.[22]

In the last year of operation, as the bonds held by the Fund mature, the proceeds will not be reinvested in bonds but instead will be held in cash and cash equivalents, including, without limitation, shares of affiliated money market funds, AMT-free tax-exempt municipal notes, VRDOs, tender option bonds and municipal commercial paper. In or around December 2024, the Fund will wind up and terminate, and its net assets will be distributed to then current shareholders.

The Fund will hold a minimum of 40 different Municipal Securities diversified among issuers in at least 8 different states with no more than 30% of the Fund's assets comprised of Municipal Bonds that provide exposure to any single state. The Fund will hold a minimum of 75 different Municipal Securities when at least four creation units are outstanding. The Fund will hold a minimum of 100 different Municipal Securities diversified among issuers in at least 20 different states when at least eight creation units are outstanding. No single Municipal Security held by the Fund will exceed 4% of the weight of the Fund's portfolio and no single issuer of Municipal Securities will account for more than 10% of the weight of the Fund's portfolio. The Fund will hold Municipal Securities of at least 20 non-affiliated issuers. The Fund will hold Municipal Securities of at least 30 non-affiliated issuers when at least four creation units are outstanding.[23] To the extent that the Fund at one point has sufficient creation units outstanding necessary to trigger a diversity requirement laid out above (a ''Trigger Number''), but subsequently has fewer creation units outstanding than the applicable Trigger Number, the Fund may no longer comply with the applicable diversity requirement.

In the absence of normal circumstances, the Fund may temporarily depart from its normal investment process, provided that such departure is, in the opinion of the Adviser, consistent with the Fund's investment objective and in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in response to adverse market, economic or political conditions.

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[24] The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Other Portfolio Holdings

The Fund may also, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets), engage in transactions in futures contracts, options, or swaps in order to facilitate trading or to reduce transaction costs.[25] The Fund's investments will be consistent with its investment objective and will not be used to achieve leveraged returns (*i.e.* two times or three times the Fund's benchmark, as described in the Registration Statement).

The Fund may also enter into repurchase and reverse repurchase agreements for Municipal Securities (collectively, ''Repurchase Agreements''). Repurchase Agreements involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing as part of the Fund's principal holdings.[26]

The Fund may also invest in short-term instruments (''Short-Term Instruments''),[27] which includes

power and are payable from such issuer's general revenues and not from any particular source.

[12] Limited obligation bonds are payable only from the revenues derived from a particular facility or class of facilities or, in some cases, from the proceeds of a special excise or other specific revenue source, and also include industrial development bonds issued pursuant to former U.S. federal tax law. Industrial development bonds generally are also revenue bonds and thus are not payable from the issuer's general revenues. The credit and quality of industrial development bonds are usually related to the credit of the corporate user of the facilities. Payment of interest on and repayment of principal of such bonds is the responsibility of the corporate user (and/or any guarantor).

[13] Municipal notes are shorter-term municipal debt obligations that may provide interim financing in anticipation of tax collection, receipt of grants, bond sales, or revenue receipts.

[14] Municipal commercial paper is generally unsecured debt that is issued to meet short-term financing needs.

[15] Tender option bonds are synthetic floating-rate or variable-rate securities issued when long-term bonds are purchased in the primary or secondary market and then deposited into a trust. Custodial receipts are then issued to investors, such as the Fund, evidencing ownership interests in the trust.

[16] VRDOs are tax-exempt obligations that contain a floating or variable interest rate adjustment formula and a right of demand on the part of the holder thereof to receive payment of the unpaid principal balance plus accrued interest upon a short notice period not to exceed seven days.

[17] Municipal lease obligations include certificates of participation issued by government authorities or entities to finance the acquisition or construction of equipment, land, and/or facilities.

[18] Stripped securities are created when an issuer separates the interest and principal components of an instrument and sells them as separate securities. In general, one security is entitled to receive the interest payments on the underlying assets and the other to receive the principal payments.

[19] Structured securities are privately negotiated debt obligations where the principal and/or interest is determined by reference to the performance of an underlying investment, index, or reference obligation, and may be issued by governmental agencies. While structured securities are part of the principal holdings of the Fund, the Issuer represents that such securities, when combined with those instruments held as part of the other portfolio holdings described below, will not exceed 20% of the Fund's net assets.

[20] The Fund may purchase or sell securities that it is entitled to receive on a when issued or delayed delivery basis as well as through a forward commitment.

[21] Zero coupon securities are securities that are sold at a discount to par value and do not pay interest during the life of the security. The discount approximates the total amount of interest the security will accrue and compound over the period until maturity at a rate of interest reflecting the market rate of the security at the time of issuance. Upon maturity, the holder of a zero coupon security is entitled to receive the par value of the security.

[22] The Fund currently anticipates investing in only registered open-end investment companies, including mutual funds and the open-end investment company funds described in Bats Rule 14.11. The Fund may invest in the securities of other investment companies to the extent permitted by law.

[23] For purposes of this filing, each state and each separate political subdivision, agency, authority, or instrumentality of such state, each multi-state agency or authority, and each guarantor, if any, will be treated as separate issuers of Municipal Securities.

[24] 26 U.S.C. 851.

[25] Derivatives might be included in the Fund's investments to serve the investment objectives of the Fund. Such derivatives include only the following: Interest rate futures, interest rate options, interest rate swaps, and swaps on Municipal Securities indexes. The derivatives will be centrally cleared and they will be collateralized. Derivatives are not a principal investment strategy of the Fund.

[26] The Fund's exposure to reverse repurchase agreements will be covered by liquid assets having a value equal to or greater than such commitments. The use of reverse repurchase agreements is a form of leverage because the proceeds derived from reverse repurchase agreements may be invested in additional securities. As further stated below, the Fund's investments will be consistent with its investment objective and will not be used to achieve leveraged returns.

[27] The Fund may invest in Short-Term Instruments, including money market instruments, on an ongoing basis to provide liquidity or for other reasons. Money market instruments are generally short-term investments that include only the following: (i) Shares of money market funds (including those advised by BFA or otherwise affiliated with BFA); (ii) obligations issued or guaranteed by the U.S. government, its agencies or

exchange traded and non-exchange traded investment companies (including investment companies advised by BFA or its affiliates) that invest in money market instruments.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), as deemed illiquid by the Adviser[28] under the 1940 Act.[29] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may also invest up to 20% of its net assets in Municipal Securities that pay interest that is subject to the AMT.

iShares iBonds Dec 2025 AMT-Free Muni Bond ETF

According to the Registration Statement, the Fund will seek to maximize tax-free current income and terminate on or around December 2025. To achieve its objective, the Fund will invest, under normal circumstances,[30] at least 80% of its net assets in Municipal Securities, as defined below, such that the interest on each security is exempt from U.S. federal income taxes and the federal alternative minimum tax (the ''AMT''). The Fund is not a money market fund and does not seek to maintain a stable net asset value of $1.00 per share. The Fund will be classified as a ''non-diversified'' investment company under the 1940 Act.[31]

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended. The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Principal Holdings—Municipal Securities

To achieve its objective, the Fund will invest, under normal circumstances, in U.S.-dollar denominated investment-grade fixed-rate Municipal Securities, as defined below. The Fund will invest in both callable and non-callable municipal bonds. Investment-grade securities are rated a minimum of BBB- or higher by Standard & Poor's Ratings Services and/or Fitch, or Baa3 or higher by Moody's, or if unrated, determined by the Adviser to be of equivalent quality.[32] Under normal circumstances, the Fund's effective duration will vary within one year (plus or minus) of the effective duration of the securities comprising the S&P AMT-Free Municipal Series Dec 2025 Index, which, as of December 15, 2015, was 8.26 years.[33]

Municipal securities (''Municipal Securities'') are fixed and variable rate securities issued in the U.S. by U.S. states and territories, municipalities and other political subdivisions, agencies, authorities, and instrumentalities of states and multi-state agencies and authorities and will include only the following instruments: General obligation bonds,[34] limited obligation bonds (or revenue bonds),[35] [sic], municipal notes,[36] municipal

instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit (''CDs''), bankers' acceptances, fixed-time deposits and other obligations of U.S. and non-U.S. banks (including non-U.S. branches) and similar institutions; (iv) commercial paper, including asset-backed commercial paper; (v) non-convertible corporate debt securities (*e.g.,* bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a–7 under the 1940 Act; and (vi) short-term U.S. dollar-denominated obligations of non-U.S. banks (including U.S. branches) that, in the opinion of BFA, are of comparable quality to obligations of U.S. banks which may be purchased by the Fund. All money market securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated money market securities. However, it may do so, to a limited extent, such as where a rated money market security becomes unrated, if such money market security is determined by the Adviser to be of comparable quality. BFA may determine that unrated securities are of comparable quality based on such credit quality factors that it deems appropriate, which may include, among other things, performing an analysis similar, to the extent possible, to that performed by a nationally recognized statistical rating organization rating similar securities and issuers.

[28] In reaching liquidity decisions, the Adviser may consider factors including: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer); any legal or contractual restrictions on the ability to transfer the security or asset; significant developments involving the issuer or counterparty specifically (*e.g.,* default, bankruptcy, etc.) or the securities markets generally; and settlement practices, registration procedures, limitations on currency conversion or repatriation, and transfer limitations (for foreign securities or other assets).

[29] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[30] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the financial markets; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot, or labor disruption, or any similar intervening circumstance.

[31] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[32] According to the Adviser, BFA may determine that unrated securities are of ''equivalent quality'' based on such credit quality factors that it deems appropriate, which may include among other things, performing an analysis similar, to the extent possible, to that performed by a nationally recognized statistical ratings organization when rating similar securities and issuers. In making such a determination, BFA may consider internal analyses and risk ratings, third party research and analysis, and other sources of information, as deemed appropriate by the Adviser.

[33] Effective duration is a measure of the Fund's price sensitivity to changes in yields or interest rates.

[34] General obligation bonds are obligations involving the credit of an issuer possessing taxing power and are payable from such issuer's general revenues and not from any particular source.

[35] Limited obligation bonds are payable only from the revenues derived from a particular facility or class of facilities or, in some cases, from the proceeds of a special excise or other specific revenue source, and also include industrial development bonds issued pursuant to former U.S. federal tax law. Industrial development bonds generally are also revenue bonds and thus are not payable from the issuer's general revenues. The credit and quality of industrial development bonds are usually related to the credit of the corporate user of the facilities. Payment of interest on and repayment of principal of such bonds is the responsibility of the corporate user (and/or any guarantor).

[36] Municipal notes are shorter-term municipal debt obligations that may provide interim financing in anticipation of tax collection, receipt of grants, bond sales, or revenue receipts.

commercial paper,[37] tender option bonds,[38] variable rate demand obligations (''VRDOs''),[39] municipal lease obligations,[40] stripped securities,[41] structured securities,[42] when issued securities,[43] zero coupon securities,[44] and exchange traded and non-exchange traded investment companies (including investment companies advised by BFA or its affiliates) that invest in such Municipal Securities.[45]

In the last year of operation, as the bonds held by the Fund mature, the proceeds will not be reinvested in bonds but instead will be held in cash and cash equivalents, including, without limitation, shares of affiliated money market funds, AMT-free tax-exempt municipal notes, VRDOs, tender option bonds and municipal commercial paper. In or around December 2025, the Fund will wind up and terminate, and its net assets will be distributed to then current shareholders.

The Fund will hold a minimum of 40 different Municipal Securities diversified among issuers in at least 8 different states with no more than 30% of the Fund's assets comprised of Municipal Bonds that provide exposure to any single state. The Fund will hold a minimum of 75 different Municipal Securities when at least four creation units are outstanding. The Fund will hold a minimum of 100 different Municipal Securities diversified among issuers in at least 20 different states when at least eight creation units are outstanding. No single Municipal Security held by the Fund will exceed 4% of the weight of the Fund's portfolio and no single issuer of Municipal Securities will account for more than 10% of the weight of the Fund's portfolio. The Fund will hold Municipal Securities of at least 20 non-affiliated issuers. The Fund will hold Municipal Securities of at least 30 non-affiliated issuers when at least four creation units are outstanding.[46] To the extent that the Fund at one point has sufficient creation units outstanding necessary to trigger a diversity requirement laid out above (a ''Trigger Number''), but subsequently has fewer creation units outstanding than the applicable Trigger Number, the Fund may no longer comply with the applicable diversity requirement.

In the absence of normal circumstances, the Fund may temporarily depart from its normal investment process, provided that such departure is, in the opinion of the Adviser, consistent with the Fund's investment objective and in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in response to adverse market, economic or political conditions.

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[47] The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Other Portfolio Holdings

The Fund may also, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets), engage in transactions in futures contracts, options, or swaps in order to facilitate trading or to reduce transaction costs.[48] The Fund's investments will be consistent with its investment objective and will not be used to achieve leveraged returns (*i.e.* two times or three times the Fund's benchmark, as described in the Registration Statement).

The Fund may also enter into repurchase and reverse repurchase agreements for Municipal Securities (collectively, ''Repurchase Agreements''). Repurchase Agreements involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing as part of the Fund's principal holdings.[49]

The Fund may also invest in short-term instruments (''Short-Term Instruments''),[50] which includes

[37] Municipal commercial paper is generally unsecured debt that is issued to meet short-term financing needs.

[38] Tender option bonds are synthetic floating-rate or variable-rate securities issued when long-term bonds are purchased in the primary or secondary market and then deposited into a trust. Custodial receipts are then issued to investors, such as the Fund, evidencing ownership interests in the trust.

[39] VRDOs are tax-exempt obligations that contain a floating or variable interest rate adjustment formula and a right of demand on the part of the holder thereof to receive payment of the unpaid principal balance plus accrued interest upon a short notice period not to exceed seven days.

[40] Municipal lease obligations include certificates of participation issued by government authorities or entities to finance the acquisition or construction of equipment, land, and/or facilities.

[41] Stripped securities are created when an issuer separates the interest and principal components of an instrument and sells them as separate securities. In general, one security is entitled to receive the interest payments on the underlying assets and the other to receive the principal payments.

[42] Structured securities are privately negotiated debt obligations where the principal and/or interest is determined by reference to the performance of an underlying investment, index, or reference obligation, and may be issued by governmental agencies. While structured securities are part of the principal holdings of the Fund, the Issuer represents that such securities, when combined with those instruments held as part of the other portfolio holdings described below, will not exceed 20% of the Fund's net assets.

[43] The Fund may purchase or sell securities that it is entitled to receive on a when issued or delayed delivery basis as well as through a forward commitment.

[44] Zero coupon securities are securities that are sold at a discount to par value and do not pay interest during the life of the security. The discount approximates the total amount of interest the security will accrue and compound over the period until maturity at a rate of interest reflecting the market rate of the security at the time of issuance. Upon maturity, the holder of a zero coupon security is entitled to receive the par value of the security.

[45] The Fund currently anticipates investing in only registered open-end investment companies, including mutual funds and the open-end investment company funds described in Bats Rule 14.11. The Fund may invest in the securities of other investment companies to the extent permitted by law.

[46] For purposes of this filing, each state and each separate political subdivision, agency, authority, or instrumentality of such state, each multi-state agency or authority, and each guarantor, if any, will be treated as separate issuers of Municipal Securities.

[47] 26 U.S.C. 851.

[48] Derivatives might be included in the Fund's investments to serve the investment objectives of the Fund. Such derivatives include only the following: Interest rate futures, interest rate options, interest rate swaps, and swaps on Municipal Securities indexes. The derivatives will be centrally cleared and they will be collateralized. Derivatives are not a principal investment strategy of the Fund.

[49] The Fund's exposure to reverse repurchase agreements will be covered by liquid assets having a value equal to or greater than such commitments. The use of reverse repurchase agreements is a form of leverage because the proceeds derived from reverse repurchase agreements may be invested in additional securities. As further stated below, the Fund's investments will be consistent with its investment objective and will not be used to achieve leveraged returns.

[50] The Fund may invest in Short-Term Instruments, including money market instruments, on an ongoing basis to provide liquidity or for other reasons. Money market instruments are generally short-term investments that include only the following: (i) Shares of money market funds (including those advised by BFA or otherwise affiliated with BFA); (ii) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit (''CDs''), bankers' acceptances, fixed-time deposits and other obligations of U.S. and non-U.S. banks (including non-U.S. branches) and similar institutions; (iv) commercial paper, including asset-backed commercial paper; (v) non-convertible corporate debt securities (*e.g.,* bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a–7 under the 1940 Act; and (vi) short-term U.S. dollar-denominated obligations of non-U.S. banks (including U.S. branches) that, in the opinion of BFA, are of comparable quality to obligations of U.S. banks which may be purchased by the Fund. All money market securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated money market securities. However, it may do so, to a limited extent, such as where a rated money market security becomes unrated, if such money market

exchange traded and non-exchange traded investment companies (including investment companies advised by BFA or its affiliates) that invest in money market instruments.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), as deemed illiquid by the Adviser [51] under the 1940 Act.[52] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may also invest up to 20% of its net assets in Municipal Securities that pay interest that is subject to the AMT.

iShares iBonds Dec 2026 AMT-Free Muni Bond ETF

According to the Registration Statement, the Fund will seek to maximize tax-free current income and terminate on or around December 2026. To achieve its objective, the Fund will invest, under normal circumstances,[53] at least 80% of its net assets in Municipal Securities, as defined below, such that the interest on each security is exempt from U.S. federal income taxes and the federal alternative minimum tax (the ''AMT''). The Fund is not a money market fund and does not seek to maintain a stable net asset value of $1.00 per share. The Fund will be classified as a ''non-diversified'' investment company under the 1940 Act.[54]

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended. The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Principal Holdings—Municipal Securities

To achieve its objective, the Fund will invest, under normal circumstances, in U.S.-dollar denominated investment-grade fixed-rate Municipal Securities, as defined below. The Fund will invest in both callable and non-callable municipal bonds. Investment-grade securities are rated a minimum of BBB- or higher by Standard & Poor's Ratings Services and/or Fitch, or Baa3 or higher by Moody's, or if unrated, determined by the Adviser to be of equivalent quality.[55] Under normal circumstances, the Fund's effective duration will vary within one year (plus or minus) of the effective duration of the securities comprising the S&P AMT-Free Municipal Series Dec 2026 Index, which, as of December 15, 2015, was 9.22 years.[56]

Municipal securities (''Municipal Securities'') are fixed and variable rate securities issued in the U.S. by U.S. states and territories, municipalities and other political subdivisions, agencies, authorities, and instrumentalities of states and multi-state agencies and authorities and will include only the following instruments: General obligation bonds,[57] limited obligation bonds (or revenue bonds),[58] [sic], municipal notes,[59] municipal commercial paper,[60] tender option bonds,[61] variable rate demand obligations (''VRDOs''),[62] municipal

security is determined by the Adviser to be of comparable quality. BFA may determine that unrated securities are of comparable quality based on such credit quality factors that it deems appropriate, which may include, among other things, performing an analysis similar, to the extent possible, to that performed by a nationally recognized statistical rating organization rating similar securities and issuers.

[51] In reaching liquidity decisions, the Adviser may consider factors including: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer); any legal or contractual restrictions on the ability to transfer the security or asset; significant developments involving the issuer or counterparty specifically (*e.g.,* default, bankruptcy, etc.) or the securities markets generally; and settlement practices, registration procedures, limitations on currency conversion or repatriation, and transfer limitations (for foreign securities or other assets).

[52] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[53] The term ''under normal circumstances'' includes, but is not limited to, the absence of adverse market, economic, political, or other conditions, including extreme volatility or trading halts in the financial markets; operational issues causing dissemination of inaccurate market information; or force majeure type events such as systems failure, natural or man-made disaster, act of God, armed conflict, act of terrorism, riot, or labor disruption, or any similar intervening circumstance.

[54] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[55] According to the Adviser, BFA may determine that unrated securities are of ''equivalent quality'' based on such credit quality factors that it deems appropriate, which may include among other things, performing an analysis similar, to the extent possible, to that performed by a nationally recognized statistical ratings organization when rating similar securities and issuers. In making such a determination, BFA may consider internal analyses and risk ratings, third party research and analysis, and other sources of information, as deemed appropriate by the Adviser.

[56] Effective duration is a measure of the Fund's price sensitivity to changes in yields or interest rates.

[57] General obligation bonds are obligations involving the credit of an issuer possessing taxing power and are payable from such issuer's general revenues and not from any particular source.

[58] Limited obligation bonds are payable only from the revenues derived from a particular facility or class of facilities or, in some cases, from the proceeds of a special excise or other specific revenue source, and also include industrial development bonds issued pursuant to former U.S. federal tax law. Industrial development bonds generally are also revenue bonds and thus are not payable from the issuer's general revenues. The credit and quality of industrial development bonds are usually related to the credit of the corporate user of the facilities. Payment of interest on and repayment of principal of such bonds is the responsibility of the corporate user (and/or any guarantor).

[59] Municipal notes are shorter-term municipal debt obligations that may provide interim financing in anticipation of tax collection, receipt of grants, bond sales, or revenue receipts.

[60] Municipal commercial paper is generally unsecured debt that is issued to meet short-term financing needs.

[61] Tender option bonds are synthetic floating-rate or variable-rate securities issued when long-term bonds are purchased in the primary or secondary market and then deposited into a trust. Custodial receipts are then issued to investors, such as the Fund, evidencing ownership interests in the trust.

[62] VRDOs are tax-exempt obligations that contain a floating or variable interest rate adjustment formula and a right of demand on the part of the holder thereof to receive payment of the unpaid principal balance plus accrued interest upon a short notice period not to exceed seven days.

lease obligations,[63] stripped securities,[64] structured securities,[65] when issued securities,[66] zero coupon securities,[67] and exchange traded and non-exchange traded investment companies (including investment companies advised by BFA or its affiliates) that invest in such Municipal Securities.[68]

In the last year of operation, as the bonds held by the Fund mature, the proceeds will not be reinvested in bonds but instead will be held in cash and cash equivalents, including, without limitation, shares of affiliated money market funds, AMT-free tax-exempt municipal notes, VRDOs, tender option bonds and municipal commercial paper. In or around December 2026, the Fund will wind up and terminate, and its net assets will be distributed to then current shareholders.

The Fund will hold a minimum of 40 different Municipal Securities diversified among issuers in at least 8 different states with no more than 30% of the Fund's assets comprised of Municipal Bonds that provide exposure to any single state. The Fund will hold a minimum of 75 different Municipal Securities when at least four creation units are outstanding. The Fund will hold a minimum of 100 different Municipal Securities diversified among issuers in at least 20 different states when at least eight creation units are outstanding. No single Municipal Security held by the Fund will exceed 4% of the weight of the Fund's portfolio and no single issuer of Municipal Securities will account for more than 10% of the weight of the Fund's portfolio. The Fund will hold Municipal Securities of at least 20 non-affiliated issuers. The Fund will hold Municipal Securities of at least 30 non-affiliated issuers when at least four creation units are outstanding.[69] To the extent that the Fund at one point has sufficient creation units outstanding necessary to trigger a diversity requirement laid out above (a ''Trigger Number''), but subsequently has fewer creation units outstanding than the applicable Trigger Number, the Fund may no longer comply with the applicable diversity requirement.

In the absence of normal circumstances, the Fund may temporarily depart from its normal investment process, provided that such departure is, in the opinion of the Adviser, consistent with the Fund's investment objective and in the best interest of the Fund. For example, the Fund may hold a higher than normal proportion of its assets in cash in response to adverse market, economic or political conditions.

The Fund intends to qualify each year as a regulated investment company (a ''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[70] The Fund will invest its assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M.

Other Portfolio Holdings

The Fund may also, to a limited extent (under normal circumstances, less than 20% of the Fund's net assets), engage in transactions in futures contracts, options, or swaps in order to facilitate trading or to reduce transaction costs.[71] The Fund's investments will be consistent with its investment objective and will not be used to achieve leveraged returns (*i.e.* two times or three times the Fund's benchmark, as described in the Registration Statement).

The Fund may also enter into repurchase and reverse repurchase agreements for Municipal Securities (collectively, ''Repurchase Agreements''). Repurchase Agreements involve the sale of securities with an agreement to repurchase the securities at an agreed-upon price, date and interest payment and have the characteristics of borrowing as part of the Fund's principal holdings.[72]

The Fund may also invest in short-term instruments (''Short-Term Instruments''),[73] which includes exchange traded and non-exchange traded investment companies (including investment companies advised by BFA or its affiliates) that invest in money market instruments.

Investment Restrictions

The Fund may hold up to an aggregate amount of 15% of its net assets in

[63] Municipal lease obligations include certificates of participation issued by government authorities or entities to finance the acquisition or construction of equipment, land, and/or facilities.

[64] Stripped securities are created when an issuer separates the interest and principal components of an instrument and sells them as separate securities. In general, one security is entitled to receive the interest payments on the underlying assets and the other to receive the principal payments.

[65] Structured securities are privately negotiated debt obligations where the principal and/or interest is determined by reference to the performance of an underlying investment, index, or reference obligation, and may be issued by governmental agencies. While structured securities are part of the principal holdings of the Fund, the Issuer represents that such securities, when combined with those instruments held as part of the other portfolio holdings described below, will not exceed 20% of the Fund's net assets.

[66] The Fund may purchase or sell securities that it is entitled to receive on a when issued or delayed delivery basis as well as through a forward commitment.

[67] Zero coupon securities are securities that are sold at a discount to par value and do not pay interest during the life of the security. The discount approximates the total amount of interest the security will accrue and compound over the period until maturity at a rate of interest reflecting the market rate of the security at the time of issuance. Upon maturity, the holder of a zero coupon security is entitled to receive the par value of the security.

[68] The Fund currently anticipates investing in only registered open-end investment companies, including mutual funds and the open-end investment company funds described in Bats Rule 14.11. The Fund may invest in the securities of other investment companies to the extent permitted by law.

[69] For purposes of this filing, each state and each separate political subdivision, agency, authority, or instrumentality of such state, each multi-state agency or authority, and each guarantor, if any, will be treated as separate issuers of Municipal Securities.

[70] 26 U.S.C. 851.

[71] Derivatives might be included in the Fund's investments to serve the investment objectives of the Fund. Such derivatives include only the following: Interest rate futures, interest rate options, interest rate swaps, and swaps on Municipal Securities indexes. The derivatives will be centrally cleared and they will be collateralized. Derivatives are not a principal investment strategy of the Fund.

[72] The Fund's exposure to reverse repurchase agreements will be covered by liquid assets having a value equal to or greater than such commitments. The use of reverse repurchase agreements is a form of leverage because the proceeds derived from reverse repurchase agreements may be invested in additional securities. As further stated below, the Fund's investments will be consistent with its investment objective and will not be used to achieve leveraged returns.

[73] The Fund may invest in Short-Term Instruments, including money market instruments, on an ongoing basis to provide liquidity or for other reasons. Money market instruments are generally short-term investments that include only the following: (i) Shares of money market funds (including those advised by BFA or otherwise affiliated with BFA); (ii) obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities (including government-sponsored enterprises); (iii) negotiable certificates of deposit (''CDs''), bankers' acceptances, fixed-time deposits and other obligations of U.S. and non-U.S. banks (including non-U.S. branches) and similar institutions; (iv) commercial paper, including asset-backed commercial paper; (v) non-convertible corporate debt securities (*e.g.,* bonds and debentures) with remaining maturities at the date of purchase of not more than 397 days and that satisfy the rating requirements set forth in Rule 2a–7 under the 1940 Act; and (vi) short-term U.S. dollar-denominated obligations of non-U.S. banks (including U.S. branches) that, in the opinion of BFA, are of comparable quality to obligations of U.S. banks which may be purchased by the Fund. All money market securities acquired by the Fund will be rated investment grade. The Fund does not intend to invest in any unrated money market securities. However, it may do so, to a limited extent, such as where a rated money market security becomes unrated, if such money market security is determined by the Adviser to be of comparable quality. BFA may determine that unrated securities are of comparable quality based on such credit quality factors that it deems appropriate, which may include, among other things, performing an analysis similar, to the extent possible, to that performed by a nationally recognized statistical rating organization rating similar securities and issuers.

illiquid assets (calculated at the time of investment), as deemed illiquid by the Adviser[74] under the 1940 Act.[75] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The Fund may also invest up to 20% of its net assets in Municipal Securities that pay interest that is subject to the AMT.

Net Asset Value

According to the Registration Statement, the net asset value (''NAV'') of the Funds will be calculated each business day as of the close of regular trading on the New York Stock Exchange (''NYSE''), generally 4:00 p.m. Eastern Time (the ''NAV Calculation Time''), on each day that the NYSE is open for trading, based on prices at the NAV Calculation Time. NAV per Share is calculated by dividing each Fund's net assets by the number of Shares outstanding.

According to the Registration Statement, unless otherwise described below, the Funds will value Municipal Securities using prices provided directly from one or more broker-dealers, market makers, or independent third-party pricing services which may use matrix pricing and valuation models, as well as recent market transactions for the same or similar assets, to derive values.

Exchange traded investment companies will be valued at market closing price or, if no closing price is available, at the last traded price on the primary exchange on which they are traded. Price information for such securities will be taken from the exchange where the security is primarily traded. Investment companies not listed on an exchange are valued at their net asset value.

Futures and options contracts will be valued at their last sale price or settle price as of the close of the applicable exchange.

Repurchase Agreements will generally be valued at par. In certain circumstances, Short-Term Instruments may be valued on the basis of amortized cost.

According to the Registration Statement, generally, trading in money market instruments, and certain Municipal Securities is substantially completed each day at various times prior to the close of business on the Exchange. Additionally, trading in certain derivatives is substantially completed each day at various times prior to the close of business on the Exchange. The values of such securities and derivatives used in computing the NAV of the Funds are determined at such times.

According to the Registration Statement, when market quotations are not readily available or are believed by BFA to be unreliable, the Funds' investments are valued at fair value. Fair value determinations are made by BFA in accordance with policies and procedures approved by the Trust's board of trustees and in accordance with the 1940 Act. BFA may conclude that a market quotation is not readily available or is unreliable if a security or other asset or liability is thinly traded, or where there is a significant event[76] subsequent to the most recent market quotation.

According to the Registration Statement, fair value represents a good faith approximation of the value of an asset or liability. The fair value of an asset or liability held by a Fund is the amount that the Fund might reasonably expect to receive from the current sale of that asset or the cost to extinguish that liability in an arm's-length transaction. Valuing a Fund's investments using fair value pricing will result in prices that may differ from current valuations and that may not be the prices at which those investments could have been sold during the period in which the particular fair values were used.

The Shares

Each Fund will issue and redeem Shares on a continuous basis at the NAV per Share only in large blocks of a specified number of Shares or multiples thereof (''Creation Units'') in transactions with authorized participants who have entered into agreements with the Distributor. Each Fund currently anticipates that a Creation Unit will consist of 50,000 Shares, though this number may change from time to time, including prior to listing of the Funds. The exact number of Shares that will constitute a Creation Unit will be disclosed in the respective Registration Statement of each Fund. Once created, Shares of each Fund trade on the secondary market in amounts less than a Creation Unit.

The consideration for purchase of Creation Units of a Fund generally will consist of the in-kind deposit of a designated portfolio of securities (including any portion of such securities for which cash may be substituted) (*i.e.,* the ''Deposit Securities''), and the ''Cash Component'' computed as described below. Together, the Deposit Securities and the Cash Component constitute the ''Fund Deposit,'' which represents the minimum initial and subsequent investment amount for a Creation Unit of a Fund.

The portfolio of securities required for purchase of a Creation Unit may not be identical to the portfolio of securities a Fund will deliver upon redemption of Shares. The Deposit Securities and Fund Securities (as defined below), as the case may be, in connection with a purchase or redemption of a Creation Unit, generally will correspond *pro rata* to the securities held by the Fund.

The Cash Component will be an amount equal to the difference between the NAV of the Shares (per Creation Unit) and the ''Deposit Amount,'' which will be an amount equal to the market value of the Deposit Securities, and serve to compensate for any differences between the NAV per Creation Unit and the Deposit Amount. Each Fund

[74] In reaching liquidity decisions, the Adviser may consider factors including: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; the nature of the security and the nature of the marketplace trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers, and the mechanics of transfer); any legal or contractual restrictions on the ability to transfer the security or asset; significant developments involving the issuer or counterparty specifically (*e.g.,* default, bankruptcy, etc.) or the securities markets generally; and settlement practices, registration procedures, limitations on currency conversion or repatriation, and transfer limitations (for foreign securities or other assets).

[75] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[76] A ''significant event'' is an event that, in the judgment of BFA, is likely to cause a material change to the closing market price of the asset or liability held by the Fund.

generally offers Creation Units partially for cash. BFA will make available through the National Securities Clearing Corporation (''NSCC'') on each business day, prior to the opening of business on the Exchange, the list of names and the required number or par value of each Deposit Security and the amount of the Cash Component to be included in the current Fund Deposit (based on information as of the end of the previous business day) for the Fund.

The identity and number or par value of the Deposit Securities may change pursuant to changes in the composition of a Fund's portfolio as rebalancing adjustments and corporate action events occur from time to time. The composition of the Deposit Securities may also change in response to adjustments to the weighting or composition of the holdings of a Fund.

Each Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the Depository Trust Company (''DTC'') or the clearing process through the NSCC.[77]

Except as noted below, all creation orders must be placed for one or more Creation Units and must be received by the Distributor in proper form no later than 4:00 p.m., Eastern Time, in each case on the date such order is placed in order for creation of Creation Units to be effected based on the NAV of Shares of the Fund as next determined on such date after receipt of the order in proper form. Orders requesting substitution of a ''cash in lieu'' amount generally must be received by the Distributor no later than 2:00 p.m., Eastern Time on the Settlement Date. The ''Settlement Date'' is generally the third business day after the transmittal date. On days when the Exchange or the bond markets close earlier than normal, a Fund may require orders to create or to redeem Creation Units to be placed earlier in the day.

Fund Deposits must be delivered through the Federal Reserve System (for cash and government securities), through DTC (for corporate and municipal securities), or through a central depository account, such as with Euroclear or DTC, maintained by State Street or a sub-custodian (a ''Central Depository Account'') by an authorized participant. Any portion of a Fund Deposit that may not be delivered through the Federal Reserve System or DTC must be delivered through a Central Depository Account. The Fund Deposit transfer must be ordered by the authorized participant in a timely fashion so as to ensure the delivery of the requisite number of Deposit Securities to the account of the Fund by no later than 3:00 p.m., Eastern Time, on the Settlement Date.

A standard creation transaction fee will be imposed to offset the transfer and other transaction costs associated with the issuance of Creation Units.

Shares of a Fund may be redeemed only in Creation Units at their NAV next determined after receipt of a redemption request in proper form by the Distributor and only on a business day. BFA will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the designated portfolio of securities (including any portion of such securities for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (''Fund Securities''). Fund Securities received on redemption may not be identical to Deposit Securities that are applicable to creations of Creation Units.

Unless cash redemptions are available or specified for a Fund, the redemption proceeds for a Creation Unit generally will consist of a specified amount of cash, Fund Securities, plus additional cash in an amount equal to the difference between the NAV of the Shares being redeemed, as next determined after the receipt of a request in proper form, and the value of the specified amount of cash and Fund Securities, less a redemption transaction fee. Each Fund generally redeems Creation Units partially for cash.

A standard redemption transaction fee will be imposed to offset transfer and other transaction costs that may be incurred by the Fund.

Redemption requests for Creation Units of a Fund must be submitted to the Distributor by or through an authorized participant no later than 4:00 p.m. Eastern Time on any business day, in order to receive that day's NAV. The authorized participant must transmit the request for redemption in the form required by the Fund to the Distributor in accordance with procedures set forth in the authorized participant agreement.

Additional information regarding the Shares and each Fund, including investment strategies, risks, creation and redemption procedures, fees and expenses, portfolio holdings disclosure policies, distributions, taxes and reports to be distributed to beneficial owners of the Shares can be found in the Registration Statement or on the Web site for the Funds (*www.iShares.com*), as applicable.

Availability of Information

The Funds' Web site, which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for each Fund that may be downloaded. The Web site will include additional quantitative information updated on a daily basis, including, for each Fund: (1) The prior business day's NAV and the market closing price or mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[78] and a calculation of the premium or discount of the market closing price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information will be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public Web sites. On each business day, before commencement of trading in Shares during Regular Trading Hours[79] on the Exchange, each Fund will disclose on its Web site the identities and quantities of the portfolio of securities and other assets (the ''Disclosed Portfolio'') held by the Fund that will form the basis for the Fund's calculation of NAV at the end of the business day.[80] The Disclosed Portfolio will include, as applicable, the names, quantity, percentage weighting and market value of securities and other assets held by the Fund and the characteristics of such assets. The Web site and information will be publicly available at no charge.

[77] The Adviser represents that, to the extent the Trust permits or requires a ''cash in lieu'' amount, such transactions will be effected in the same manner or in an equitable manner for all authorized participants.

[78] The Bid/Ask Price of the Fund will be determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund or its service providers.

[79] As defined in Rule 1.5(w), the term ''Regular Trading Hours'' means the time between 9:30 a.m. and 4:00 p.m. Eastern Time.

[80] Under accounting procedures to be followed by each Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Accordingly, each Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

In addition, for each Fund, an estimated value, defined in Bats Rule 14.11(i)(3)(C) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors at least every 15 seconds during the Exchange's Regular Trading Hours.[81]

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of each Fund on a daily basis and provide a close estimate of that value throughout the trading day.

Intraday, executable price quotations on assets held by each Fund are available from major broker-dealer firms and for exchange-traded assets, including investment companies, such intraday information is available directly from the applicable listing exchange. All such intraday price information is available through subscription services, such as Bloomberg, Thomson Reuters and International Data Corporation, which can be accessed by authorized participants and other investors. Pricing information for Repurchase Agreements and securities not listed on an exchange or national securities market will be available from major broker-dealer firms and/or subscription services, such as Bloomberg, Thomson Reuters and International Data Corporation.

Information regarding market price and volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. The previous day's closing price and trading volume information for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be available on the facilities of the CTA. Price information relating to all other securities held by the Funds will be available from major market data vendors. Quotations and last sale information for the underlying exchange traded investment companies will be available through CTA.

Initial and Continued Listing

The Shares will be subject to Bats Rule 14.11(i), which sets forth the initial and continued listing criteria applicable to Managed Fund Shares. The Exchange represents that, for initial and/or continued listing, each Fund must be in compliance with Rule 10A–3 under the Act.[82] A minimum of 100,000 Shares of each Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of each Fund. The Exchange will halt trading in the Shares under the conditions specified in Bats Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which trading in the Shares of a Fund may be halted.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. Bats [sic] will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time. The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in Bats Rule 11.11(a), the minimum price variation for quoting and entry of orders in Managed Fund Shares traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Managed Fund Shares. The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange traded equity securities via the Intermarket Surveillance Group (''ISG''), from other exchanges that are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[83] In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').

As it relates to exchange traded investment companies, the Funds will only invest in investment companies that trade on markets that are a member of the ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) Bats Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening[84] and After Hours Trading Sessions[85] when an updated Intraday Indicative Value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the

[81] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

[82] *See* 17 CFR 240.10A–3.

[83] For a list of the current members of ISG, *see www.isgportal.org*. The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[84] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[85] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Funds. Members purchasing Shares from the Funds for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that each Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Funds and the applicable NAV Calculation Time for the Shares. The Information Circular will disclose that information about the Shares of the Funds will be publicly available on the Funds' Web site. In addition, the Information Circular will reference that the Trust is subject to various fees and expenses described in each Fund's Registration Statement.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [86] in general and Section 6(b)(5) of the Act [87] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in 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 believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Bats Rule 14.11(i). The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Bats Rule 14.11(i)(7) provides that, if the investment adviser to the investment company issuing Managed Fund Shares is affiliated with a broker-dealer, such investment adviser shall erect a ''fire wall'' between the investment adviser and the broker-dealer with respect to access to information concerning the composition and/or changes to such investment company portfolio. The Adviser is not a registered broker-dealer, but is affiliated with multiple broker-dealers and has implemented ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition and/or changes to a Fund's portfolio. In addition, Adviser personnel who make decisions regarding a Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. The Exchange may obtain information regarding trading in the Shares and the underlying shares in exchange traded equity securities via the ISG, from other exchanges that are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to TRACE. Each Fund's investments will be well-diversified in that each Fund will hold a minimum of 40 different Municipal Securities diversified among issuers in at least 8 different states with no more than 30% of the Fund's assets comprised of Municipal Bonds that provide exposure to any single state; each Fund will hold a minimum of 75 different Municipal Securities when at least four creation units are outstanding for that Fund; each Fund will hold a minimum of 100 different Municipal Securities diversified among issuers in at least 20 different states when at least eight creation units are outstanding for that Fund; no single Municipal Security held by a Fund will exceed 4% of the weight of that Fund's portfolio and no single issuer of Municipal Securities will account for more than 10% of the weight of a Fund's portfolio; each Fund will hold Municipal Securities of at least 20 non-affiliated issuers; and each Fund will hold Municipal Securities of at least 30 non-affiliated issuers when at least four creation units are outstanding.

According to the Registration Statement, each Fund will invest, under normal circumstances,[88] at least 80% of its net assets in Municipal Securities such that the interest on each security is exempt from U.S. federal income taxes and the federal AMT. Additionally, each Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), as deemed illiquid by the Adviser [89] under the 1940 Act.[90] Each Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid assets. Illiquid assets include securities subject to contractual or other restrictions on resale and other instruments that lack readily available markets as determined in accordance with Commission staff guidance.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that the Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily and that the NAV and the Disclosed Portfolio will be made available to all market participants at the same time. In addition, a large amount of information is publicly available regarding the Funds and the Shares, thereby promoting market transparency. Moreover, the Intraday Indicative Value will be disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. On each business day, before commencement of trading in Shares during Regular Trading Hours, each Fund will disclose on its Web site the Disclosed Portfolio that will form the basis for the Fund's calculation of NAV at the end of the business day. Pricing information will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's NAV and the market closing price or mid-point of the

[86] 15 U.S.C. 78f.

[87] 15 U.S.C. 78f(b)(5).

[88] *See supra* note 7.

[89] *See supra* note 27.

[90] The Commission has stated that long-standing Commission guidelines have required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), footnote 34. *See also,* Investment Company Act Release No. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); Investment Company Act Release No. 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A). A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release No. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); Investment Company Act Release No. 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

Bid/Ask Price,[91] and a calculation of the premium or discount of the market closing price or Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily market closing price or Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Additionally, information regarding market price and trading of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information for the Shares will be available on the facilities of the CTA. The Web site for each Fund will include a form of the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Trading in Shares of a Fund will be halted under the conditions specified in Bats Rule 11.18. Trading may also be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. Finally, trading in the Shares will be subject to Bats Rule 14.11(i)(4)(B)(iv), which sets forth circumstances under which Shares may be halted. In addition, as noted above, investors will have ready access to information regarding the Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

Intraday, executable price quotations on assets held by the Funds are available from major broker-dealer firms and for exchange-traded assets, including investment companies, such intraday information is available directly from the applicable listing exchange. All such intraday price information is available through subscription services, such as Bloomberg, Thomson Reuters and International Data Corporation, which can be accessed by authorized participants and other investors.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of actively-managed exchange traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information via ISG, from other exchanges that are members of ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, the Exchange is able to access, as needed, trade information for certain fixed income instruments reported to TRACE. As noted above, investors will also have ready access to information regarding each Fund's holdings, the Intraday Indicative Value, the Disclosed Portfolio, and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional actively-managed exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received written comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the 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–BatsBZX–2017–10 in the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–BatsBZX–2017–10. This file number should be included in the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing will also be available for inspection and copying at the 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–2017–10 and should be submitted on or before March 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[92]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03301 Filed 2–17–17; 8:45 am]

BILLING CODE 8011–01–P

[91] The Bid/Ask Price of a Fund will be determined using the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund or its service providers.

[92] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–80037; File No. SR–CBOE–2017–014]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing of a Proposed Rule Change Related to Rule 24.9(e)

February 14, 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 13, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange seeks to amend Rule 24.9(e). The text of the proposed rule change is provided below (additions are *italicized;* deletions are [bracketed]).

* * * * *

Chicago Board Options Exchange, Incorporated Rules

* * * * *

Rule 24.9. Terms of Index Option Contracts

(a)–(d) No change.

(e) Nonstandard Expirations Pilot Program

(1) Weekly Expirations. The Exchange may open for trading Weekly Expirations on any broad-based index eligible for standard options trading to expire on any Monday, Wednesday, or Friday (other than the third Friday-of-the-month or days that coincide with an EOM expiration). Weekly Expirations shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that Weekly Expirations shall be P.M.-settled and new series in Weekly Expirations may be added up to and including on the expiration date for an expiring Weekly Expiration.

The maximum number of expirations that may be listed for each Weekly Expiration (i.e., a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) in a given class is the same as the maximum number of expirations permitted in Rule 24.9 (a)(2) for standard options on the same broad-based index. [Other than expirations that are third Friday-of-the-month or that coincide with an EOM expiration,] Weekly Expirations [shall] *need not* be for consecutive Monday, Wednesday, or Friday expirations as applicable*; however, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively*. Weekly Expirations that are first listed in a given class may expire up to four weeks from the actual listing date. If the last trading day of a month is a Monday, Wednesday, or Friday and the Exchange lists EOMs and Weekly Expirations as applicable in a given class, the Exchange will list an EOM instead of a Weekly Expiration in the given class. Other expirations in the same class are not counted as part of the maximum number of Weekly Expirations for a broad-based index class. If the Exchange is not open for business on a respective Monday, the normally Monday expiring Weekly Expirations will expire on the following business day. If the Exchange is not open for business on a respective Wednesday or Friday, the normally Wednesday or Friday expiring Weekly Expirations will expire on the previous business day.

(2) End of Month (''EOM'') Expirations. The Exchange may open for trading EOMs on any broad-based index eligible for standard options trading to expire on last trading day of the month. EOMs shall be subject to all provisions of this Rule and treated the same as options on the same underlying index that expire on the third Friday of the expiration month; provided, however, that EOMs shall be P.M.-settled and new series in EOMs may be added up to and including on the expiration date for an expiring EOM.

The maximum number of expirations that may be listed for EOMs in a given class is the same as the maximum number of expirations permitted in Rule 24.9 (a)(2) for standard options on the same broad-based index. EOM expirations [shall] *need not* be for consecutive end of month expirations*; however, the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively*. EOMs that are first listed in a given class may expire up to four weeks from the actual listing date. Other expirations in the same class are not counted as part of the maximum numbers of EOM expirations for a broad-based index class.

(3) Duration of Nonstandard Expirations Pilot Program. The Nonstandard Expirations Pilot Program shall be through May 3, 2017.

(4) Weekly Expirations and EOM Trading Hours on the Last Trading Day. On the last trading day, transactions in expiring Weekly Expirations and EOMs may be effected on the Exchange between the hours of 8:30 a.m. (Chicago time) and 3:00 p.m. (Chicago time).

* * * * *

The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 14, 2010, the Commission approved a CBOE proposal to establish a pilot program under which the Exchange is permitted to list P.M.-settled options on broad-based indexes to expire on (a) any Friday of the month, other than the third Friday-of-the-month (''EOWs''), and (b) the last trading day of the month (''EOM'').[3] On January 14, 2016, the Commission approved a CBOE proposal to expand the pilot program to list P.M.-settled options on broad-based indexes that expire on any Wednesday of the month (''WEDs'') and to rename the End of Week/End of Month Expirations Pilot Program to the Nonstandard Expirations

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 62911 (September 14, 2010), 75 FR 57539 (September 21, 2010) (order approving SR–CBOE–2009–075).

Pilot Program.[4] On August 10, 2016, the Commission approved a CBOE proposal to expand the pilot program to list P.M.-settled options on broad-based indexes that expire on any Monday of the month (''MONs'').[5]

Currently, other than expirations that are third Friday-of-the-month or that coincide with an EOM expiration, Weekly Expirations (*i.e.,* MONs, WEDs, and EOWs) must be for consecutive Monday, Wednesday, or Friday expirations as applicable.[6] Similarly, EOM expirations must be for consecutive end of months.[7] The purpose of this filing is to eliminate the consecutive expiration restriction for the listing of Weekly Expirations and EOMs.

The maximum number of expirations that may be listed for each Weekly Expiration (*i.e.,* a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) and EOM in a given class is the same as the maximum number of expirations permitted in Rule 24.9(a)(2) for standard options on the same broad-based index.[8] Thus, for Weekly Expirations and EOM expirations in the SPX options class (which trade under the symbol SPXW), the MONs, WEDs, EOWs, and EOMs each may have 12 expirations (*i.e.* a total of 48 expirations in all four programs).[9] However, the Exchange does not currently exercise its discretion to list all 12 expirations in each Weekly Expiration and EOM program—opting instead to introduce additional expirations as customer demand dictates. Typically, the Exchange lists four MONs, six WEDs, and seven EOWs in SPXW options.[10]

The Exchange has received repeated customer interest to list Weekly Expirations and EOMs that expire in the mid-term (as opposed to long-term expirations contemplated by Long-Term Index Option Series (''LEAPS'')[11] and short-term expirations that are encompassed by the Exchange's current listing schedule to include four MONs, six WEDs, and seven EOWs in SPXW) in order to utilize SPXW options to provide a financial hedge for impactful economic events, such as domestic and international elections. In order to meet customer demand and continue to effectively manage the listing process, the Exchange is seeking the ability to list Weekly Expirations and EOMs non-consecutively.

Currently, the Exchange is able to add additional expirations (up to 12 expirations as noted above) in one or more of the Weekly Expirations; however, customer demand for SPXW listings exceeds the Exchange's current listing practices of maintaining four MONs, six WEDs, and seven EOWs in SPXW and often beyond 12 expirations. More importantly, the customer demand is for expirations near a certain future economically impactful event (*e.g.,* a national election)—not every expiration between the current date and that particular event. Thus, instead of listing all 12 EOWs, for example, to reach a certain event, the Exchange believes the marketplace would be better served by allowing the Exchange to list EOWs (or the other Weekly Expirations or EOMs) non-consecutively because listing expirations non-consecutively allows the Exchange to list fewer expirations (particularly those with less customer demand), limiting potential burdens on liquidity providers to quote in the relevant option classes. Listing expirations non-consecutively also allows the Exchange to use its considerable experience to list expirations that will offer all market participants the ability to use SPXW options, for example, to hedge a future economic event. Simply put, as with the expansion of the Pilot to MONs and WEDs, non-consecutive expirations will expand hedging tools available to market participants and allow market participants to tailor their investment or hedging needs more effectively.

Although this proposal gives the Exchange the ability to list expirations non-consecutively, the proposal is narrowly tailored as it only applies to the Nonstandard Expirations Pilot Program (*i.e.,* Weekly Expirations and EOMs), which may only include broad-based index options eligible for standard options trading. In fact, the Exchange currently only lists Nonstandard Expirations in three classes: S&P 500 Index options under symbol SPXW, CBOE Mini S&P 500 Index options under symbol XSP, and Russell 2000 Index options under symbol RUTW. Furthermore, the Exchange only lists MONs and WEDs in SPXW; EOWs in SPXW, RUTW, and XSP; and EOMs in SPXW and RUTW. Thus, nearly every options class will remain unaffected by this proposal. Even within the Nonstandard Expirations program, the Exchange believes the vast majority of expirations will continue to be listed consecutively because the majority of trading interest is in the nearer term weeks. More importantly, however, as an expiration that was originally listed non-consecutively gets closer to expiration, the particular expiration falls in line with the exchange's regular listing schedule. For example, if the Exchange regularly has seven EOWs listed consecutively, with each passing week one of the listings expires and another expiration is added. In this way, as the weeks pass, any expiration that is added non-consecutively (in this case the eighth expiration) will eventually become the seventh expiration and thus become a consecutive expiration.

Additionally, the Exchange notes that the proposal will not affect the total expirations for MONs, WEDs, EOWs, or EOMs. The maximum number of expirations that may be listed for each Weekly Expiration (*i.e.,* a Monday expiration, Wednesday expiration, or Friday expiration, as applicable) and EOMs in a given class will continue to be the same as the maximum number of expirations permitted in Rule 24.9(a)(2) for standard options on the same broad-based index.[12] As previously noted, in SPXW, the maximum number of expirations is 12.

The Exchange also notes that the proposal will not affect the maximum duration (*i.e.,* the maximum time from listing to expiration) of Weekly Expirations or EOMs. For example, under the current rule, if the exchange were to list all 12 WEDs in SPXW, the 12th WED expiration would expire 11 weeks from the nearest term expiration (assuming, for example, there are no EOMs that coincide with the WEDs in SPXW).[13] To further illustrate the

[4] *See* Securities Exchange Act Release No. 76909 (January 14, 2016), 81 FR 3512 (January 21, 2016) (order approving SR–CBOE–2015–106).

[5] *See* Securities Exchange Act Release No. 78531 (August 10, 2016), 81 FR 54643 (August 16, 2016) (order approving SR–CBOE–2016–046).

[6] *See* Rule 24.9(e)(1).

[7] *See* Rule 24.9(e)(2).

[8] *See* Rules 24.9(e)(1) and (2).

[9] *See* Rule 24.9(a)(2) (specifying that the Exchange may list up to 12 standard monthly expirations at any one time for any class that the Exchange (as the Reporting Authority) uses to calculate a volatility index). The Exchange uses the SPX class to calculate a volatility index; thus, pursuant to Rules 24.9(e)(1) and (2), the MONs, WEDs, EOWs, and EOMs each may have 12 expirations.

[10] *See* CBOE Regulatory Circulars RG16–053 (extending SPXW WEDs to four expirations and reducing SPXW EOWs to seven expirations) and RG16–157 (expanding SPXW WEDs to six expirations and SPXW MONs to four expirations). Although RG16–157 indicates that there are five SPXW Monday Expirations, the October 31, 2016 expiration with a listing date of May 2, 2016 is technically an EOM expiration listed pursuant to the EOM program and should not have been identified as being listed pursuant to the Weekly Expirations program. *See* Rule 24.9(e)(1) and (2).

[11] *See* Rule 24.9(e). LEAPS expire from 12 to 180 months from the date of issuance.

[12] *See e.g.,* Rules 24.9(e).

[13] As stated in Rule 24.9(e)(1) if the last trading day of a month is a Monday, Wednesday, or Friday and the Exchange lists EOMs and Weekly Expirations as applicable in a given class, the

Continued

current rule, assume that on Monday February 6, 2017, the nearest term WED expiration in SPXW expires on February 8, 2017. Also assume the Exchange lists all 12 WEDs in SPXW. In this example, the 12th expiration would expire on April 26, 2017. In order to ensure that this proposal does not affect the maximum duration of the expirations, the Exchange proposes to specify in Rule 24.9(e)(1) and (2) that the expiration date of a non-consecutive expiration may not be beyond what would be considered the last expiration date if the maximum number of expirations were listed consecutively. Under the proposed rule (as with the current rule), the April 26th expiration in the above example is the farthest expiration that could be listed. The only difference between the current rule and this proposal is that under the current rule the exchange would have to list all 12 expirations in order to list the April 26th expiration in the above example, and under the proposed rule the Exchange would be able to list the April 26th expiration without the requirement to, for example, list the April 19th expiration.

The annual Pilot report provided to the Securities and Exchange Commission (''Commission'') will include any Weekly Expirations and EOMs, regardless of whether the expirations are listed consecutively or non-consecutively.

In sum, the proposal will allow market participants to better plan for future economic events; will allow market participants to tailor their investment or hedging needs more effectively; will allow the Exchange to list expirations in a way that limits potential burdens on liquidity providers quoting in the affected classes; does not increase the allowable number of total expirations for Nonstandard Expirations; and is narrowly tailored to apply only to the Nonstandard Expiration Pilot Program (in which only three classes currently participate).

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[14] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[15] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[16] requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes the Nonstandard Expirations Pilot has been successful to date and that allowing non-consecutive expirations will simply expand the ability of investors to hedge risks against market movements stemming from future economic events, which in general, helps to protect investors and the public interest. Similarly, the Exchange believes non-consecutive expirations will create greater trading and hedging opportunities and flexibility, and provide customers with the ability to more closely tailor their investment objectives. The Exchange also believe that the proposal will allow the Exchange to list expirations in a way that limits potential burdens on liquidity providers quoting in the affected classes, which helps remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. Specifically, the Exchange does not believe the proposal will impose any burden on intramarket competition as all market participants will be treated in the same manner. Any perceived burden on Market-Makers is unfounded as the proposal does not increase the total number of expirations that can be listed under the Nonstandard Expirations Pilot Program. In fact, the proposal may alleviate potential burdens on Market-Makers quoting in the affected classes as listing non-consecutively allows the Exchange to avoid listing expirations that are in less demand. Additionally, the Exchange does not believe the proposal will impose any burden on intermarket competition because the proposed rule change relates solely to the listing of series pursuant to a CBOE pilot program, and market participants on other exchanges are welcome to become Trading Permit Holders and trade at CBOE if they determine that this proposed rule change has made CBOE more attractive or favorable. Finally, although the majority of the Exchange's broad-based index options are exclusively-listed at CBOE, all options exchanges are free to compete by listing and trading their own broad-based index options with Weekly Expirations and EOM expirations.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

A. By order approve or disapprove such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–014 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2017–014. This file number should be included on the

Exchange will list an EOM instead of a Weekly Expiration in the given class.

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] *Id.*

subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–014, and should be submitted on or before March 14, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–03302 Filed 2–17–17; 8:45 am]

BILLING CODE 8011–01–P

SOCIAL SECURITY ADMINISTRATION

[Docket No: SSA–2017–0006]

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages requiring clearance by the Office of Management and Budget (OMB) in compliance with Public Law 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. This notice includes revisions and one extension of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility, and clarity; and ways to minimize burden on respondents, including the use of automated collection techniques or other forms of information technology. Mail, email, or fax your comments and recommendations on the information collection(s) to the OMB Desk Officer and SSA Reports Clearance Officer at the following addresses or fax numbers.

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, Email address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, OLCA, Attn: Reports Clearance Director, 3100 West High Rise, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–966–2830, Email address: *OR.Reports.Clearance@ssa.gov*.

Or you may submit your comments online through *www.regulations.gov,* referencing Docket ID Number [SSA–2017–0006].

I. The information collections below are pending at SSA. SSA will submit them to OMB within 60 days from the date of this notice. To be sure we consider your comments, we must receive them no later than April 24, 2017. Individuals can obtain copies of the collection instruments by writing to the above email address.

1. Government Pension Questionnaire—20 CFR 404.408a—0960–0160. The basic Social Security benefits application (OMB No. 0960–0618) contains a lead question asking if the applicants are qualified (or will qualify) to receive a government pension. If the respondent is qualified, or will qualify, to receive a government pension, the applicant completes Form SSA–3885 either on paper or through a personal interview with an SSA claims representative. If the applicants are not entitled to receive a government pension at the time they apply for Social Security benefits, SSA requires them to provide the government pension information as beneficiaries when they become eligible to receive their pensions. Regardless of the timing, at some point the applicants or beneficiaries must complete and sign Form SSA–3885 to report information about their government pensions before the pensions begin. SSA uses the information to: (1) Determine whether the Government Pension Offset provision applies; (2) identify exceptions as stated in 20 CFR 404.408a; and (3) determine the benefit reduction amount and effective date. If the applicants and beneficiaries do not respond using this questionnaire, SSA offsets their entire benefit amount. The respondents are applicants or recipients of spousal benefits who are eligible for or already receiving a Government pension.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3885	76,000	1	13	16,467

2. Modified Benefit Formula Questionnaire—0960–0395. SSA collects information on Form SSA–150 to determine which formula to use in computing the Social Security benefit for someone who receives a pension from employment not covered by Social Security. The Windfall Elimination Provision (WEP) requires use of a benefit formula replacing a smaller percentage of a worker's pre-retirement earnings. However, the resulting amount cannot show a difference in the benefit computed using the modified and regular formulas greater than one-half the amount of the pension received in the first month an individual is entitled to both the pension and the Social Security benefit. The SSA–150 collects the information needed to make all the necessary benefit computations. SSA requires respondents to furnish the information on Form SSA–150 so we can calculate their benefits using the data they supply. SSA calculates the benefits of applicants who do not respond to this questionnaire using the full WEP reduction. SSA employees collect this information once from the applicant at the time they file their claim. The respondents are applicants for old age and disability benefits.

[17] 17 CFR 200.30–3(a)(12).

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–150	90,000	1	8	12,000

3. Modified Benefit Formula Questionnaire-Employer—20 CFR 401 & 402—0960–0477. Sections 215(a)(7) and 215(d)(3) of the Social Security Act (Act) require SSA to use a modified benefit formula to compute Social Security retirement or disability benefits for persons first eligible (after 1985) for both a Social Security benefit and a pension or annuity, based on employment not covered by Social Security. This method is the Windfall Elimination Provision (WEP). SSA makes a determination regarding whether the WEP is applicable and when to apply it to a person's benefit. SSA uses Form SSA–58 to verify the claimant's allegations on Form SSA–150 (OMB #0906–0395, Modified Benefits Formula Questionnaire). SSA also uses Form SSA–58 to determine if the modified benefit formula is applicable and when to apply it to a person's benefits. SSA sends Form SSA–58 to an employer for pension related information, if the claimant is unable to provide it. The respondents are employers of people who are eligible after 1985 for both Social Security benefits and a pension based on work not covered by SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–58	30,000	1	20	10,000

4. Questionnaire for Children Claiming Supplemental Security Income (SSI) Benefits—0960–0499. Section 1631(d)(2) of the Act allows SSA to determine the eligibility of an applicant's claim for SSI payments. Parents or legal guardians seeking to obtain or retain SSI eligibility for their children use Form SSA–3881–BK to provide SSA with the addresses of non-medical sources such as schools, counselors, agencies, organizations, or therapists who would have information about a child's functioning. SSA uses this information to help determine a child's claim or continuing eligibility for SSI. The respondents are applicants who appeal SSI childhood disability decisions or recipients undergoing a continuing disability review.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3881–BK (Paper Version)	84,500	1	30	42,250
SSA–3881–BK (Electronic Disability Collect System)	45,500	1	30	22,750
Totals	130,000			65,000

5. Work History Report—20 CFR 404.1515, 404.1560, 404.1565, 416.960 and 416.3965—0960–0578. Under certain circumstances, SSA asks individuals applying for disability about work they have performed in the past. Applicants use Form SSA–3369, Work History Report, to provide detailed information about jobs held prior to becoming unable to work. State Disability Determination Services evaluate the information, together with medical evidence, to determine eligibility for disability payments. Respondents are disability applicants and third parties assisting applicants.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–3369 (Paper Version)	1,553,900	1	60	1,553,900
SSA–3369 (Electronic Disability Collect System)	38,049	1	60	38,049
Totals	1,591,949			1,591,949

6. Authorization to Obtain Earnings Data From the Social Security Administration—0960–0602. On occasion, public and private organizations and agencies need to obtain detailed earnings information

about specific Social Security number (SSN) holding wage earners for business purposes (*e.g.* pension funds, State agencies, etc.). Respondents use Form SSA–581 to identify the SSN holder whose information they are requesting, and provide authorization from the SSN holder, when applicable. SSA uses the information provided on Form SSA–581 to: (1) Identify the wage earner; (2) establish the period of earnings information requested; (3) verify the wage earner authorized SSA to release this information to the requesting party; and (4) produce the Itemized Statement of Earnings (SSA–1826). The respondents are private businesses, state or local agencies, and other federal agencies.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–581	24,000	1	2	800

7. Appeal of Determination for Help with Medicare Prescription Drug Plan Costs—0960–0695. Public Law 108–173, the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), established the Medicare Part D program for voluntary prescription drug coverage for certain low-income individuals. The MMA stipulates the provision of subsidies for individuals who are eligible for the program and who meet eligibility criteria for help with premium, deductible, and co-payment costs. SSA uses Form SSA–1021, Appeal of Determination for Help with Medicare Prescription Drug Plan Costs, to obtain information from individuals who appeal SSA's decisions regarding eligibility or continuing eligibility for a Medicare Part D subsidy. The respondents are Medicare beneficiaries, or proper applicants acting on behalf of a Medicare beneficiary, who do not agree with the outcome of an SSA subsidy eligibility determination, and are filing an appeal.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1021 (Paper Version)	3,283	1	10	547
SSA–1021 (Internet Version; Medicare Application Processing System)	11,037	1	10	1,840
Totals	14,320	.....	.....	2,387

8. Social Security Administration Eligible Non-Attorney Representative—20 CFR 404.1717, 404.1745–404.1799, 416.1517, and 416.1545–416.1599—0960–0699. Section 3 of the Social Security Disability Applicants Access to Professional Representation Act (PRA) of 2010, Public Law 111–142, permanently extends the direct payment provision of Section 303 of the Social Security Protection Act (SSPA) of 2004, Public Law 108–203. The PRA permits SSA to extend direct payment of approved fees from claimants' past-due benefits to certain non-attorney representatives. Prior to the enactment of the SSPA and PRA, only attorneys could receive direct payment of SSA-approved fees. Under the PRA, non-attorneys must meet certain prerequisites to be eligible for direct payment of fees. These prerequisites include: (1) A bachelor's degree from an accredited institution of higher education, or four years of relevant professional experience and a high school diploma or General Education Development certificate; (2) passing a written examination administered by SSA testing the knowledge of relevant provisions of the Act under Titles II and XVI; (3) securing and maintaining continuous professional liability insurance, or equivalent, to protect claimants from malpractice; (4) passing a criminal background check; (5) demonstrating ongoing completion of continuing education courses. The PRA requires SSA to collect the information needed to determine if applicants have satisfied these prerequisites. SSA uses the information we collect on Form SSA–1691 to determine whether an applicant fulfilled the statutory prerequisites and regulatory requirements as listed above. To verify this information, we also request the five required items listed above from each new applicant, and we request items #3 and #5 from all non-attorney representatives (new and existing) on a yearly basis. Every year, SSA evaluates the applications; conducts verification investigations; and issues recommendations regarding applicants' eligibility to sit for the examination and eligibility to receive direct payment. The respondents are non-attorneys who want to receive direct payment of their fees for representational services before SSA.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
New Respondents—Paper Application (complete and submit)—404.1717(b) & (c); 416.1517(b) & (c)	200	1	45	547
New Respondents Examination—404.1717(a)(5); 416.1517(a)(5)	200	1	120	400
New Respondents—Submission of proof of Bachelor's Degree or Equivalent Qualifications—404.1717(a)(3); 416.1517(a)(3)	200	1	10	33

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
New and Existing Respondents—CE Submission via email/mail/or FAX of training courses taken as prescribed by SSA—404.1717(a)(7); 416.1517(a)(7)	710	1	20	237
New and Existing Respondents—Proof of Continuous Professional or Business Liability Insurance Coverage (Scan and Email)—404.1717(a)(6); 416.1517(a)(6)	672	1	10	112
New and Existing Respondents—Proof of Continuous Professional or Business Liability Insurance Coverage (Copy and Mail)—404.1717(a)(6); 416.1517(a)(6)	38	1	15	10
New and Existing Respondents—Written Protests—404.1717(d); 416.1517(d)	45	1	45	34
Totals	2,065			976

9. Sheltered Workshop Wage Reporting—0960–0771. Sheltered workshops are non-profit organizations or institutions that implement a recognized program of rehabilitation for handicapped workers, or provide such workers with remunerative employment or other occupational rehabilitating activity of an educational or therapeutic nature. Sheltered workshops perform a service for their clients by reporting monthly wages directly to SSA. SSA uses the information these workshops provide to verify and post monthly wages to the SSI recipient's record. Most workshops report monthly wage totals to their local SSA office so we can adjust the client's SSI payment amount in a timely manner and prevent overpayments. Sheltered workshops are motivated to report wages voluntarily as a service to their clients. Respondents are sheltered workshops that report monthly wages for services performed in the workshop.

Type of Request: Extension of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	(Number of responses)	Average burden per response (minutes)	Estimated total annual burden (hours)
Sheltered Workshop Wage Reporting	800	12	(9,600)	15	2,400

10. Medicare Income-Related Monthly Adjustment Amount—Life-Changing Event Form—0960–0784. Federally mandated reductions in the Federal Medicare Part B and prescription drug coverage subsidies result in selected Medicare recipients paying higher premiums with income above a specific threshold. The amount of the premium subsidy reduction is an income-related monthly adjustment amount (IRMAA). The Internal Revenue Service (IRS) transmits income tax return data to SSA for SSA to determine the IRMAA. SSA uses the Form SSA–44 to determine if a recipient qualifies for a reduction in the IRMAA. If affected Medicare recipients believe SSA should use more recent tax data because of a life-changing event that significantly reduces their income, they can report these changes to SSA and ask for a new initial determination of their IRMAA. The respondents are Medicare Part B and prescription drug coverage recipients and enrollees with modified adjusted gross income over a high-income threshold who experience one of eight significant life-changing events.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–44 (Personal Interview in SSA field office)	140,378	1	30	70,189
SSA–44 (Paper Version)	60,162	1	45	45,122
Totals	200,540			115,311

II. SSA submitted the information collection below to OMB for clearance. Your comments regarding the information collection would be most useful if OMB and SSA receive them 30 days from the date of this publication. To be sure we consider your comments, we must receive them no later than March 23, 2017. Individuals can obtain copies of the OMB clearance package by writing to *OR.Reports.Clearance@ssa.gov.*

Statement of Agricultural Employer (Year Prior to 1988; and 1988 and later)—20 CFR 404.702, 404.802, 404.1056—0960–0036. If agricultural workers believe their employers (1) did not report their wages, or (2) reported incorrect wage amounts, SSA will assist them in resolving this issue. Specifically, SSA will send Forms SSA–1002–F3 or SSA–1003–F3 to the agricultural employers to collect evidence of wages paid. The respondents are agricultural employers whose workers request wage verification or correction for their earnings records.

Type of Request: Revision of an OMB-approved information collection.

Modality of completion	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated total annual burden (hours)
SSA–1002	7,500	1	30	3,750
SSA–1003	25,000	1	30	12,500
Totals	32,500			16,250

Dated: February 15, 2017.

Naomi R. Sipple,

Reports Clearance Officer, Social Security Administration.

[FR Doc. 2017–03308 Filed 2–17–17; 8:45 am]

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